

**IN THE HIGH COURT OF MADHYA PRADESH
AT GWALIOR**

BEFORE

**HON'BLE SHRI JUSTICE ANAND PATHAK
&
HON'BLE SHRI JUSTICE ROOPESH CHANDRA VARSHNEY**

ON THE 11th OF DECEMBER, 2024

WRIT APPEAL NO. 429 of 2016

HINDUSTAN COMMERCIAL CORPORATION PVT. LTD.

Vs.

STATE OF MADHYA PRADESH AND OTHERS

APPEARANCE:

Shri N.K. Gupta – Senior Advocate with Shri Santosh Agrawal and Shri S.D. Singh – Advocates for the appellant.

Shri Ankur Mody – Additional Advocate General for respondents No.1&2/State.

Shri Arvind Dudawat – Senior Advocate with Shri Arun Dudawat and Shri Rahul Jha – Advocates for respondent No.3.

Shri Nirmal Sharma and Ms. Dimple Vyas – Advocates for the intervenor.

JUDGMENT

1. The present appeal under Section 2 (1) of the Madhya Pradesh Uchcha Nyayalaya (Khand Nyaypeeth Ko Appeal) Adhiniyam, 2005 is preferred by the appellant (hereinafter referred to as “the petitioner”) being crestfallen by the order dated 02-12-2016 passed by learned Single Judge in Writ Petition No.4032 of 2005 whereby the writ petition filed by the petitioner has been dismissed.
2. For appreciating the controversy in better perspective following dates and events are worth reproduction:

Dates	Events
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19-11-1942	One Sampat Kumar Majeji moved an application to the Gwalior Estate for allotment of the land.
11-02-1943	Gwalior Estate allotted land in question to Sampat Kumar Majeji, for establishing the Paint & Varnish Factory, on the conditions mentioned therein. (Annexur P/8).
16-02-1943	Sampat Kumar Majeji accepted the terms and conditions, thereby confirming the same. Thereafter, M/s. Gwalior Paints & Chemical Industries Ltd., was established.
28-08-1950	Bijmohan Das Nagori and Motilal Gupta in the capacity of Director of M/s The Gwalior Paint & Chemical Industries Ltd. sold the rights, title and interest in the immovable properties to M/s Cotton Traders, Pvt., Ltd.
05-01-1959	M/s The Cotton Traders Pvt., Ltd., Through Director Goverdhan Das Nagori, & Ramnivas Bangad sold the factory to M/s Hindustan Commercial Corporation Pvt. Ltd., whose Directors were Shri Damodar Das Nagori, & Brijmohan Das Nagori. It is relevant to mention here that according to respondents this sale was contrary and violative to condition No. 14 of allotment.
24-11-1977	After getting knowledge of the aforesaid sale transaction, Director of Industries M.P. sent proposal for cancellation of aforesaid allotment.
03-01-1978	Allotment order and lease of M/s Gwalior Paints

	<p>and Chemicals Industries was cancelled. (Annexure P/10).</p> <p>This cancellation order was never challenged and attained finality.</p>
22-08-1978	<p>Since even after cancellation of allotment, petitioner did not vacate the factory premises. therefore respondent No.3 filed an application for eviction, before the competent Authority against (i) M/s Gwalior Paints & Chemical Industries and (ii) Hindustan Commercial Corporation Pvt. (present petitioner).</p>
12-02-1982	<p>Chandra Mohan Nagori submitted his reply and submitted that his possession is legal.</p>
27-08-1991	<p>Competent Authority after rehearing the parties on 16.08 1991 passed order of eviction, thereby directed to evict the land in question upto 13.09. 1991.</p>
12-09-1991	<p>Chandra Mohan Nagori, filed application that since 1985 he is not in possession and he has no concern with the land in question.</p>
23-07-1996	<p>Competent Authority passed order of eviction and against that order, present petitioner filed appeal before the Commissioner (Appellate Authority) challenging the order dated 23.07.1996.</p>
07-04-1997	<p>Appellate authority allowed the appeal with direction to decide the case of petitioner by passing fresh order after giving opportunity of hearing to petitioner.</p>

