

The High Court of Madhya Pradesh

WP.19305.2021

[Uttam Singh Yadav Vs. State of M.P. & Ors.]

Gwalior dated 23.09.2021

Shri Sanjeev Jain, learned counsel for petitioner.

Shri Ankur Mody, learned Additional Advocate General for respondent/State.

Present petition has been filed in shape of PIL u/Art.226 of Constitution primarily raising alleged public cause of encroachment over the Government land bearing Survey No.435, 436, 795, 796, 797, 787 & 788 situated at village Sersa, District Datia (M.P.) situated in rural area but not within any Municipal area.

It is common knowledge that this Court is flooded with petitions of this nature where individuals come to this Court alleging encroachment over Government land. The Apex Court in the case of **Jagpal Singh & Ors. Vs. State of Punjab and Ors** reported in **(2011) 11 SCC 396** as regards grievance of encroachment has held thus :-

"23. Before parting with this case we give directions to all the State Governments in the country that they should prepare schemes for eviction of illegal/unauthorized occupants of Gram Sabha/Gram Panchayat/ Poramboke/Shamlat land and these must be restored to the Gram Sabha/Gram Panchayat for the common use of villagers of the village. For this purpose the Chief Secretaries of all State Governments/Union Territories in India are directed to do the needful, taking the help of other senior officers of the Governments. The said scheme should provide for the speedy eviction of such illegal occupant, after giving him a show cause notice and a brief hearing. Long duration of such illegal occupation or huge expenditure in making constructions

thereon or political connections must not be treated as a justification for condoning this illegal act or for regularizing the illegal possession. Regularization should only be permitted in exceptional cases e.g. where lease has been granted under some Government notification to landless labourers or members of Scheduled Castes /Scheduled Tribes, or where there is already a school, dispensary or other public utility on the land.

24. Let a copy of this order be sent to all chief secretaries of all States and Union Territories in India who will ensure strict and prompt compliance of this order and submit compliance reports to this Court from time to time.”

Recently, the Coordinate Bench of this Court at Principal Seat Jabalpur in the case of **Gram Panchayat Dhooma Vs. State of M.P. & Ors. (Writ Petition No.7865/2021)** vide order dated 09/06/2021 after relying upon the decision of Apex Court in the case of **Jagpal Singh (Supra)** has held thus:-

“06. In order therefore to provide a State wide solution to this ever persisting problem, we deem it appropriate to direct the Chief Secretary of the State to devise a permanent mechanism, which should be functional in every district of the State where the concerned District Collector should be required to periodically notify for the information of the general public to lodge the complaints/ representations with regard to such encroachments with a specially designated Public Land Protection Cell (for short PLPC) for rural areas. The PLPC should be headed by District Collector and function under his direction and supervision with an officer of the rank of Tehsildar as its Member Secretary and such other Officers as its Members as the Government may deem fit to nominate. The PLPC shall get such complaints/ representations enquired into by deputing concerned Sub Divisional Officer / Tehsildar / Naib Tehsildar so as to verify whether or not such encroachments have actually taken place on public land. If the allegations are found to be substantiated, appropriate steps in accordance with law be immediately taken for removal of the encroachments and appropriate penal action be also taken against the trespassers. The complaints / representations received in

the PLPC should be decided by passing speaking order, informing the respective complainant / representationist about the action taken. This would obviate the necessity of such complainants / representationists approaching this Court directly by way of public interest litigation. If this permanent mechanism is put in place, this Court would not be required to directly entertain such public interest litigation and would do so only in the event of inaction on the part of the concerned PLPC.

07. *The PLPC aforementioned shall also keep in view the guidelines issued by the Supreme Court in Jagpal Singh & Others Vs. State of Punjab & Others, (2011) 11 SCC 396 wherein all the State Governments of the country have been directed to prepare scheme for eviction of illegal/ unauthorised occupants of the Gram Sabha / Gram Panchayat / Poramboke / Shamlat land which should then be restored to the Gram Sabha / Gram Panchayat for the common use of residents of the village. The said scheme should provide for the speedy eviction of such illegal occupants, after giving them a show cause notice and a brief hearing. The Supreme Court further held therein that long duration of the illegal encroachment / occupation of land or huge expenditure in making construction thereon or political connections of trespassers are no justification for regularising such illegal occupation. Regularisation should be permitted only in exceptional cases where lease has been granted under some government notification e.g. to landless labourers or members of Scheduled Castes / Scheduled Tribes or where there is already a school, hospital, dispensary, shamshan kabristan or other public utility of the like nature on the land. Observations of the Supreme Court in Jagpal Singh (supra) thus leaves no manner of doubt that removal of encroachment on all such land is a rule and regularisation an exception and that too in extremely limited number of cases, which only the Government can do by appropriate notification and no other authority.*

08. *A copy of this order be forwarded to the Chief Secretary of the State of Madhya Pradesh, Bhopal for issuance of necessary notification for notifying the permanent body designated as Public Land Protection Cell (PLPC) in every District with the District Collector as its head and a Tehsildar as its Member Secretary, apart from other revenue officers as the Members. This should be given due publicity for information of all the citizens that complaint with regard to encroachment*

over public land in the rural areas can be made to such authorities which shall be responsible for causing an enquiry into such complaint to be made and taking expeditious action for removal of encroachments so as to protect the public land."

Accordingly, petitioner is directed to submit his representation to the Committee nomenclatured as Public Land Protection Cell (PLPC) which has been constituted in pursuance of order passed by Coordinate Bench of this Court in the case of **Gram Panchayat Dhooma (Supra)** to scrutinize the grievance of petitioner with regard to encroachment over Government land bearing Survey No.435, 436, 795, 796, 797, 787 & 788 situated at village Sersa, District Datia (M.P.) and the authorities concerned shall be responsible for causing an enquiry into such grievance to be made and taking remedial action if required, as expeditiously as possible preferably within a period of **three months** from the date of preferring of representation along with certified copy of this order.

With the aforesaid directions, the present petition stands **disposed of.**

(Sheel Nagu)
Judge

(Anand Pathak)
Judge

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