



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

**HON'BLE SHRI JUSTICE G. S. AHLUWALIA**

**ON THE 8<sup>th</sup> OF JANUARY, 2025**

**WRIT PETITION No.38480 of 2024**

***MU. CHAND BEE AND OTHERS***

*Versus*

***THE STATE OF MADHYA PRADESH***

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**Appearance:**

*Shri Anand Vinod Bhardwaj- Advocate for petitioners.*

*Shri G. K. Agrawal – Government Advocate for respondent/State.*

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**ORDER**

This petition, under Article 226 of the Constitution of India, has been filed seeking following relief(s):-

*It is therefore most humbly prayed that this Hon'ble court may kindly be pleased to allow the present petition and it is further prayed that the order Annexure P-1, P-2 & P-7 may kindly be set aside in the interest of justice.*

2. It is the case of petitioners that Munnu Khan applied for settlement of Survey No.907 Area 1.254 hectare. It was the case of Munnu Khan that he was in possession of said land for last 30 years. The said application was registered and objections were invited.



Gram Panchayat Panihar also passed a resolution dated 25.01.2001 stating that they have no objection, if settlement is done in favour of Munnu Khan.

3. Report was also requisitioned and Patwari also submitted a report that he has been informed that Munnu Khan is in possession of land in dispute for last 30 years. Accordingly, by order dated 21.03.2001, Additional Tahsildar, Circle- I(ब) Ghatigaon, Tahsil and District Gwalior settled the land i.e. Khasra No.907 Min Area 0.836 hectare in favour of Munnu Khan. On 04.01.2012, Collector took the matter in *suo motu* revision and issued notice to Munnu Khan. Petitioners who are the legal representatives of Munnu Khan submitted their reply, however, Collector Gwalior by order dated 30.06.2012 set aside the order dated 21.03.2001 passed by Additional Tahsildar, Circle- I(ब) Ghatigaon, Tahsil and District Gwalior.

4. Being aggrieved by the said order, petitioners preferred a revision before the Board of Revenue which was registered as Case No.2152/PBR/2012 which too has been dismissed by order dated 30.10.2013.

5. Challenging the order passed by the Collector, Gwalior, as well as Board of Revenue, it is submitted by counsel for petitioners that in the light of the judgment passed by Full Bench of this Court in the case of **Ranveer Singh and another Vs. State of M.P.** reported in **2010 RN 409**, it is clear that *suo motu* power of revision has to be exercised within a period of 180 days from the date of discovery of



fraud. In the entire order dated 31.03.2015, the Collector, Gwalior, has not disclosed the date on which the mistake/fraud came to the notice of Collector. Thus, *suo motu* exercise of powers, by issuing show-cause notice dated 04.01.2012 by Collector, Gwalior, is bad in law. It is further submitted that before issuing show-cause notice thereby intending to exercise *suo motu* power of revision no show cause notice was issued. It is further submitted that the land was settled in favour of Munnu Khan as per the provisions of the Madhya Pradesh Krishi Prayojan Ke Liye Upayog Ki Ja Rahi Dakhal Rahit Bhumi Par Bhumiswami Adhikaron Ka Pradan Kiya Jana (Vishesh Upabandh) Adhinyam, 1984 (for brevity “Adhinyam 1984”), but the Collector, Gwalior, had wrongly mentioned that the land was settled in favour of Munnu Khan, under the provisions of Chapter IV Part 3 Clause (1) of Revenue Book Circular.

6. *Per contra*, the petition is vehemently opposed by counsel for State.

7. Heard learned counsel for the parties.

8. Whether *Suo Motu* exercise of power under Section 50 of M.P. Land Revenue Code was barred by time?

A show-cause notice was issued to petitioner under Section 50 of M.P. Land Revenue Code on 04.01.2012. It is clear from order dated 04.01.2012, *suo motu* power of revision was exercised upon receipt of record of Case No.34/2000-01/A-19 decided by the court of Additional Tahsildar, Ghatigaon, Tahsil and District Gwalior. The



opening paragraph of order dated 04.01.2012 mentions that the record of the aforesaid case is received and it was inspected and it was found that certain illegalities were committed while granting *Patta*. Thus, it is clear that immediately after receipt of record from the court of Additional Tahsildar, the Collector decided to exercise its *suo motu* power of revision and thus, it is clear that *suo motu* power of revision was exercised within a period of 180 days from the date of discovery of fraud. Under these circumstances, the contention made by counsel for petitioners that *suo motu* exercise of power under Section 50 of M.P. Land Revenue Code was hopelessly barred by time is misconceived and is hereby dismissed.

