

W.P. Nos. 11153/2022, 11164/2022, 11166/2022,  
11232/2022, 11420/2022, 11483/2022, 11486/2022,  
11547/2022, 11632/2022, 11818/2022, 13721/2022

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

**HON'BLE SHRI JUSTICE VIVEK RUSIA**

**WRIT PETITION No. 11153 of 2022**

**BETWEEN:-**

**AISHWARYA VERMA W/O SHRI MUKESH VERMA, AGED ABOUT 25  
YEARS, OCCUPATION: PRIVATE JOB 145, MOTI BUNGLOW, DEWAS  
(MADHYA PRADESH)**

**.....PETITIONER**

**(SHRI ROHIT KUMAR MANGAL, LEARNED COUNSEL FOR THE  
PETITIONER.)**

**AND**

- 1. THE STATE OF MADHYA PRADESH PRINCIPAL SECRETARY  
VALLABH BHAWAN BHOPAL (MADHYA PRADESH)**
- 2. COLLECTOR COLLECTOR DEWAS (MADHYA PRADESH)**
- 3. SUB DIVISIONAL OFFICER (REVENUE) SUB DIVISION DEWAS  
DEWAS (MADHYA PRADESH)**
- 4. BHANWAR SINGH S/O LATE SHRI GHEESALAL R/O  
GRAMSURLAKHEDI TEHSIL SANWER (MADHYA PRADESH)**

**.....RESPONDENTS**

**(SHRI KUSHAL GOYAL, LEARNED DY. ADVOCATE GENERAL FOR THE  
RESPONDENTS/STATE.)**

**(SHRI RAGHVENDRA SINGH RAGHUVANSHI, LEARNED COUNSEL  
FOR RESPONDENT NO.4.)**

**WRIT PETITION No. 11164 of 2022**

**BETWEEN:-**

**SMT. ANITA W/O SHRI BANSHILAL, AGED ABOUT 52 YEARS,  
OCCUPATION: HOUSEWIFE DANI GATE UJJAIN (MADHYA  
PRADESH)**

**.....PETITIONER**

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11547/2022, 11632/2022, 11818/2022, 13721/2022

*(SHRI ROHIT KUMAR MANGAL, LEARNED COUNSEL FOR THE PETITIONER.)*

**AND**

1. THE STATE OF MADHYA PRADESH PRINCIPAL SECRETARY VALLABH BHAWAN BHOPAL (MADHYA PRADESH)
2. COLLECTOR COLLECTOR DEWAS (MADHYA PRADESH)
3. SUB DIVISIONAL OFFICER (REVENUE) SUB DIVISION DEWAS DEWAS (MADHYA PRADESH)  
BHANWAR SINGH S/O LATE SHRI GHEESALAL R/O GRAM
4. SURLAKHEDI TEHSIL SANWER VILLAGE RASULPUR TEHSIL DEWAS (MADHYA PRADESH)

.....RESPONDENTS

*(SHRI KUSHAL GOYAL, LEARNED DY. ADVOCATE GENERAL FOR THE RESPONDENTS/STATE.)*

*(SHRI RAGHVENDRA SINGH RAGHUVANSHI, LEARNED COUNSEL FOR RESPONDENT NO.4.)*

*KUSHAL GOYAL APPEARING ON BEHALF OF ADVOCATE GENERAL.  
RAGHVENDRA SINGH RAGHUVANSHI, LEARNED COUNSEL FOR THE RESPONDENT [R-4].)*

**WRIT PETITION No. 11166 of 2022**

**BETWEEN:-**

SALONI VERMA D/O SHRI SANJAY VERMA, AGED ABOUT 22 YEARS,  
OCCUPATION: PRIVATE JOB 145, MOTI BUNGLOW (MADHYA PRADESH)

.....PETITIONER

*(SHRI ROHIT KUMAR MANGAL, LEARNED COUNSEL FOR THE PETITIONER.)*

**AND**

1. THE STATE OF MADHYA PRADESH PRINCIPAL SECRETARY VALLABH BHAWAN BHOPAL (MADHYA PRADESH)
2. COLLECTOR DEWAS (MADHYA PRADESH)
3. SUB DIVISIONAL OFFICER (REVENUE) SUB DIVISIONAL DEWAS (MADHYA PRADESH)
4. BHANWAR SINGH S/O LATE SHRI GHEESALAL GRAM SURLAKHEDI TEHSIL SANWER (MADHYA PRADESH)

