

The High Court of Madhya Pradesh : Bench At Indore

BEFORE

HON'BLE SHRI JUSTICE VIVEK RUSIA

ON THE 26th OF MAY, 2022

WRIT PETITION No. 12012 of 2022

Between:-

1. PRITAM KUMAR S/O LATE SHRI SUKHDEV PRASAD JAISWAL , AGED ABOUT 49 YEARS, OCCUPATION: BUSINESS VILLAGE BORI, TEHSIL JOBAT (MADHYA PRADESH)
2. SMT. BHAGWANTI BAI W/O SHRI RAJENDRA KUMAR JAIN , AGED ABOUT 60 YEARS, OCCUPATION: TEACHER VILLAGE BORI (MADHYA PRADESH)
3. HUNED S/O SHRI SAIFUDDIN , AGED ABOUT 58 YEARS, OCCUPATION: BUSINESS VILLAGE BORI (MADHYA PRADESH)
4. SMT. RAJESHWARI W/O SHRI VINOD KUMAR JAIN , AGED ABOUT 53 YEARS, OCCUPATION: BUSINESS VILLAGE BORI (MADHYA PRADESH)
5. TAIYAB ALI S/O SHRI BAKIR ALI , AGED ABOUT 44 YEARS, OCCUPATION: BUSINESS VILLAGE BORI (MADHYA PRADESH)
6. SMT. LILA BAI W/O SHRI SHAITANMALJI JAIN , AGED ABOUT 72 YEARS, OCCUPATION: HOUSEWIFE VILLAGE BORI (MADHYA PRADESH)

.....PETITIONER

(BY SHRI AJAY KUMAR ASUDANI, ADVOCATE)

AND

1. THE STATE OF MADHYA PRADESH PRINCIPAL SECRETARY MANTRALAYA VALLABH BHAWAN,

BHOPAL (MADHYA PRADESH)

2. THE MANAGING DIRECTOR M.P. ROAD DEVELOPMENT CORPORATION ARERA HILLS, BHOPAL (MADHYA PRADESH)
3. THE REGIONAL MANAGER M.P. ROAD DEVELOPMENT CORPORATION DHAR (MADHYA PRADESH)
4. THE COLLECTOR ALIRAJPUR (MADHYA PRADESH)
5. SUB DIVISIONAL MAGISTRATE (REVENUE) JOBAT (MADHYA PRADESH)
6. SHRI BANSILAL S/O KHEMA BARIYA SARPANCH GRAM PANCHAYATI BORI (MADHYA PRADESH)
7. SHRI NAHAR SINGH AJNAR OCCUPATION: SECRETARY / CHIEF EXECUTIVE OFFICER GRAM PANCHAYAT BORI, TEHSIL JOBAT (MADHYA PRADESH)

.....RESPONDENTS

*(BY SHRI VAIBHAV BHAGWAT, GOVERNMENT
ADVOCATE)*

WRIT PETITION No. 12013 of 2022

Between:-

1. SURESH KUMAR S/O LATE SHRI BAPULALJI JAIN , AGED ABOUT 57 YEARS, OCCUPATION: BUSINESS VILLAGE BORI, TEHSIL JOBAT (MADHYA PRADESH)
2. SMT. BUDHI BAI W/O SHRI MAN SINGH , AGED ABOUT 54 YEARS, OCCUPATION: HOUSEWIFE VILLAGE BORI (MADHYA PRADESH)
3. MUKAM SINGH S/O SHRI JUVAN SINGH , AGED ABOUT 62 YEARS, OCCUPATION: RETIRED GRAM BORI (MADHYA PRADESH)
4. KANAKML S/O SHRI MOHANLAL , AGED ABOUT 75 YEARS, OCCUPATION: RETIRED VILLAGE BORI

(MADHYA PRADESH)

5. MANGILALJI S/O SHRI MOHANLALJI JAGTAP , AGED ABOUT 62 YEARS, OCCUPATION: BUSINESS VILLAGE BORI (MADHYA PRADESH)

6. JAYANTILAL S/O SHRI RAKHABCHANDJI JAIN , AGED ABOUT 55 YEARS, OCCUPATION: BUSINESS VILLAGE BORI (MADHYA PRADESH)

.....PETITIONER

(BY SHRI AJAY KUMAR ASUDANI, ADVOCATE)

AND

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

2. THE MANAGING DIRECTOR M.P. ROAD DEVELOPMENT CORPORATION ARERA HILLS, BHOPAL (MADHYA PRADESH)

3. THE REGIONAL MANAGER M.P. ROAD DEVELOPMENT CORPORATION DHAR (MADHYA PRADESH)

4. THE COLLECTOR ALIRAJPUR (MADHYA PRADESH)

5. SUB DIVISIONAL MAGISTRATE (REVENUE) JOBAT (MADHYA PRADESH)

6. SHRI BANSILAL S/O KHEMA BARIYA SARPANCH GRAM PANCHAYAT BORI (MADHYA PRADESH)

7. SHRI NAHAR SINGH AJNAR OCCUPATION: SECRETARY / CHIEF EXECUTIVE OFFICER GRAM PANCHAYAT BORI (MADHYA PRADESH)

.....RESPONDENTS

(BY SHRI VAIBHAV BHAGWAT, GOVERNMENT ADVOCATE)

These petitions coming on for admission this day, the court

passed the following:

ORDER

The petitioners have approached this Court being aggrieved by the notice issued by the Gram Panchayat, Bori Vikas Khand, Udaygarh directing the petitioners to remove the encroachment. According to the petitioners, Gram Panchayat has no jurisdiction to issue such type of notice to the petitioners. The petitioners are situated at both sides of the road passing through the Gram Panchayat. They are owner of the land and there is no such encroachment which is required to demolished. Hence, notices are liable to be quashed.

The MPRDC is going to broadening the state highway up to 20.20 meter passing through Village – Bori (*Abadi Khsetra*) after receipt of letter No.2383 dated 18.02.2021 from the MPRDC and letter No.39633 dated 03.03.2021 from S.D.O., Revenue. The C.E.O., Gram Panchayat has issued notices to all the petitioners and other occupants calling upon them to submit documents within three days in respect of their properties. In pursuant to the notice, none of the petitioners appeared before the C.E.O. and now final notice for removing encroachment has been issued on 14.05.2022 and the petitioners have rushed to this Court.

Learned counsel for the petitioners submits that the Gram Panchayat has no jurisdiction to issue such type of notice.

The petitioners are residing in Gram Panchayat, Bori. The land or any property belongs to them is situated in the Gram

Panchayat, being a local body, the Gram Panchayat has right to examine their documents in respect of ownership and encroachment, therefore, no illegality has been committed by the C.E.O. by issuing notices to the petitioners to examine whether they have encroached any government land or not ? After examination of the documents, it can be decided whether there is any encroachment or the land is liable to be acquired for broadening of the state highway. There is a proposal of broadening of the road with V-shape drain on both sides of the road.

The petitioners have rushed to this Court only after issuance of notice for demolition with the help of police and revenue team. Therefore, at this stage, no interference is liable to be made in these petitions by this this Court.

All the petitioners are directed to appear before the C.E.O. along with all the necessary documents in respect of their properties and after examining all these documents, the respondents shall proceed in accordance with law.

With the aforesaid, both the Writ Petitions stand disposed of.

(VIVEK RUSIA)
V. J U D G E

Ravi