17-04-2000	After remand, fresh notices were issued to non-applicants therein and also possession holders.
12-06-2000	Pursuant to which petitioner herein on 12.06.2000 submitted preliminary objection dated 05.06. 2000 alleging therein that land in question has never been allotted to Sampat Kumar Majeji and the said land (31 bighas) was given by the then Zamidar to the Trust and then Trust given the said land to the present petitioner.
05-07-2000	Respondents herein filed reply to the preliminary objections.
16-08-2000	Competent authority issued fresh notice to show cause as to why order of eviction may not be passed upto 24.08.2000.
04-11-2000	petitioner filed reply to the said show cause notice.
04-11-2000 to 31-05-2005	Matter kept pending.
09-01-2001	petitioner filed W.P. No.61/2001 alleging that the land in question was never granted on lease to him therefore provision of the M.P. Lok Parisar (Bedakhali) Adhiniyam, 1974 are not applicable.
29-07-2001	This Court disposed of the said petition with direction to hear petitioner on his preliminary objection and after hearing him, passed an appropriate order, before proceedings further in the matter.
30-05-2005	After hearing, case was posted for order by the

	authority.
06-06-2005	Order dated 06.06.2005 was passed by the authority rejecting the preliminary objection and the case was fixed for hearing. This order has not been challenged by the petitioner. This attained finality.
22-06-2005	Competent Authority after hearing the parties and considering written arguments submitted by present petitioner on 14.06.2005 passed the order of eviction. It is worth mentioning the fact that this order was passed after 27 years of institution of case.
27-06-2005	Against the order dated 22.06.2005 Appeal No. 58/2004-05 was filed by present petitioner.
12-09-2005	Appeal preferred by the petitioner, has been dismissed by the appellate authority.
02-12-2016	Orders dated 22-06-2005 and 12-09-2005 were challenged by the petitioner by filing W.P.No.4032/2005. Learned Writ Court dismissed the said writ petition. Thereafter, the instant writ appeal is preferred.

3. It is the submission of learned counsel for the petitioner that all contingencies for eviction under the provisions of M.P. Lok Parisar (Bedakhali) Adhiniyam, 1974 (hereinafter referred to as “the Bedakhali Adhiniyam”) are not established. According to learned senior counsel appearing for the petitioner, the officer who acted as a competent authority was not vested with the power of competent authority in absence of any authorization/delegation by

due notification provided under Section 3 of the Bedakhali Adhinyam, therefore, original order of eviction itself is nullity. No lease deed was ever shown or produced by the State Government to the petitioner or its predecessor in title nor any rent receipt has been shown establishing the relationship of lessor-lessee, hence the provisions of the Bedakhali Adhinyam cannot be made applicable.

4. Learned senior counsel also refers Section 17 of the Bedakhali Adhinyam to submit that even after delegation of power as per Section 17 of the Bedakhali Adhinyam by the State Government to the Collectors vide notification dated 05-02-1976, the Collector assumed the power of State Government but the same does not fulfill the mandatory requirement of Section 3 of the Bedakhali Adhinyam. Question of jurisdiction goes to the root of the matter and therefore, whole proceedings stand void-ab-initio. In support of his submission, learned senior counsel appearing for the petitioner relied upon the judgment of Apex Court in the case of **Balvant N. Viswamitra & Ors. Vs. Yadav Sadashiv Mule (dead) Through L.Rs. and others, AIR 2004 SC 4377** and **Cantonment Board and Anr. Vs. Chruuch of North India, (2012) 12 SCC 573** and also the judgment of learned Single Bench of this Court in the case of **Indu Gupta Vs. State of M.P. and others, 1997 (2) MPLJ 146** and the same was followed by the Division Bench in the case of **Phal Singh Yadav Vs. Commissioner Division Gwalior and others in Writ Petition No.4724 of 2017 decided vide order dated 15-11-2017.**
5. The land in question was not established to be the land

owned/vested with the State Government as it was a Zamindari land and on the date of vesting it was occupied by Gwalior State Trust Ltd. (erstwhile Gwalior Estate) which became Pakka Krishak and thereafter bhumiswami. Documents Annexure P/8 and P/9 do not suggest that the petitioner stepped into the shoes of Sampat Kumar Majeji.