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.....RESPONDENTS

*(SHRI KUSHAL GOYAL, LEARNED DY. ADVOCATE GENERAL FOR THE  
RESPONDENTS/STATE.)*

*(SHRI RAGHVENDRA SINGH RAGHUVANSHI, LEARNED COUNSEL  
FOR RESPONDENT NO.4.)*

**WRIT PETITION No. 11232 of 2022**

**BETWEEN:-**

ASHOK SOLANKI S/O KISHANLAL SOLANKI, AGED ABOUT 52  
1. YEARS, OCCUPATION: BUSINESS 342, SUNCITY 2 (MADHYA  
PRADESH)

2. AJAY S/O NARAYAN VERMA, AGED ABOUT 38 YEARS,  
OCCUPATION: BUSINESS R/O 43 JAMNAGAR (MADHYA PRADESH)

RAMZAN SHEIKH S/O NANNE SHEIKH, AGED ABOUT 70 YEARS,  
3. OCCUPATION: BUSINESS R/O 39 INDRA NAGAR BNP ROAD  
(MADHYA PRADESH)

ANISH S/O YUSUF SHEIKH, AGED ABOUT 35 YEARS,  
4. OCCUPATION: BUSINESS R/O 43 PANCHSHEEL NAGAR (MADHYA  
PRADESH)

5. AJAZ SHEIKH S/O AKRAMSHEIKH, AGED ABOUT 28 YEARS,  
OCCUPATION: BUSINESS R/O LAXMIPURA (MADHYA PRADESH)

.....PETITIONER

*(SHRI VIVEK PHADKE, LEARNED COUNSEL FOR THE PETITIONER.)*

**AND**

1. THE STATE OF MADHYA PRADESH THROUGH COLLECTOR  
DEWAS (MADHYA PRADESH)

2. THE SUB DIVISIONAL OFFICER DEWAS (MADHYA PRADESH)

SHRI BHAWARSINGH S/O LATE SHRI GHISAJI OCCUPATION:  
3. AGRICULTURIST R/O GRAM SURLAKHEDI TEHSIL SANWER  
VILLAGE RASULPUR TEHSIL DEWAS (MADHYA PRADESH)

.....RESPONDENTS

*(SHRI KUSHAL GOYAL, LEARNED DY. ADVOCATE GENERAL FOR THE  
RESPONDENTS/STATE.)*

*(SHRI RAGHVENDRA SINGH RAGHUVANSHI, LEARNED COUNSEL  
FOR RESPONDENT NO.4.)*

**WRIT PETITION No. 11420 of 2022**

**BETWEEN:-**

SHEIKH SALIM S/O LATE NOOR MOHAMMAD, AGED ABOUT 63  
1. YEARS, OCCUPATION: RETIRED 41/1, NOOR MANJIL, BAWANI  
SAGAR, NAYAPURA (MADHYA PRADESH)

GULSHER SHEIKH S/O LATE JAHUR MOHAMMAD, AGED ABOUT  
2. 41 YEARS, OCCUPATION: BUSINESS 41/1, NOOR MANJIL,  
BHAWANI SAGAR, NAYAPURA, DEWAS (MADHYA PRADESH)

AAMIR SHEIKH S/O LATE JAHUR MOHAMMAD, AGED ABOUT 32  
3. YEARS, OCCUPATION: SERVICE 41/1, NOOR MANJIL, BHAWANI  
SAGAR, NAYAPURA, DEWAS (MADHYA PRADESH)

FARAZ ASLAM S/O LATE SHEIKH ASLAM, AGED ABOUT 31 YEARS,  
4. OCCUPATION: BUSINESS 19, RAILWAY STATION ROAD, DEWAS  
(MADHYA PRADESH)

.....PETITIONER

*(SHRI SAMEER ANANT ATHAWALE, LEARNED COUNSEL FOR THE  
PETITIONER.)*

**AND**

THE STATE OF MADHYA PRADESH THROUGH PRINCIPAL  
1. SECRETARY MANTRALAYA, VALLABH BHAWAN, BHOPAL (M.P.)  
(MADHYA PRADESH)

2. THE COLLECTOR COLLECTORATE DEWAS (MADHYA PRADESH)

3. THE SUB DIVISIONAL OFFICER REVENUE DEPARTMENT SUB  
DIVISION OFFICE, DEWAS (MADHYA PRADESH)

4. BHANWARSINGH S/O LATE GHISA VILLAGE SURLAKHEDI  
(MADHYA PRADESH)

NILOFAR SHEIKH D/O LATE JAHUR MOHAMMAD, AGED ABOUT  
5. 39 YEARS, 41/1, NOOR MANJIL, BAWANI SAGAR, NAYAPURA  
(MADHYA PRADESH)

SHAISTA SHEIKH D/O LATE JAHUR MOHAMMAD, AGED ABOUT  
6. 35 YEARS, 41/1, NOOR MANJIL, BAWANI SAGAR, NAYAPURA  
(MADHYA PRADESH)

