

(1983) 07 MP CK 0009

In the Madhya Pradesh High Court

Case No : Miscellaneous Civil Petition No. 642 of 1982

Nandkishore and Others

APPELLANT

Vs

Competent Authority under Urban Land Ceiling and
Regulation Act, 1976 and Others

RESPONDENT

Date of Decision : 19-07-1983

Acts Referred:

Constitution of India, 1950 — Article 226
Urban Land (Ceiling and Regulation) Act, 1976 — Section 26

Citation : AIR 1983 MP 145

Hon'ble Judges : R.K. Vijayvargiya, J;G.G.Sohani, J

Bench : Division Bench

Advocate : V.S. Kokje, for the Appellant; S.R. Joshi, Government Advocate, for the Respondent

Final Decision : Allowed

Judgement

Sohani, J.—This is a petition under Art. 226. Constitution of India.

2. The material facts giving rise to this petition briefly are as follows:-

The petitioners are owners of a plot bearing No. 31/4 Palasiahna Indore. The petitioners intended to sell the aforesaid plot and for that purpose they gave a notice of the intended transfer to the Competent Authority appointed under the Urban Land (Ceiling & Regulation) ACT 1976 (hereinafter referred to as "the Act") as required by Section 26 of the Act. Respondent No. 1 the Competent Authority by his order dated 28th June. 1982 intimated to the petitioners that the right of pre-emption u/s 26 of the Act was not being exercised and the petitioners were permitted to transfer the said land. Subsequently respondent No. 1 changed his decision and by the letter dated 2nd July, 1982 intimated to the petitioners that the permission for sale of the land in Question sought by them was refused and that the No Objection Certificate already issued was being cancelled. The petitioners contend that that order by respondent No. 1 is contrary to law and principles of natural justice inasmuch as no hearing was given to

the petitioners and the petitioners therefore pray that the order be aliened.

3. Ravins heard learned counsel Tor the nart.es we have come to the conclusion that this petition deserves to be allowed. The only reason set out in the return for cancellation of the permission granted to the petitioners is that, whereas permission was granted to transfer 12.225 square feet of land on reverification of the area of the plot intended to be sold it was noticed that the same was 11,508 square feet. No provision of law was brought to our notice which requir-ed the petitioners to sell the entire land in respect of which permission was obtained. The fact that they intended to sell a smaller area than that which they were permitted to sell cannot therefore be a ground for cancellation of the per-mission already granted. Moreover the impugned order was passed without hearing the petitioners and hence it offends the principles of natural justice. That order cannot therefore be sustained in law.

4. For all these reasons this petition is allowed. The order dated 2nd July, 1982 (Annexure C) passed by respondent No. 1 is quashed. Parties shall bear their own costs of this petition. The outstanding amount of security deposit shall be refunded to the petitioners.