6. It is further submitted that in light of the case of **Smt. (Dr.) Sajni Bajaj Vs. Indore Development Authority and others, 2018 (2) RN 321**, Shri Suresh Sharma the then Joint Collector was not competent authority to pass order dated 22-06-2005 (Annexure P/5) under the Bedakhali Adhiniyam.
7. It is further submitted by learned counsel for the petitioner that General Manager, District Industries Center, Gwalior filed an application on 22-08-1978 with the averments that in the year 1943 they have allotted the land bearing survey numbers mentioned in para one of Annexure P/2 to the Gwalior Paints and Chemical Industry Gwalior. According to petitioner, it was not allotment of the land on lease but it speaks about lease will be given by the department on rent and therefore, the Court below has committed error in not interpreting the said document in correct perspective. The identification of property is also under doubt because it was not same property which State wanted but it was some different property. In absence of any proof produced regarding lease deed or receiving lease rent by the respondents, learned Single Judge proceeded on assumption and presumption and did not consider the fact that it was the land purchased by the petitioner.
8. It is further submitted that learned Single Judge treated the petition

as title suit wherein petitioner has raised the bona fide dispute over the ownership of State Government. It was not the land which could have been treated under the purview of public premises as it was a private property. It is further submitted that if there is bona fide dispute regarding title of the Government to any property, the Government cannot take unilateral decision in its own favour that the property belongs to it and on the basis of such decision cannot take recourse to the summary remedy provided under Section 6 of the Bedakhali Adhinyam of the person who is in possession. He relied upon the judgment of Apex Court in the case of **Government of Andhra Pradesh Vs. Thummala Krishna Rao and another, AIR 1982 SC 1081, Kushal Chand Vs. State of M.P. and others, 2001(1) MPLJ 680 and Bhagwani Bai Vs. State of M.P. and another, 2006(1) MPLJ 370**. In absence of lessor-lessee relationship, dismissal of writ petition was unwarranted.

9. *Per contra*, Shri Ankur Mody, learned Additional Advocate General opposed the submissions and raised the plea of alternative remedy. Competent authority had the jurisdiction. Even if the competent authority did not have jurisdiction (although denied the fact) even then its orders and proceedings are saved by *de facto* doctrine. He relied upon the judgments of Apex Court in the case of **Gokaraju Rangaraju Vs. State of Andhra Pradesh, AIR 1981 SC 1473 and Pradeep Kumar Sonthalia Vs. Dhiraj Prasad Sahu and another, (2021) 6 SCC 523**.
10. The order of eviction is in respect of private land illegally occupied by the petitioner, therefore, competent authority had jurisdiction. He prayed for dismissal of this writ appeal.

11. Shri Arvind Dudawat, learned senior counsel appearing for respondent No.3 argued at length. According to him, petitioner did not take the said objection at any stage upto the Writ Court regarding jurisdiction/competence of the competent authority, therefore, as per the law laid down by the Apex Court in the case of **Treaty Construction & Anr. Vs. Ruby Tower Cooperative Housing Society Limited, (2019) 8 SCC 157, Abdul Khadey Vs. Tarabai and others, (2011) 6 SCC 199 and Mr. B.S.N. Joshi & Sons Ltd. Vs. Nair Coal Services Ltd. and others, (2006) 11 SCC 548.** petitioner is precluded from raising such objection.
12. It is further submitted by learned senior counsel that by virtue of provisions of Section 3 of the Bedakhali Adhinyam, an officer not below the rank of Assistant Collector or Deputy Collector may be appointed as competent authority. In the present case, the officer who has passed the order – Annexure P/2 was holding the post of Joint Collector at the relevant point of time and Joint Collector is senior post to the post of Deputy Collector. Therefore, he had authority and competence for exercising the power of competent authority under the Bedakhali Adhinyam.
13. While exercising the powers conferred under Section 17 of the Bedakhali Adhinyam, the State Government vide its notification dated 05-02-1976 delegated its power under the Bedakhali Adhinyam to all Collectors of the State Government and thereafter the Collector, Gwalior in exercise of such power vide order dated 27-12-2004 authorized Shri Suresh Sharma, the then Joint Collector to act as competent authority under the Bedakhali Adhinyam in the area within the municipal limit of Gwalior. The

above said notification and order are on record as Annexure R/3-1 and R/3-3.