7. RAISA SHEIKH D/O LATE ASLAM SHEIKH, AGED ABOUT 58  
YEARS, 19, RAILWAY STATION, DEWAS (MADHYA PRADESH)

8. RAIS SHEIKH S/O LATE ASLAM SHEIKH, AGED ABOUT 37 YEARS,  
19, RAILWAY STATION, D (MADHYA PRADESH)

9. DR. GULNAR SHEIKH D/O LATE ASLAM SHEIKH, AGED ABOUT 36  
YEARS, 19, RAILWAY STATION, DEWAS (MADHYA PRADESH)

.....RESPONDENTS

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*(SHRI KUSHAL GOYAL, LEARNED DY. ADVOCATE GENERAL FOR THE RESPONDENTS/STATE.)*

*(SHRI RAGHVENDRA SINGH RAGHUVANSHI, LEARNED COUNSEL FOR RESPONDENT NO.4.)*

**WRIT PETITION No. 11483 of 2022**

**BETWEEN:-**

**RAJESH S/O KANTILAL JAIN, AGED ABOUT 55 YEARS,  
OCCUPATION: BUSINESS R/O 15 M.I.G. JAWAHAR NAGAR (MADHYA  
PRADESH)**

**.....PETITIONER**

*(SHRI VEER KUMAR JAIN, LEARNED SENIOR ADVOCATE WITH SHRI  
NITIN PHADKE, ADVOCATE FOR THE PETITIONER.)*

**AND**

- 1. THE STATE OF MADHYA PRADESH THROUGH THE COLLECTOR  
DEWAS (MADHYA PRADESH)**
- 2. THE SUB DIVISIONAL OFFICER (REVENUE) DEWAS (MADHYA  
PRADESH)**
- 3. BHANWARSINGH S/O SHRI GHISAJI, AGED ABOUT 65 YEARS,  
OCCUPATION: AGRICULTURIST VILLAGE SURLAKHEDI  
(MADHYA PRADESH)**

**.....RESPONDENTS**

*(SHRI KUSHAL GOYAL, LEARNED DY. ADVOCATE GENERAL FOR THE  
RESPONDENTS/STATE.)*

*(SHRI RAGHVENDRA SINGH RAGHUVANSHI, LEARNED COUNSEL  
FOR RESPONDENT NO.4.)*

**WRIT PETITION No. 11486 of 2022**

**BETWEEN:-**

**M/S SRISHTI MOTORS THROUGH ITS PARTNER DEEPAK S/O SHRI  
SURENDRA SAHGAL OCCUPATION: BUSINESS R/O VILLAGE  
RASULPUR (MADHYA PRADESH)**

**.....PETITIONER**

*(SHRI VEER KUMAR JAIN, LEARNED SENIOR ADVOCATE WITH SHRI  
NITIN PHADKE, ADVOCATE FOR THE PETITIONER.)*

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11547/2022, 11632/2022, 11818/2022, 13721/2022

AND

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11232/2022, 11420/2022, 11483/2022, 11486/2022,  
11547/2022, 11632/2022, 11818/2022, 13721/2022

.....RESPONDENTS

*(SHRI KUSHAL GOYAL, LEARNED DY. ADVOCATE GENERAL FOR THE RESPONDENTS/STATE.)*

*(SHRI RAGHVENDRA SINGH RAGHUVANSHI, LEARNED COUNSEL FOR RESPONDENT NO.4.)*

*(RAGHVENDRA SINGH RAGHUVANSHI, LEARNED COUNSEL FOR THE RESPONDENT [R-3].*

*KUSHAL GOYAL APPEARING ON BEHALF OF ADVOCATE GENERAL)*

**WRIT PETITION No. 11547 of 2022**

**BETWEEN:-**

SMT. NEHA W/O HAPPY MAHAJAN, AGED ABOUT 33 YEARS,  
1. OCCUPATION: HOUSE WIFE 78, TILAK NAGAR ROAD,  
ANNAPURNA BHAWAN, DEWAS (MADHYA PRADESH)

SMT. SONALI W/O LAKKI MAHAJAN, AGED ABOUT 32 YEARS,  
2. OCCUPATION: HOUSEWIFE 78-B, TILAK NAGAR, DEWAS  
(MADHYA PRADESH)

ARVIND S/O BALMUKUND MAHAJAN, AGED ABOUT 55 YEARS,  
3. OCCUPATION: BUSINESS 46, TARANI COLONY, DEWAS (MADHYA  
PRADESH)

PANKAJ S/O MANGILAL MAHAJAN, AGED ABOUT 49 YEARS,  
4. OCCUPATION: BUSINESS 46, TARANI COLONY, DEWAS (MADHYA  
PRADESH)

