

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

BEFORE

HON'BLE SHRI JUSTICE VIVEK RUSIA

ON THE 26th OF MAY, 2023

WRIT PETITION No. 12144 of 2023

BETWEEN:-

**PUSHPA AGRAWAL W/O RAMESHCHANDRA JI BHAYA
(AGRAWAL), OCCUPATION: HOUSE WIFE, R.O 02,
PADMAWATI COLONY, INDORE (MADHYA PRADESH)**

.....PETITIONER

***(SHRI SHASHWAT SETH, LEARNED COUNSEL ALONG WITH SHRI JATIN
SEHGAL, LEARNED COUNSEL FOR THE PETITIONER.)***

AND

- 1. THE OFFICE OF COLLECTOR, INDORE (MADHYA PRADESH)**
- 2. THE COMMISSIONER INDORE MUNICIPAL CORPORATION, INDORE, DISTRICT INDORE (MADHYA PRADESH)**
- 3. THE BUILDING OFFICER ZONE NO. 18, INDORE MUNICIPAL CORPORATION, INDORE, DISTRICT INDORE (MADHYA PRADESH)**

.....RESPONDENTS

***(SHRI VAIBHAV BHAGWAT, LEARNED GOVERNMENT ADVOCATE
ALONG WITH SHRI AMIT RAWAL, LEARNED GOVERNMENT ADVOCATE
FOR THE RESPONDENT / STATE.***

***SHRI AMAY BAJAJ, LEARNED COUNSEL FOR THE RESPONDENT /
MUNICIPAL CORPORATION.)***

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

ORDER

1. Petitioner has filed the present petition challenging the action of the respondent whereby they have unauthorizedly demolished the boundary wall

and raising the construction on plot No.6 khasra No.400 Musakhedi, Indore.

2. According to the petitioner, she purchased the aforesaid plot from Bherulal Bora vide agreement to sale dated 31.05.2010. According to the petitioner, Bherulal purchased the said plot from Sushilabai vide agreement to sale dated 31.07.2007 and prior to it the Sushilabai purchased the said plot by way of agreement to sale from registered owner Rameshwar Chaudhary vide agreement to sale dated 15.03.1994, neither the petitioner nor her predecessor had a titled document.

3. The petitioner has not filed suit for specific performance of contract to become an absolute owner of the property. The person who has agreement to sale can claim protection only under Transfer of Property Act but he/she has no right to sale the said property by way of another agreement to sale.

4. This is nothing but an evasion of stamp duty and violation of Transfer of Property Act as well as Registration Act. Even agreement to sale requires registration if the possession has been handed over at the time of execution of the deed, therefore, no writ can be issued in favour of the petitioner who is not a registered owner of the property, rest of the facts and grounds are liable to be decided by way of evidence for that the petitioner is having remedy under the civil law.

5. Shri Vaibhav Bhagwat, learned Government Advocate for the respondent / State as well as Shri Amay Bajaj, learned counsel for the respondent / Municipal Corporation submits that the petitioner has no valid title documents, entire colony is illegal colony as there is no development permission by the competent authority. The Municipal Corporation is raising construction on the land bearing survey No.390 which is a Government Land.

6. Shri Shashwat Seth, learned counsel for the petitioner submits that the

petition be disposed off with the direction to the respondent Municipal Corporation, Indore to decide the representation.

7. Since there is no such provision under the Municipal Corporation Act, 1956 for deciding the representation, therefore, no such direction can be given.

8. No case for admission and interim relief is made out.

In view of the above, present petition is hereby dismissed with the aforesaid liberty.

Divyansh



(VIVEK RUSIA)
V. JUDGE