14. It is further submitted that the petitioner while submitting the objection before the competent authority took the plea that he is in possession of 31 bigha of the land granted by ex Zamindar to the Trust and then to Company, however no such document has ever been produced either before the competent authority or before this Court to establish that predecessor in title of petitioner was granted the land by erstwhile Zamindar.
15. In fact vide order dated 03-01-1978, State Government cancelled the allotment of the land granted in favour of Gwalior Paints and Chemical Industry and before the competent authority, petitioner admitted this fact that allotment of land to the Gwalior Paints and Chemical Industry has been cancelled. However, the said order of cancellation has never been put to challenge, therefore, the said order attained finality.
16. From the registered sale deed as submitted by the petitioner along with I.A.No.6752/2016 before learned Writ Court it is evident that the petitioner purchased the land in question through registered sale deed dated 05-01-1959 from M/s Cotton Traders Limited and its vendor purchased the said property from Gwalior Paints and Chemical Industry through registered sale deed dated 26-08-1950. Original allottee did not have any authority to transfer the land.
17. **After dismissal of writ petition of the petitioner, possession of land in question has been taken on 17-09-2005. Plots have been demarcated and given to the entrepreneurs/industrialists by respondent No.3 Corporation.** It is in the interest of justice that

over the said land, Industries may flourish and sincere Entrepreneurs be invited to establish different industries so that new employment avenues be generated. No case for interference is made made out in favour of petitioner, hence the appeal preferred by the petitioner deserves dismissal.

18. One intervention application was filed by Gwalior Sookshma Evam Laghu Udhayog Sangh through its President. As submitted, this Association represents Micro and Small industries which are situated at the adjacent place to the land in question. For expansion of industries repeated requests were made to the department but of no avail. Because of pendency of this appeal, allotment of land is halted and members of MSME industries are suffering. They are eager to get plots for expansion of their industries.
19. Heard learned counsel for the parties at length and perused the documents appended thereto.
20. In the instant appeal, petitioner has taken exception to the order dated 02-12-2016 passed by learned Writ Court whereby the writ petition preferred by the petitioner got dismissed. In the writ petition, petitioner sought following reliefs:

“(1) That, the Writ of Mandamus/Certiorari may kindly be issued whereby the impugned orders dated 12-09-2005 and 22-06-2005 (Annexure P/1 and P/2) passed by respondent no.2, may kindly be quashed.

(2) That, if on the basis of the wrong and without jurisdiction order if any possession has been taken by respondent, the respondent no.2 be directed to

deliver the possession back to the petitioner.

(3) That, any other writ, order or direction as this Hon'ble Court deems fit, may also be issued doing justice in the matter.

(4) That, the cost of the petition may also be allowed to the petitioner.”

21. Perusal of reliefs claimed in the writ petition, it appears that petitioners challenged the order dated 12-09-2005 (Annexure P/1 of writ petition) whereby the appeal preferred by the petitioner before the Commissioner Gwalior Division got dismissed and the order dated 22-06-2005 passed by the competent authority under the Bedakhali Adhinyam whereby the application preferred by the State Government through General Manager, District Industries Center, Gwalior (respondent No.3 herein) was allowed and eviction order against the petitioner was passed.
22. Incidentally, perusal of the order dated 22-06-2005 indicates that Government cancelled the allotment/lease deed granted to the petitioner (predecessor in title - Gwalior Paints and Chemical Industries Ltd.) **vide order dated 03-01-1978**. Copy of the said order of cancellation was part of record before the competent authority. Therefore, basic order is dated 03-01-1978 when the allotment order/lease deed was cancelled and petitioner never challenged the said basic order dated 03-01-1978. This basic order is still intact. Petitioner challenged the consequential order of eviction by competent authority being unauthorized occupant. Challenging the consequential order without challenging the basic order is not permissible {See: **P. Chitharanja Menon and others**

Vs. A. Balakrishnan and others, (1977) 3 SCC 255}.