.....PETITIONER

*(SHRI NAVNEET KISHORE VERMA, LEARNED COUNSEL FOR THE PETITIONER.)*

**AND**

THE STATE OF MADHYA PRADESH THROUGH PRINCIPAL  
1. SECRETARY (REVENUE) VALLABH BHAWAN BHOPAL (MADHYA  
PRADESH)

2. THE COLLECTOR COLLECTORAT DEWAS (MADHYA PRADESH)

3. THE SUB DIVISIONAL OFFICER (REVENUE) SUB DIVISION  
OFFICE, DEWAS (MADHYA PRADESH)

4. BHANWARSINGH S/O LATE GHISA VILLAGE SURLAKHEDI  
(MADHYA PRADESH)

.....RESPONDENTS

*(SHRI KUSHAL GOYAL, LEARNED DY. ADVOCATE GENERAL FOR THE RESPONDENTS/STATE.)*

W.P. Nos. 11153/2022, 11164/2022, 11166/2022,  
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*(SHRI RAGHVENDRA SINGH RAGHUVANSHI, LEARNED COUNSEL  
FOR RESPONDENT NO.4.)*

*(SHRI KUSHAL GOYAL, LEARNED DY. ADVOCATE GENERAL FOR THE  
RESPONDENTS/STATE.)*

*(SHRI RAGHVENDRA SINGH RAGHUVANSHI, LEARNED COUNSEL  
FOR RESPONDENT NO.4.)*

**WRIT PETITION No. 11632 of 2022**

**BETWEEN:-**

JAGDISHPRASAD SWAMI S/O SHRI LAKSHMANDAS SWAMI, AGED  
1. ABOUT 46 YEARS, OCCUPATION: BUSINESS E-A, 62, RING ROAD,  
MITAL TOL KATA, DEWAS NAKA (MADHYA PRADESH)

SMT. TULSI SWAMI W/O SHRI JAGDISH PRASAD SWAMI, AGED  
2. ABOUT 42 YEARS, OCCUPATION: BUSINESS R/O E-A, 62 RING  
ROAD MITTAL TOL KATA DEWAS NAKA (MADHYA PRADESH)

.....PETITIONER

*(SHRI PRATEEK PATWARDHAN, LEARNED COUNSEL FOR THE  
PETITIONER.)*

**AND**

1. THE STATE OF MADHYA PRADESH THE COLLECTOR DEWAS  
(MADHYA PRADESH)

2. SUB DIVISIONAL OFFICER (REVENUE) SUB DIVISION DEWAS  
(MADHYA PRADESH)

3. TEHSILDAR TEHSIL DEWAS (MADHYA PRADESH)

.....RESPONDENTS

*(SHRI KUSHAL GOYAL, LEARNED DY. ADVOCATE GENERAL FOR THE  
RESPONDENTS/STATE.)*

*(SHRI RAGHVENDRA SINGH RAGHUVANSHI, LEARNED COUNSEL  
FOR RESPONDENT NO.4.)*

**WRIT PETITION No. 11818 of 2022**

**BETWEEN:-**

SURESH GOSWAMI S/O SANTOSH GOSWAMI, AGED ABOUT 56  
1. YEARS, OCCUPATION: BUSINESS 15, HIG, MUKHERJEE NAGAR  
(MADHYA PRADESH)



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URMILA GOSWAMI W/O SURESH GOSWAMI, AGED ABOUT 50  
2. YEARS, OCCUPATION: HOUSEWIFE 15, HIG, MUKHERJEE NAGAR  
(MADHYA PRADESH)

ANIL GOSWAMI S/O LATE SHRI RAMCHANDRA GOSWAMI, AGED  
3. ABOUT 43 YEARS, OCCUPATION: BUSINESS 325, A.B. ROAD,  
BAWADIYA (MADHYA PRADESH)

SUNIL GOSWAMI S/O LATE SHRI RAMCHANDRA GOSWAMI,  
4. AGED ABOUT 40 YEARS, OCCUPATION: BUSINESS 325, A.B. ROAD,  
BAWADIYA (MADHYA PRADESH)

