

IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE

BEFORE

HON'BLE SHRI JUSTICE VIVEK RUSIA

ON THE 25th OF JULY, 2024

WRIT PETITION No. 20929 of 2024

GOPALDAS BAIRAGI

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

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Appearance:

Shri. Sunil Jain - Sr. Advocate with Shri Kushagra Jain and Shri
Harshwardhan Singh Rathore - Advocates for petitioner.

Shri Bhuwan Deshmukh - GA for State.

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ORDER

1. Petitioner has filed the present petition challenging the notice dated 12.7.2024 issued by Tehsildar, Rampura.

2. The petitioner is claiming himself to be a bhumiswami of land ad measuring 22.795 hectare comprised in Survey Nos.91, 279, 790, 572, 1025, 1026, 1027, 1028, 1029, 1030, 1031, 1032, 1033, 1034, 1035,1036, 1236, 2208, 579, 866, 148, 321, 326, 342, 393 situated in District Neemuch vide an Inaam given to his fore-fathers by the Holkar Estate.

3. In the aforesaid land, there is a temple named Shri Gopal Nath Mandir in which the petitioner has been working as pujari since more than seven generations. The petitioner is doing agricultural activity in the aforesaid land. According to the petitioner, the names of fore-fathers Shri Siyaramdas was recorded in the revenue record as Inaamdar, therefore, the

petitioner has acquired the bhumiswami right after coming into force the MPLR Code. Vide order dated 1.8.2012 the petitioner was officially appointed as pujari of the said temple and managing the temple as well as the land. State government has issued a Circular dated 22.4.2023 whereby the pujari has been permitted to keep the income received from the 10 acres of the agricultural land and if the land is more than 10 acre, then the same shall be auctioned by conducting a transparent process for which the information will be given to the Collector and the income will be deposited in the account of the Mandir. In pursuant to the aforesaid notice, the Tehsildar issued a direction to the petitioner to keep the income from the agricultural land upto 10 acres and auction the remaining land and deposit the amount in the account of the Mandir. Hence, this petition before this court.

4. Shri Sunil Jain, learned Sr.Counsel for the petitioner submits that the petitioner is an absolute owner of the land, therefore, the provisions of Circular dated 22.4.2023 does not apply to the petitioner. He has become owner of the land by virtue of the provisions of the MPLR Code as the land was given by way of Inaam. The father of the petitioner filed a civil suit seeking declaration of title and permanent injunction. Vide judgment and decree dated 5.5.1983, the Collector has been restrained to auction the land, therefore, the said decree is binding on the State government and the Tehsildar has wrongly issued the notice.

5. The petitioner is wrongly claiming himself to be an absolute owner of the entire land on which this temple is situated. As per the Khasra Panchshala the land is recorded in the name of Mandir Govardhan Nath

through Manager Collector, Neemuch. The father of the petitioner sought a decree of declaration and permanent injunction in respect of the aforesaid land, but the learned civil court has granted the decree that he has a right to continue the worship as pujari and remain in possession of the land and he shall not be removed without following the due process of law and opportunity of hearing. Therefore, the petitioner's fore-fathers has never been declared as absolute owner of the land. By the impugned notice, the Tehsildar is not himself conducting the auction proceedings rather directed petitioner to auction the excess land by following the transparent procedure with an information to the Collector and deposit the amount in the bank account of the Mandir. Nothing wrong in this order.

6. The writ petition is accordingly dismissed.

(VIVEK RUSIA)
JUDGE