23. Said proceeding was initiated purportedly under Section 5 of the Bedakhali Adhiniyam. Said provision reads as under:

“5. Eviction of unauthorised occupants. (1) On the date specified in the notice issued under sub-section (1) of Section 4, the competent authority shall take all such evidence as may be produced in support of the cause to be shown. If, after considering the cause, if any shown and any evidence that may be produced and after giving the person concerned a reasonable opportunity of being heard, regarding the alleged unauthorised occupation of the public premises, the competent authority is satisfied that the public premises are in unauthorised occupation, the competent authority may make an order of eviction, for reasons to be recorded therein, directing that the public premises shall be vacated, on such date as may be specified in the order by, all persons who may be in occupation thereof or any part thereof; and cause a copy of the order to be affixed on the outer door or some other conspicuous part of the public premises.

(2) The competent authority may, on an application made by the person against whom an order is passed under sub-section (1) grant such time for vacating the premises, as it deems fit, subject to such conditions as it may deem fit to impose.

(3) If any person refuses or fails to comply with the order of eviction-

(i) before the date specified in sub-section (1); or

(ii) where time is granted under sub-section (2) within the time so granted the competent authority or any other officer duly authorised by the competent authority in this behalf may evict that person from, and take possession of, the public premises, and may, for that purpose, use such force as may be necessary.”

24. When the order dated 03-01-1978 was passed and never challenged by the petitioner then it attained finality and therefore, the proceedings under Section 5 of the Bedakhali Adhiniyam is mainly to evict the unauthorized occupant, possession of which became unauthorized since 03-01-1978. The application was filed on 22-08-1978. Petitioner knew this fact regarding passing of the order dated 03-01-1978, immediately after passing of the said order. Matter lingered on till 2005 for more than 27 years. Thereafter, impugned order has been passed. Therefore, in absence of challenge being made to the original/basic order dated 03-01-1978, consequential order even if is set aside even then it is of no consequence. In the case of **Amarjeet Singh and others Vs. Devi Ratan and others, (2010) 1 SCC 417**, the Supreme Court has given guidance in the following words:

28. In the instant case, promotions had been made by two different DPC's held on 19.12.1998 and 22.1.1999. Both the DPC's had made promotions under different rules on different criterion and their promotions had been made with retrospective effect with different dates notionally. In the writ petition before the High Court, the promotion of the appellants had not been under challenge. The seniority

which is consequential to the promotions could not be challenged without challenging the promotions. Challenging the consequential order without challenging the basic order is not permissible. (vide Chithranja Menon & Ors. Vs. A. Balakrishnan).

29. In Roshan Lal & ors. Vs. International Airport Authority of India & ors., AIR 1981 SC 597, the petitions were primarily confined to the seniority list and this Court held that challenge to appointment orders could not be entertained because of inordinate delay and in absence of the same, validity of consequential, seniority could not be examined. In such a case, a party is under a legal obligation to challenge the basic order and if and only if the same is found to be wrong, consequential orders may be examined.

30. In H.V. Pardasani etc. Vs. Union of India, this Court observed that : (SCC p. 473 para 9)

“9.if the petitioners are not able to establish that the determination of their seniority is wrong and they have been prejudiced by such adverse determination, their ultimate claim to promotion would, indeed, not succeed.”

A similar view had been reiterated by this Court in Government of Maharashtra & ors. Vs. Deokar's Distillery.

31. These appeals are squarely covered by the aforesaid judgments. We are of the considered opinion that in absence of challenge to the promotion of the appellants, relief of quashing the consequential seniority list could not have been granted.”