.....PETITIONER

*(SHRI VIVEK PHADKE, LEARNED COUNSEL FOR THE PETITIONER.)*

**AND**

1. THE STATE OF MADHYA PRADESH THROUGH THE COLLECTOR  
DEWAS (MADHYA PRADESH)

2. THE SUB DIVISIONAL OFFICER DEWAS (MADHYA PRADESH)

3. SHRI BHANWARSINGH S/O LATE SHRI GHISAJI OCCUPATION:  
AGRICULTURIST GRAM SURLAKHEDI (MADHYA PRADESH)

.....RESPONDENTS

*(SHRI KUSHAL GOYAL, LEARNED DY. ADVOCATE GENERAL FOR THE  
RESPONDENTS/STATE.)*

*(SHRI RAGHVENDRA SINGH RAGHUVANSHI, LEARNED COUNSEL  
FOR RESPONDENT NO.4.)*

**WRIT PETITION No. 13721 of 2022**

**BETWEEN:-**

UNITARA FINANCE LTD. THROUGH DIRECTOR RAJKUMAR S/O  
LATE TARACHAND TUTEJA OCCUPATION: BUSINESS 70,  
TRANSPORT NAGAR. INDORE (MADHYA PRADESH)

.....PETITIONER

*(SHRI MAYANK PUROHIT, LEARNED COUNSEL FOR THE  
PETITIONER.)*

**AND**

1. THE STATE OF MADHYA PRADESH THROUGH PRINCIPAL  
SECRETARY. MANTRALAYA, BHOPAL (MADHYA PRADESH)

2. COLLECTOR DEWAS (MADHYA PRADESH)

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3. SUB DIVISIONAL OFFICER (REVENUE) SUB DIVISION DEWAS DEWAS (MADHYA PRADESH)
4. BHANWAR SINGH S/O LATE SHRI GHEESALAL R/O GRAM SURLAKHEDI TEHSIL SANWER (MADHYA PRADESH)

.....RESPONDENTS

(SHRI KUSHAL GOYAL, LEARNED DY. ADVOCATE GENERAL FOR THE RESPONDENTS/STATE.)

(SHRI RAGHVENDRA SINGH RAGHUVANSHI, LEARNED COUNSEL FOR RESPONDENT NO.4.)

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Reserved on : 07.08.2023.  
Pronounced on : 23.08.2023.

*These petitions having been heard and reserved for orders, coming for pronouncement this day, this Court pronounced the following :*

### **ORDER**

As the controversy involved in these petitions is identical, therefore, they are being decided by this common order. For the sake of convenience, the facts narrated in W.P. No.11153/2022 are taken into consideration.

The petitioner has filed this petition being aggrieved by an order dated 25.4.2022 passed by Collector, Dewas u/s. 165(6) of the M.P. Land Revenue Code, 1959 and also against the show-cause notice dated 28.4.2022 issued by the Sub Divisional Officer (Revenue), Sub Division Dewas, District Dewas.

#### **Facts of the case**

1. According to the petitioner, land bearing Survey No. 258 area 1.914 Hect. situated at Village Rasulpura was recorded in the name of

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Shaukat Ali which is evident from Khasra Panchsala. The said land was sold to M/s. Quality Bricks by Shaukat Ali on 14.6.1978. On 15.1.1982 it was sold M/s. Quality Bricks to M/s. Pricission Machinery Co. Pvt. Ltd. Accordingly, the name of the purchasers were mutated in the Khasra Panchsala and that continued up to 1992-93. Vide sale-deed dated 15.4.1997 the said land was sold by M/s. Pricission Machinery Co. Pvt. Ltd. to Smt. Manju Agrawal and accordingly her name was mutated in the revenue record, and it continued up to 2007-2008. On 21.3.2003, area 0.924 Hect. out of Survey No. 258 was acquired in Land Acquisition Case No. 09/A-82/2001-02 and the compensation was awarded in favour of Smt. Manju Agrawal. A part of Survey No. 258/2 was diverted at the instance of Smt. Manju Agrawal vide order dated 30.4.2008. Vide registered sale-deed dated 24.7.2020, the present petitioner purchased the land admeasuring area 0.022 Hect. from Smt. Manju Agrawal and accordingly his name was mutated in the revenue record on 14.9.2020.

2. According to Respondent No.4 his father Gheesalal was Bhil by caste which is a Scheduled Tribe, he was dispossessed from the said land but he could not resist his dispossession. After the death of his father, respondent No.4 became owner and submitted an application before the collector that the land bearing Survey Nos. 159, 160, 162, 163, 252, 253, 255, 258, and 295 were owned by his father late Gheesalal but some land mafias had encroached on the said land and illegally got mutated their names in the revenue record which is contrary to Section 167 of the M.P. Land Revenue Code, 1959. Under

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the fear for a period of long time, he could not take any step to get above the land back. But after the death of his father, his name is liable to be mutated and now he came to know that encroachers are trying to alienate the aforesaid land to others.

