

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

BEFORE

HON'BLE SHRI JUSTICE ANAND PATHAK

ON THE 27th OF OCTOBER, 2023

WRIT PETITION No. 26521 of 2023

BETWEEN:-

**MANSINGH S/O LATE SHRI GAYADEEN LODHI, AGED
ABOUT 72 YEARS, OCCUPATION: AGRICULTURIST
VILLAGE NUNHAD TEHSIL GORMI, P.S. GORMI
DISTRICT BHIND (MADHYA PRADESH)**

.....PETITIONER

(BY SHRI KAMAL JAIN - ADVOCATE)

AND

- 1. THE STATE OF MADHYA PRADESH THROUGH
PRINCIPAL SECRETARY DEPARTMENT OF
REVENUE MANTRALAYA, VALLABH BHAWAN,
BHOPAL (MADHYA PRADESH)**
- 2. COLLECTOR BHIND (MADHYA PRADESH)**
- 3. SUB DIVISIONAL OFFICER BHIND (MADHYA
PRADESH)**
- 4. TEHSILDAR TEHSIL GORMI, BHIND BHIND
(MADHYA PRADESH)**

.....RESPONDENTS

(BY SHRI VISHAL TRIPATHI - ADVOCATE)

.....
*This petition coming on for admission this day, the court passed the
following:*

ORDER

The instant petition is preferred under Article 226 of the Constitution by the petitioner seeking relief in the form of direction to take action upon the application preferred by the petitioner purportedly under Section 32 of Madhya

Pradesh Land Revenue Code 1959 (hereinafter referred as "Code-1959") whereby Collector District Bhind has not exercised the inherent powers to ensure the Cause of Justice.

2. Precisely stated facts of the case are that petitioner is owner of the land bearing Survey No.1287 ad-measuring 0.10 hectare, Survey No.1300/2 ad-measuring 0.06 hectare, Survey No.1301/2 ad-measuring 0.01 hectare, Survey No.1302 ad-measuring 0.15 hectare and Survey No.1304 ad-measuring 0.17 hectare in village Nunhad, Tehsil Gormi, District Bhind. Since, land belonging to petitioner was encroached upon by some miscreants therefore, an application under Section 250 of Code-1959 was preferred by the petitioner before Tehsildar, Tehsil Gormi, District Bhind and after due procedure, order dated 01.09.2022 was passed and it was found that Dilip Singh S/o Late Shri Jagannath Lodhi, Ahiwaran Singh S/o Late Shri Jagannath Lodhi, Mukesh S/o Shri Dilip Singh, Virendra S/o Shri Feran Singh, Bunti Singh S/o Shri Virendra Singh, Brijesh Singh, S/o Shri Virendra Singh R/o Village Nunhad Tehsil Gormi, Bhind were encroachers over the land in question. Therefore, after due inquiry, they were directed to be removed from the encroached land.

3. Predicament of petitioner starts here because after order being passed, its enforcement became difficult. Tehsildar and other authorities tried to give possession to the petitioner but to no avail. Petitioner moved an application before the Tehsildar for enforcement of decree but when did not get any result then he moved an application before the Collector under Section 32 of the Code 1959. Said application has been filed on 11.04.2023 and since then it is pending consideration. Therefore, petitioner is before this Court.

4. It is the submission of counsel for the petitioner that despite order is passed in his favour, he cannot reap the benefit of said order and suffering

anxiety. Miscreants as referred above are enjoying property which is otherwise of ownership/possession of petitioner.

5. Learned counsel for the respondent/State fairly submits that Section 32 of Code-1959 contemplates inherent powers of revenue Court and Collector shall ensure appropriate proceeding.

6. This is the case where petitioner has invoked the inherent power of revenue Court to meet the ends of justice and to prevent the abuse of process of law. Section 32 of the Code 1959 reads as under:-

'Section 32. Inherent power of Revenue Courts. - Nothing in this Code shall be deemed to limit or otherwise affect the inherent power of the Revenue Court to make such orders as may be necessary for the ends of justice or to prevent the abuse of the process of the Court.'

7. Perusal of the provision indicates that in realm of revenue matters and especially those governed by M.P. Land Revenue Code 1959, inherent powers have been given to the Revenue Authority to achieve Ends of Justice and to Check the abuse of Process of Law.

8. The inherent power has not been conferred upon Revenue Courts. It is a power inherent in the Court by virtue of its duty to do justice between the parties before it. (See:- AIR 1962 SC 527, **Manohar Lal Chopra vs Rai Bahadur Rao Raja Seth Hiralal and Nandu S/O Bhagwan Das and Another Vs. Jamuna Bai and Ors. (2016) 3 MPLJ 604**).

9. Here petitioner is legitimately pursuing his litigation for retrieval of land and ultimately succeeded in *bi-parte* order. Once order has been passed while considering the Principles of Natural Justice in which other party was also given opportunity then it is the duty of Revenue Courts especially Collector of the

District to ensure compliance of such order. Else, those orders would be an empty formality.

10. Collector and other Revenue Authorities have to inculcate the sense of sensitivity towards the litigation which is quasi judicial in nature and have to harbor the notion that **every FILE with same alphabets contains a LIFE**. Here Collector in his inherent jurisdiction can provide resuscitation to the LIFE of FILE, which is otherwise, almost a dead letter for petitioner because he is not getting any benefits of the order legitimately received by him after appropriate litigation before the competent Revenue Authority.

11. In conspectus of fact situation, it is imperative for Collector and other Higher Revenue Authorities to rise to the occasion and not only give LIFE to the FILE but also LIFE to the Provision which provides them inherent powers. Therefore, petition is disposed of with direction to the Collector District Bind to consider the plight of petitioner and ensure appropriate proceeding exercising the inherent powers provided under Section 32 of Code 1959.

12. Petition stands disposed of with the expectation that needful be done within one month from the date of submission of certified copy of this order.

(ANAND PATHAK)
JUDGE

Ashish*