25. The above said judgment was passed by the Supreme Court in the realm of service jurisprudence. However in tenancy and land laws, the Supreme Court again gave guidance in the case of **Edukanti Kistamma and others Vs. S. Venkatareddy and others, (2010) 1 SCC 756** in following manner:

“22. It is a settled legal proposition that challenge to consequential order without challenging the basic order/statutory provision on the basis of which the order has been passed cannot be entertained. Therefore, it is a legal obligation on the part of the party to challenge the basic order and only if the same is found to be wrong, consequential order may be examined (vide P. Chithranja Menon & Ors. Vs. A. Balakrishnan & Ors., H. V. Pardasani etc. Vs. Union of India & Ors., and Government of Maharashtra & Ors. Vs. Deokar's Distillery.

23. Undisputedly, the grant of a right or a permit/licence under any statutory provision requires determination of rights and entitlement of the parties. Once such a right is determined, the issuance of the order on the basis of such determination remains a ministerial act.”

26. It is noteworthy to mention that after passing of the order dated 03-01-1978 impugned order dated 22-06-2005 was passed by the competent authority and affirmed by the appellate authority vide order dated 12-09-2005 and both these orders were affirmed by learned Writ Court vide order dated 02-12-2016. This appeal is heard and going to be decided in the month of December, 2024. Around 47 years have passed since allotment order/lease deed

was cancelled by the State Government. In other words when the period is counted from the period of allotment i.e. 11-02-1943 then it appears that for 35 years, land was enjoyed by the petitioner whereas litigation dragged around 47 years for eviction of petitioner. It is also worth mentioning the fact that possession of the land has been taken by the respondents on 17-09-2005 and many industrial plots have been carved out to allot for the aspirants who intend to establish their industries over the said plots.

27. Therefore, intervention application by an Association of M.S.M.E. was also filed. They are waiting for allotments.

28. So far as the submission of petitioner regarding land coming under exception/saving under the Zamindari Abolition Act, 1952 (hereinafter referred to as “the Zamindari Act”) is concerned, the said argument is misplaced on the ground that erstwhile Gwalior Estate granted land on 11-02-1943 to one Sampat Kumar Majeji and permission was granted to start factory on the terms and conditions mentioned therein. Said condition includes condition No.14 which reads as under:

“14. You shall have no right to give any sub-lease of the concessioned lease without previous sanction of the Government.”

29. The said document is placed as Annexure P/8 with the writ appeal. Vide letter dated 16-02-1943 vide Annexure P/9, said Sampat Kumar Majeji affirmed the terms and conditions laid down in the allotment order dated 16-02-1943 and agreed to start Paints and Varnish Factory as per the said terms and conditions. Therefore, the erstwhile Gwalior State granted the land in question on lease

admeasuring 31 bigha of the land (as per respondent No.3). Therefore, the said land was never been the agriculture land, therefore, did not fall under the Zamindari Act. Said Act and its different provisions contemplate certain contingencies regarding agriculture land but since it was an open land meant for industrial purposes, therefore, Gwalior State granted this land on lease for industrial purposes. **Predecessor in title of petitioner Sampat Kumar Majeji applied on 19-11-1942 for allotment of land. On 11-02-1943 allotment was made. If land was under Zamindari, then why Majeji applied for allotment.** Therefore, no question of any benefit accrued to the petitioner on the basis of the Zamindari Act, arises.

30. In fact question of allotment of lease cannot be reagitated because by way of Writ Petition No.61/2001, petitioner alleged that the land in question was never granted on lease to him, therefore, provisions of the Bedakhali Adhinyam are not applicable. Learned Writ Court disposed of the said writ petition vide order dated 29-07-2001 and directed the competent authority to decide such objection and thereafter proceed further. Vide order dated 06-06-2005 the competent authority rejected the preliminary objections and case was fixed for hearing. This order has not been challenged by the petitioner. Thus, this order attained finality. Therefore, on this count also, petitioner cannot assert the question of grant of lease.
31. Even otherwise after the Independence on 15th August, 1947 all lands belonging to native States vest in State under different constitutional provisions. Even Section 57 of the M.P. Land Revenue Code, 1959 contemplates that all lands under the State of

M.P. belongs to the State. Therefore, the land deemed to be and vested in State after 1947. The breach of condition No.14 by way of sale further made the case of petitioner vulnerable. Majeji did not continue with business for which land was sought.