3. The Collector entertained the application by registering as a case No. 0014/B-121/2021-2022. The collector directed the Sub Divisional Officer to obtain the report from the Revenue Inspector and Halka Patwari along with the map. After obtaining the report from the Sub Divisional Officer, a show-cause notice was issued to the petitioner to others (the petitioners in others connected Writ Petitions) who had purchased various parts of Survey Nos. 159, 160, 162, 163, 252, 253, 255, 258, 295 at different points of time. The petitioner submitted the reply stating that he purchased the land by way of registered sale-deed from the registered owner who is not an aboriginal tribe, therefore, no permission was required u/s. 165(6) of the M.P. Land Revenue Code, 1959.

4. Learned Collector vide order dated 25.4.2022 has held that the petitioners have not acquired any title as before purchasing the land in question no permission was obtained under section 165(6) of the M.P. Land Revenue Code, 1959, therefore, the possession of the land is liable to be restored in favour of respondent No.4 by drawing the proceedings Section 170 of the M.P. Land Revenue Code, 1959.

5. In compliance of the aforesaid order of the Collector, the Sub Divisional Officer issued the show-cause notices to the petitioner to submit the reply, failing which, ex-parte proceedings shall be drawn.

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The petitioner has rushed to this Court by way of present writ petitions.

6. While issuing the notices to the respondents, this Court has stayed the effect of the impugned order dated 25.4.2022 and the effect of show-cause notices issued by the Sub Divisional Officer. Vide order dated 18.7.2023 this Court observed that the State either can file the reply or keep the original record present on the next date of hearing. Learned counsel appearing for respondent No.4 made a statement that he does not wish to file any report and would argue on the basis of the documents along with the writ petitions.

**Submissions of petitioner's counsel**

7. Shri Rohit Mangal, learned counsel appearing for the petitioner in W.P. Nos.11153/2022, 11164/2022 and 11166/2022, argued that the petitioner in W.P. No.11153/2022 purchased the land after due verification of Khasra records right from 1969-1970. The land in question was recorded in the name of Shaukat Ali and thereafter it was sold by him to M/s. Quality Bricks; M/s. Quality Bricks sold it to M/s. Pricission Machinery Co.; M/s. Pricission Machinery Co. sold it to Smt. Manju Agrawal and accordingly, from time to time, the name of purchasers were mutated in the revenue record. None of the parties belonged to Tribe and the land is not situated in a scheduled area, therefore, the petitioner or the seller was not required to obtain permission from the Collector u/s. 165(6) of the MPLRC. Hence, the Collector has wrongly declared the sale deed as void. It is further submitted that it is not an admitted position that the late Gheesalal was the owner of the land and belonged to Tribe. Unless respondent No.4

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establishes before the competent court that his father was an aboriginal Tribe and owner of the land and he has become the owner of the land by way of succession, then only a complaint could have been entertained under section 167 of the M.P. Land Revenue Code, 1959. It is also submitted that the provisions of Clause (i) & (ii) of Section 170(1) brought into statute in the year 1978 hence they do not apply to the transactions that took place prior to 1.7.1976. It is submitted that the sale-deeds are liable to be declared as void under section 170 and not under section 165 of the MPLRC, which is only an enabling provision for getting permission before the sale of the land belonging to a Tribe. In the absence of permission, the sale is liable to be declared as void under section 170 of the M.P. Land Revenue Code, 1959. Therefore, the Collector has wrongly passed the order u/s. 165 of the MPLRC.

**8.** In W.P. Nos. 11232/2022 and 11818/2022 Shri Vivek Phadke, learned counsel appearing for the petitioners, adopted the arguments advanced by Shri Rohit Mangal advocate and also added to it that respondent No.4 has not filed any document to show title/ownership of his father Gheesalal over the land in question.

**9.** In W.P. No.11420/2022, Shri Sameer Anant Athawle, learned counsel for the petitioners urged that no opportunity of hearing, to file a reply and documents was given to the petitioners. The petitioner sought time before the Collector to produce the documents, but that was declined, therefore, the impugned order has been passed hurriedly and the same is not liable to be sustained.

**10.** In W.P. Nos. 11483/2022 and 11486/2022, Shri V.K. Jain, learned senior counsel appearing for the petitioners, added that the petitioners purchased the land in question by way of registered sale deeds executed by the sellers but, in the sale deed by mistake, the Survey No.255/1 has wrongly been mentioned is 155/1. The petitioner has filed the document to show that the land bearing Survey No. 155/1 is Government land which could not have been sold. The Collector has discarded the sale-deed only because of the aforesaid typing mistake in the survey number. Respondent No.3( a son of Gheesal lal ) sold the land with the permission of the Collector dated 3.6.1997. It is further submitted that after the death of Gheesalal, only the land bearing Survey No. 255 was transferred in the name of respondent No.3 and this land has wrongly been included in the application by respondent No.3. It is also submitted by learned senior counsel that now all the lands are included in the Municipal limit and it is no more an agricultural land. All the lands have been diverted, therefore, the provisions of Sections 165 and 170 of the M.P. Land Revenue Code, 1959 will not apply. All these objections have not been considered by the Collector and passed the order mechanically. Hence, the impugned order is liable to be quashed and the proceedings initiated by the Sub Divisional Officer are liable to be dropped.

