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

**BEFORE  
HON'BLE SHRI JUSTICE VIVEK RUSIA**

**ON THE 2<sup>nd</sup> OF FEBRUARY, 2024**

**WRIT PETITION No. 6635 of 2023**

**BETWEEN:-**

**MUNIRA W/O ABBASBHAI NAKEDAR BOHRA, AGE:  
ADULT, OCCUPATION: BUSINESS, R/O: LAXMI BAI  
MARG, THANDLA, JHABUA (MADHYA PRADESH)**

**.....PETITIONER**

***(BY SHRI PRADYUMNA KIBE - ADVOCATE.)***

**AND**

- 1. THE STATE OF MADHYA PRADESH, THROUGH  
PRINCIPAL SECRETARY, REVENUE  
DEPARTMENT, GROUND FLOOR, VALLABH  
BHAWAN-II, ARERA HILLS, BHOPAL (MADHYA  
PRADESH)**
- 2. THE SUB DIVISIONAL OFFICER (REVENUE),  
TEHSIL THANDLA, DISTRICT JHABUA (M.P.)  
ADDRESS: OFFICE OF THE SDO (REVENUE),  
THANDLA DISTRICT JHABUA (MADHYA  
PRADESH)**
- 3. THE TEHSILDAR, TEHSIL THANDLA, DISTRICT  
JHABUA, ADDRESS: OFFICE OF THE TEHSILDAR,  
THANDLA, DISTRICT JHABUA (MADHYA  
PRADESH)**
- 4. MADHYA PRADESH ROAD DEVELOPMENT  
CORPORATION LIMITED, THROUGH ITS  
COMPETENT OFFICER / DIRECTOR, REGISTERED  
OFFICE: 45-A, ARERA HILLS, BHOPAL (MADHYA  
PRADESH)  
(NOTIFIED HIGHWAY AUTHORITY UNDER  
SECTION 4 OF THE MADHYA PRADESH RAJMARG  
ADHINIYAM, 2004)**

**.....RESPONDENTS**

***(RESPONDENTS NO.1 TO 3 - STATE OF MADHYA PRADESH BY SHRI  
SUDHANSHU VYAS - ADVOCATE APPEARING ON BEHALF OF***

**ADVOCATE GENERAL.**

**RESPONDENT NO.4 - MP ROAD DEVELOPMENT CORPORATION LIMITED  
BY SHRI ANKIT MORE - ADVOCATE APPEARING ON BEHALF OF SHRI  
KUSHAGRA SINGH - ADVOCATE.)**

.....

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

**ORDER**

The petitioner has filed the present petition under Article 226 of the Constitution of India being aggrieved by an order dated 13.12.2022 (Annexure P/11) passed in Case No.0005/A-68 of 2022-23 by the Tehsildar, Tehsil Thandla, District Jhabua (M.P.) under Section 248 of the Madhya Pradesh Land Revenue Code, 1959 (herein after referred to as the Code) whereby the petitioner has been directed to remove the encroachment on Government land and also imposed a fine amount of Rs.15,000/- (rupees fifteen thousand only) as well as the order dated 08.02.2023 (Annexure P/13) passed in Revenue Case No.0020/Appeal/2019-20 passed by the Sub Divisional Officer (Revenue), Khachrod, District Ujjain (M.P.) affirming the order dated 13.12.2022 passed by the Tehsildar.

2. The facts of the case, in short, are, as under: -

2.1 The petitioner is the owner of Survey No.485/3, Patwari Halka No.033, land measuring 0.300 hectares situated at Gram & Tehsil Thandla, District Jhabua (M.P.). Between the State Highway and the land of the petitioner, there is a small chunk of Government Land bearing Survey No.492/2, an area of 0.43 hectares (hereinafter referred to as the land in question).