9. Whether show cause notice was necessary to be issued to petitioners prior to initiating the proceedings under Section 50 of M.P. Land Revenue Code or not?

It is submitted by counsel for petitioners that before deciding to exercise *suo motu* power of revision, a show-cause notice should have been issued to petitioners thereby calling upon them to explain why the proceedings under Section 50 of the M.P. Land Revenue Code be not initiated. Initiation of proceedings under Section 50 of the M.P. Land Revenue Code by itself cannot be interpreted that a decision was already taken by the Collector to pass an adverse order to the interest of petitioners. Counsel for petitioners also could not point out any provision of law which requires that show-cause notice has to be given before deciding as to whether *suo motu* powers of revision can



be exercised or not. Once the Collector finds that there are certain discrepancies in the order which is under revision, then the person who is likely to be adversely affected is required to be noticed thereby explaining the discrepancies which were noticed by the Collector or revisional authority. However, before deciding as to whether any proceeding under Section 50 of the M.P. Land Revenue Code should be initiated or not, no show cause notice is required. At the cost of repetition, it is once again held that since the registration of revision by itself does not mean that adverse order has been passed therefore no show-cause notice before registration of case under Section 50 of the M.P. Land Revenue Code in exercise of *suo motu* power of revision was required.

**10.** The judgment, relied upon by the petitioners in the case of **Shaheed Anwar Vs. Board of Revenue and another reported in 2000 RN 76**, is of no assistance to the petitioners. In the said case, it was held that before granting permission to review, petitioners should have been put to notice.

**11.** So far as the contention made by counsel for the petitioners that Bhumiswami Rights were granted under the Adhiniyam 1984 is concerned, neither in application filed by petitioners nor in the order passed by the Additional Tahsildar, it was mentioned that Bhumiswami Rights are being conferred in exercise of powers under the Adhiniyam 1984. Thus, Collector, Gwalior did not commit any mistake in holding that the land was settled under the provisions of



Chapter 4 Part III of Revenue Book Circular.

12. Even otherwise on merits, petitioners have no case. Munnu Khan filed an application for settlement of 1.254 hectare of land forming part of Survey No.907 Min which was recorded as *Noiyat Pahad (Hill)*. Counsel for petitioners was repeatedly directed to explain as to whether the Hill can be permitted to be destroyed in order to make it cultivable or not? However, no reply was given to that extent except by saying that under Section 237 of the M.P. Land Revenue Code, the Hill can be settled because the same is not mentioned as a restricted land. How a person can be allowed to destroy a hill or a mountain? Furthermore, it is clear from Clause 1 of Chapter IV Part 3 of Revenue Book Circular that only land suitable for agriculture can be settled. By no stretch of imagination a Hill can be said to be a land suitable for agricultural purposes. However, in order to claim that Munnu Khan was in possession of the land for the last 30 years, only two documents have been filed i.e. Khasra Panchsala of Samvat 2057 and Khasra Panchsala of Samvat 2037-2040. Thus, it is clear that in the year 1983 appellant Munnu Khan was recorded as a person who is in possession as an encroacher. Similarly, in Khasra of Samvat 2057 i.e. year 2000, name of Munnu Khan was mentioned as an encroacher. The application for settlement was filed on 11.12.2000. Even if Khasra Panchsala which were relied upon by Munnu Khan along with his application are taken on their face value then it is clear that at the most it can be said that he had



encroached upon the land sometime in the year 1980-83. However, it is also made clear that the aforesaid entries were not made in compliance of any order and also do not contain signatures of the person who had made those entries. Furthermore, Munnu Khan has not filed any Khasra Panchsala to show that he was in possession after 1983 till 1999 and as already pointed out Khasra of Samvat 2057 (year 2000) was filed which also does not contain the signature of person who has made that entry.

**13.** Under these circumstances, even otherwise Munnu Khan had failed to prove that he was in continuous possession of the land which was claimed by him. Under these circumstances, this Court is of the considered opinion that Collector, Gwalior as well as Board of Revenue did not commit any mistake by setting aside the order dated 21.03.2001 passed by Additional Tahsildar, Ghatigaon, District Gwalior in case No.34/2000-01/A-19.

**14.** The petition fails and is hereby *dismissed*.

Interim order dated 11.09.2019 is hereby vacated.

Collector, Gwalior, is directed to take possession from petitioner and for that purposes no separate proceedings under Section 248 of M.P. Land Revenue Code would be required.

**(G.S. Ahluwalia)**  
**Judge**