**11.** Shri Navnit Kishore Verma, learned counsel appearing in W.P. Nos. 11547/2022; Shri Prateek Patwardhan, learned counsel appearing in W.P. No.11632/2022; and Shri Mayank Purohit, learned counsel appearing for the petitioner in W.P. No.13721/2022, submitted that

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respondent No.4, son of deceased Gheesalal, has not filed any title document or revenue record to establish his ownership. Learned counsels have adopted the arguments advanced by Shri Rohit Mangal and Shri V.K. Jain, senior counsel that the objections taken by the petitioners have not been considered by the Collector.

**Submissions of Government Advocate**

12. On the other hand, Shri Kushal Goyal, learned Dy. Advocate General for the respondents/State, has argued in support of the impugned order by submitting that except the land bearing Survey No. 258, the name of Gheesalal has not been recorded in the revenue record as owner. Before passing the impugned order, the Collector obtained the report from the Sub Divisional Officer and passed the final order. But, he has fairly admitted that the report of the Sub Divisional Officer was not supplied to the petitioners.

**Submissions of respondent No.4/ the complainant**

13. Shri Raghvendra Singh Raghuvanshi, learned counsel appearing for respondent No.4 has argued that the name of Gheesalal was recorded in the revenue record as an owner of the land. He never executed any sale-deed in favour of the petitioners or erstwhile setters. The land bearing Survey No. 258 also belongs to him. He became the owner of the land bearing Survey Nos. 159, 160, 162, 163, 252, 253, 255, 258, 295 after the death of Gheesal Lal. The Collector has not committed any illegality in passing the impugned order, hence Writ Petitions be dismissed. The proceedings before the Sub Divisional Officer under section 170 of the M.P. Land Revenue Code, 1959 are



pending, therefore, the petitioners are at liberty to raise all the objections before the Sub Divisional Officer hence all these writ petitions are liable to be dismissed.

**Appreciations & Conclusion**

14. That Section 165(1) of the M.P. Land Revenue Code, 1959 says that subject to the other provisions of this Section and the provision of Section 168, a Bhumiswami may transfer any interest in his land. In the present cases, the Collector has exercised the powers u/s. 165(6) of the MPLRC which reads as under :

*“(6) Notwithstanding anything contained in sub-section (1) the right of bhumiswami belonging to a tribe which has been declared to be an aboriginal tribe by the State Government by a notification in that behalf, for the whole or part of the area to which this Code applies shall-*

*(i) in such areas as are predominately inhabited by aboriginal tribes and from such date as the State Government may, by notification, specify, not be transferred nor it shall be transferable either by way of sale or otherwise or as a consequence of transaction of loan to a person not belonging to such tribe in the area specified in the notification;*

*(ii) in areas other than those specified in the notification under clause (i), not to be transferred or be transferable either by way of sale or otherwise or as a consequence of transaction of loan to a person not belonging to such tribe without the permission of a Revenue Officer not below the rank of Collector, given for reasons to be recorded in writing.*

*Provided that the provision of this sub-section shall not be applicable to the land acquired under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.”*

According to the aforesaid provisions, the right of Bhumiswami belonging to a Tribe which has been declared as an aboriginal Tribe by the State Government by a notification for the whole or part of the area not to be transferred nor it shall be transferable either by way of sale or

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otherwise or as a consequence of transaction of loan to a person not belonging to such tribe in the area specified in the notification. Sub-clause (ii) of sub-section (6) of Section 165 says that in areas other than those specified in the notification under clause (i) the land not to be transferred or be transferable either by way of sale or otherwise belonging to such tribe without permission of a revenue officer not below the rank of Collector. Therefore, these provisions only put an embargo on the sale of the lands belonging to an aboriginal tribe without the permission of the collector. Without the permission of the Collector in writing the tribe cannot sell the land to a person who is not belonging to such tribe.

**15.** Thereafter, sub-section (6-a) to (6-f) are inserted in the code vide notification dated 15.4.1981. As per sub-section (6-a) the right of a Bhumiswami belonging to a tribe which has been declared to be an aboriginal tribe under sub-section (6), in the land excluding the agricultural land shall not be transferred or be transferable either by way of sale or otherwise to a person not belonging to aboriginal tribe without the permission of the Collector. Sub-section (6-b) gives power to the Collector to take up the matter on his own motion at any time or on an application made on this behalf within 3 years of such transaction. Under sub-section (6-c), the Collector by passing an order may grant or refuse to grant permission or under sub-section (6-b) ratify or refuse to ratify the transaction by giving due regard to the conditions enumerated in Clauses (i) to (vi). Sub-section (6-d) provides, on refusal to grant the permission under sub-section (6-a) or

ratification under sub-section (6-b), the transfer if in possession of the land shall vacate the possession forthwith and restore the possession thereof to the original Bhumswami.