2.2 The petitioner was granted a license to run a Retail Outlet Dealership by Indian Oil Corporation Limited (hereinafter referred to as the IOCL). For the petitioner, IOCL applied for a No Objection Certificate (NOC) from the District Collector and District Magistrate, Jhabua. Vide order dated 07.03.2022

(Annexure P/4), NOC was granted in favour of Divisional Retail Head, Indore Division, IOCL Indore on various terms and conditions. One of the conditions of the NOC, which is relevant for this case, is Condition No.6 on page 32 of the writ petition which is reproduced below: -

" 6 - आवेदक आवेदिन भूमि सर्वे नंबर-485/3 रकबा 0.3000 हैक्टे. और मुख्य सडक के बीच आने वाली शासकीय भूमि सर्वे नंबर-492/2 रकबा 0.43 हैक्टे. पर कोई स्थायी निर्माण नहीं करेगा।"

2.3 It is clear from the above the petitioner was permitted to use this Government land in question with a restriction to carry out any construction on it. Thereafter, the petitioner established the petrol pump. Since this land in question is coming between the State Highway constructed by Madhya Pradesh Road Development Corporation (MPRDC) and the Petrol Pump, therefore, in order to avoid any accident, and water retention during rains, the petitioner decided to cover that land by way of paver blocks. The petitioner has also laid a pipeline for the supply of water and thereafter laid paver blocks on the land to make it usable with beautification.

3. The Tehsildar, Thandla, District Jhabua (M.P.) treated this paver block work and pipelines as an encroachment and construction (over an area of 35 X 120 ft.) on the land in question as *pakka* construction, hence initiated proceedings under Section 248 of the Code against the petitioner and issued a show cause notice to the petitioner. The petitioner submitted a reply and thereafter, an order dated 13.12.2022 was passed directing the petitioner to remove paver blocks and a pipe line and also imposed a penalty of Rs.15,000/- (rupees fifteen thousand only). The petitioner preferred an appeal before the Sub Divisional Officer but failed in it. The Sub Divisional Officer vide order

dated 08.02.2023 has affirmed the order of the Tehsildar. Hence this Writ Petition.

4. The respondents filed a reply to justify the impugned order passed by the Tehsildar and the Sub Divisional Officer prayed dismissal of the Writ Petition.

5. The facts are not in dispute. The petitioner was given NOC to use the aforesaid land in question for ingress and egress purposes by the Collector. After the establishment of the Petrol and HSD retail outlet, the petitioner laid the underground pipeline for the disposal of water and thereafter covered by laying paver blocks. The only condition which was imposed on the petitioner is that the petitioner shall not raise any construction on it. The petitioner has only laid an underground pipeline for the supply of water and has placed paver blocks in order to avoid water logging, and mud during the rainy season. This cannot be termed as *Pakka* construction on the land this makes the land usable with beautification. By doing this, cars, two-wheelers, heavy trucks and buses can conveniently drive down the Petrol Pump area from the State Highway and exit to the State Highway. This paving work cannot be termed as a *pakka* construction or an encroachment by the petitioner. Interlocking pavers are durable and concrete pavers are a great alternative to a poured concrete patio. Concrete slabs are prone to cracking and breaking, which then require patching to fix. Brick pavers are sturdy, and stable, and allow for expansion and contraction. Brick pavers are easy to replace as it is not permanently fixed to the earth. Hence there is no such violation of Condition No.6 of the 'No Objection Certificate' granted by the Collector. The Tehsildar, Thandla, District Jhabua has unnecessarily traveled beyond its jurisdiction and passed the order. the Sub Divisional Officer ought to have set aside the same. Therefore,

the impugned order deserves to be quashed.

6. Accordingly, the present petition is allowed and the impugned order dated 13.12.2022 (Annexure P/11) and dated 08.02.2023 (Annexure P/13) are hereby quashed. The Writ Petition is allowed with a cost of Rs.10,000.00/- (rupees ten thousand) payable to the petitioner by the respondents.

**(VIVEK RUSIA)**  
**JUDGE**

rcp