32. On 28-08-1950 Brijmohan Das Nagori and Motilal Gupta posing themselves to be directors of the Gwalior Paints and Chemical Industries Ltd. sold its right, title and interest in the immovable properties to M/s Cotton Traders Pvt. Ltd. When they were bound by the lease conditions then the alleged sale transaction if any held was void-ab-initio. Not only this, on 05-01-1959 M/s Cotton Traders Pvt. Ltd. through Govardhan Das Nagori and Ramnivas Bangad sold the factory to Ms/ Hindustan Commercial Corporation Pvt. Ltd. (present petitioner) whose directors were Damodardas Nagori and Brijmohan Nagori through registered sale deed.
33. It appears that three real brothers namely Brijmohan Nagori, Govardhan Das Nagori and Damodar Das Nagori were near relatives of Sampat Kumar Majeji and they sold the property in such a manner where it appeared that property changed hands but very cleverly it was within family members. Therefore, the petitioner and its predecessor in title since very beginning were not having any interest to run the business but to grab the land. Violation of condition No.14 of the lease deed and subsequent sale of the land in quick successions appear to have committed fraud by petitioner (and predecessors in title) on the State Government/ Public resources. They committed fraud on the intention of erstwhile Gwalior State to establish industry.
34. Fraud vitiates all solemn proceedings. It is well settled principle of

law that **Fraud Vitiates Everything**. This principle has been dealt with by the Apex Court in its various judgments viz. in the case of **R. Ravindra Reddy Vs. H. Ramaiah Reddy, (2010) 3 SCC 214, Badami Bai (D) Tr. L.R. Vs. Bhali, (2012) 11 SCC 574, Uddar Gagan Properties Ltd. Vs. Sant Singh, (2016) 11 SCC 378, K.D. Sharma Vs. SAIL, (2008) 12 SCC 481, Express Newspapers (P) Ltd. Vs. Union of India, (1986) 1 SCC 133, DDA Vs. Skipper Construction, (2007) 15 SCC 601** and in the case of **Jai Narain Parasrampuriah Vs. Pushpa Devi Saraf**, reported in **(2006) 7 SCC 756**.

35. In **R. Ravindra Reddy (supra)**, the Apex Court held as under:

“39. As far as fraud is concerned, it is no doubt true, as submitted by Mr Ramachandran, that fraud vitiates all actions taken pursuant thereto and in Lord Denning’s words “fraud unravels everything.....”

36. Petitioner raised the ground that the land belongs to petitioner which is reflected from the revenue record but this aspect has been dealt with in detail and in right perspective by learned Writ Court in para 13 to 16 in its order. If the name of M/s Gwalior Paints and Chemical Industries Ltd. was found in some of the Khasra entries even then it could have been because of allotment of land on lease for the time being. It is worth mentioning the fact that petitioner nowhere established the fact regarding source of title over the land in question. Petitioner traces back its title to M/s Gwalior Paints and Chemical Industries Ltd. but how M/s Gwalior Paints and Chemicals Industries Ltd. came into possession of the said land, can only be deciphered by way of lease deed dated 11-02-1943 (Annexure P/8).

37. Permission to start factory was granted on the basis of application

filed by Sampat Kumar Majeji on 19-11-1942, therefore, if Sampat Kumar Majeji was the owner of the land in question then why he moved the application on 19-11-1942 to the Gwalior State for allotment of the land. If Sampat Kumar Majeji was owner of the suit property then why he asked for allotment of the land, is the question which was never answered by the petitioner in proceedings throughout.