16. In the present cases, the Collector has not exercised the power under sub-section (6-b) to deny the ratification of the sale transactions. Therefore, under sub-section (6) of Section 165 of the MPLRC there is only a prohibition on the transfer or sale of land in the scheduled area and land belonging to an aboriginal tribe, as the case may be. Therefore, u/s. 165(6) such a sale cannot be declared void and no direction could be issued to the Sub Divisional Officer for taking possession. Such powers are vested with the Collector under sub-section (6-a) and (6-b) of Section 165 of the MPLRC and after passing the order under the said provisions only, the purchaser has no right to retain the possession.

17. So far as the applicability of Section 170 of the M.P. Land Revenue Code, 1959 is concerned and under which the Sub Divisional Officer has initiated the proceedings by issuing the show-cause notices, Section 170 is reproduced below :

**“170. Avoidance of transfer in contravention of Section 165.-**(1) Where possession is transferred by a bhumiswami in pursuance of a transfer which is in contravention of sub-section (6) of Section 165 any person who, if he survived the bhurniswami without nearer heirs would inherit the holding, may—  
(i) till the 31st December , 1978, in the case of transfer of possession prior to the 1st July 1976; and  
(ii) within twelve years of such transfer of possession, in subsequent cases,  
apply to the Sub-Divisional Officer to be placed in

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possession subject so far as the Sub-Divisional Officer may, in accordance with the rules made in this behalf determine to his acceptance of the liabilities for arrears of land revenue or any other dues which form a charge on the holding, and the Sub-Divisional Officer shall dispose of such application in accordance with the procedure as may be prescribed.

(2) Where any land of a bhumiswami is sold in contravention of sub-section (3) of Section 165, the Court by which such sale is ordered shall, on the application of the bhumiswami or any person who, if he survived the bhumiswami without nearer heirs would inherit the holding made within two years of such sale, set aside the sale and Place the applicant in possession of the land subject to his accepting the liability for arrears of land revenue or any other dues which form a charge on the land.”

According to sub-section (1) of Section 170, where possession is transferred by a Bhumiswami in pursuance of a transfer which is in contravention of sub-section (6) of Section 165, any person who, if he survived the Bhumiswami without nearer heirs would inherit the holding may - (i) till the 31<sup>st</sup> December 1978, in the case of transfer of possession prior to the 1<sup>st</sup> July 1976; and (ii) within 12 years of such transfer of possession, in subsequent cases, apply to the Sub Divisional Officer to be placed in possession subject and the Sub Divisional Officer shall dispose of such an application in accordance with the procedure as may be prescribed. Therefore, respondent No.4 was required to file an application within the time provided in Clauses (i) and (ii) of Section 170(1) of the M.P. Land Revenue Code, 1959 .

**18.** In the present case, the learned Collector has declared that there

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is no compliance of Section 165(6) of the M.P. Land Revenue Code, 1959 and sale is illegal and thereafter directed the Sub Divisional Officer to take steps for handing over the possession of the land in question in favour of respondent No.4, whereas the powers of the Sub Divisional Officer are limited or confined to the limitations as per Clause (i) and (ii), as the case may be. Therefore, respondent No.4 was required to approach the Sub Divisional Officer under section 170 of the M.P. Land Revenue Code, 1959 within limitation and the Sub Divisional Officer could have examined that such transaction is prohibited u/s. 165(6) of the MPLRC.

***Relief***

**19.** In view of the above order dated 25.4.2022 passed by Collector, Dewas under section 165(6) of the M.P. Land Revenue Code, 1959 and also against the show-cause notice dated 28.4.2022 issued by the Sub Divisional Officer (Revenue), Sub Division Dewas, District Dewas are hereby set aside. Respondent No.3 and 4 shall be at liberty to pursue the remedy available under the law.

**20.** With the aforesaid, the Writ Petitions No. **11153/2022, 11164/2022, 11166/2022, 11232/2022, 11420/2022, 11483/2022, 11486/2022, 11547/2022, 11632/2022, 11818/2022, 13721/2022** are allowed and disposed off.

Let a photocopy of this order be kept in all the connected Writ Petitions.

No order as to cost.

- : 22 :-

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**( VIVEK RUSIA )  
JUDGE**

Alok/-