38. Therefore, the only logic which can be drawn is that petitioner (predecessor in title) received allotment of the land for establishment of the industry with some stringent conditions not to lease out or transfer it to somebody else and understandably so. Purpose of the then State was to flourish the industries rather than to enrich unduly any individual by involving mischievously into the subsequent transactions which petitioner and its predecessors in title did. On this point also contention of petitioner fails and deserves rejection.
39. Another ground raised by the petitioner is regarding competence of the competent authority. Order is being passed by the Joint Collector Shri Suresh Kumar Sharma. In exercise of the power conferred under Section 17 of the Bedakhali Adhiniyam, State Government vide its notification dated 05-02-1976 delegated its power to all Collectors of the State and thereafter the Collector, District Gwalior in exercise of the said power, vide order dated 27-12-2004 authorized Shri Suresh Kumar Sharma the then Joint Collector to act as competent authority under the Bedakhali Adhiniyam in the area within the municipal limit of Gwalior. Said notification and order are part of the record as Annexures along with additional reply filed by respondent No.3 on 28-03-2019 vide document No.2381/2019.
40. Since Section 3 of the Bedakhali Adhiniyam provides that State

Government may appoint an officer not below the rank of Assistant Collector or Deputy Collector and the fact remains that Joint Collector is over and above the Assistant Collector/Deputy Collector, therefore, no jurisdictional error caused if the Joint Collector passed the order dated 22-06-2005 as competent authority. So far as reliance laid by the petitioner over the judgment passed by the Single Bench in the case of **Indu Gupta (supra)** is concerned it does not lay down the correct law because Sections 3 and 17 of the Bedakhali Adhiniyam move in slightly different territorial realm. Section 3 of the Bedakhali Adhiniyam is regarding appointment of Assistant Collector or Deputy Collector as competent authority for the purpose of this Act whereas Section 17 of the Bedakhali Adhiniyam gives authority to the State Government to delegate any power exercisable under this Act to any other officer of the State Government also subject to some conditions as specified in the notification.

41. Therefore, Section 3 and Section 17 of the Bedakhali Adhiniyam are not at loggerheads, rather Section 17 of the Bedakhali Adhiniyam complements Section 3 of the Bedakhali Adhiniyam. At times, State Government requires some other officers also (for certain departments for some purposes), to act as competent authority for holding the proceedings for eviction under the Bedakhali Adhiniyam, then those officers can also be notified as competent authority.
42. Under Section 17 of the Bedakhali Adhiniyam those officers may be appointed as competent authority or may be appointed for specific purpose with specific powers for the purpose of the

Bedakhali Adhinyam. Therefore, the judgment of Indu Gutpa (supra) passed by learned Single Judge, does not bind this Court and the arguments advanced by learned senior counsel for the petitioner lacks merits.

43. In other words, the then Joint Collector was competent authority to pass such order and the said authority after affording adequate opportunity of hearing to the parties, passed the impugned order.
44. The ground as raised by the petitioner in relation to competence/jurisdiction of competent authority, was never raised by the petitioner in proceedings before the competent authority or before appellate authority as well as before learned Writ Court. However, petitioner raised this point in specific term for the first time in Writ Appellate Court. Therefore, the said ground deserved to be rejected at the threshold, however, in the interest of justice, this point is discussed and thereafter rejected.
45. In fact proceedings were pending since 1978 and the impugned order was passed in 2005 after 27 years being consumed in such proceedings. The State Government/Collector/Joint Collector exercised all powers within the bounds of law and that too after affording more than adequate opportunity of hearing.
46. When the competent authority, appellate authority and learned Writ Court passed the exhaustive orders touching all the aspects of the case while framing issues/questions for consideration then the scope of writ appeal constricts. Even otherwise petition was filed under Article 226/227 of the Constitution of India and sought invocation of writ of Certiorari for quashment of the impugned orders passed by the quasi-judicial authority. Therefore, effectively

it was the petition under Article 227 of the Constitution and decided by learned Writ Court as well as this Court. Scope of petition under Article 227 is well defined {See: **Shalini Shyam Shetty and another Vs. Rajendra Shankar Patil, (2010) 8 SCC 329**}. Perusal of order dated 02-12-2016 passed by learned Writ Court reveals that all points have been discussed by learned Writ Court and thereafter passed the impugned order.

47. Intervention application stands disposed of in light of the instant judgment.
48. In the cumulative analysis, no case for interference is made out. Appeal sans merits and is hereby **dismissed**. Respondents to proceed accordingly.

Anil*

(ANAND PATHAK)
JUDGE

(ROOPESH CHANDRA VARSHNEY)
JUDGE