



WP No.16589 of 2025

IN THE HIGH COURT OF MADHYA PRADESH

AT INDORE

BEFORE

HON'BLE SHRI JUSTICE SUBODH ABHYANKAR

ON THE 16th OF MAY, 2025

WRIT PETITION No. 16589 of 2025

ABHISHEK MITTAL

Versus

INDORE MUNICIPAL CORPORATION AND OTHERS

Appearance:

Shri Vijay Kumar Asudani - Advocate for the petitioner.

Shri Madhav Lahoti – Advocate for the respondents.

ORDER

With the consent of both the parties, heard finally.

2. At the very outset, counsel for the respondent submits that he does not want to file any reply and ready to argue the matter without reply.

3. The petitioner has filed the present petition under Article 226 of the Constitution of India against the order dated 28.04.2025 passed by respondent no.2/ Executive Engineer, Colony Cell, Indore Municipal Corporation, Indore whereby the petitioner has been directed to obtain NOC from Co-operative Department mainly based on two grounds; firstly, the petitioner has purchased the property from the Co-operative Society who has instead of allotting the plots to its member, sold the same to the petitioner and secondly, a reference has been made on letter dated 04.11.2022 issued by Collector in which names of certain societies have been mentioned regarding



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which it is directed that they produced the NOC from the Collector before grant of any permission. Although, in the aforesaid list, name and title of the petitioner and his predecessors has not been mentioned.

4. Facts of the case are that petitioner has purchased totaling 0.211 hectare land situated at Survey Nos.392/10, 392/11 and 392/1, Patwari Hala No.5, Village Niranjapur, Tehsil and District Indore by way of registered sale deed dated 02.04.2004 from Kiran Co-operative Housing Society Ltd. Indore. Thereafter, the petitioner applied and granted sanction from Town and Country Planning Department on 21.05.2004 and later on, diversion was also allowed on 24.05.2004. Thereafter, in the year 2025, when the petitioner intended to develop the said land, he has approached before respondent no.2/Executive Engineer, Colony, Cell, IMC, Indore who gave Form No.4 under Rule 8 of Madhya Pradesh Nagar Palika (Colony Development) Rules, 2021 (hereinafter referred to as the “Rules of 2021”) also informing him to obtain NOC from concerned Co-operative Department and finally the impugned order dated 28.04.2025 has been passed directing the petitioner to obtain NOC from Co-operative Department.

5. Learned counsel for the petitioner has submitted that there is no requirement under law to obtain NOC from Co-operative Department for the reasons that no such NOC is prescribed under the Rules of 2021 and only one NOC is required from the Town and Country Planning Department. Whereas under Rule 9 of the Madhya Pradesh Nagar Palika (Registration of Coloniser, Terms and Conditions) Rules, 1998 (hereinafter referred to as ‘the Rules of



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1998’); three NOCs were required to be obtained i.e. (i) Under the Urban Land Ceiling Act, 1976/ (ii) Necessary Certificate under the Madhya Pradesh Town and Country Planning Act 1973; and (iii) From the Nazul Officer, but now, after the amended Act of 2021, only one NOC is required from the Town and Country Planning Department. It is also submitted that the petitioner has already obtained the same way back in the year 2004 i.e. on 21.05.2004. Under these facts and circumstances, there is no need to obtain two more NOCs.

6. In support of his contention, counsel for the petitioner has relied upon the judgment rendered by Co-ordinate Bench of this Court in the case of **Shri Ji Builders and Developers Partnership Firm** vs. Madhya Pradesh Real Estate in WP No.19852/2023 decided on 23.09.2024 wherein it is observed that Section 72-B(1)(g) of M.P. Act, 2010 has brought into force w.e.f. 04.01.2010 and is prospective in nature, therefore, the permission is required in respect of the land which has been sold before 04.01.2010.

7. Counsel for the petitioner has also referred para no.5 the Judgment of Hon’ble Apex Court passed in the case of **Anupam Shahakari Griha Nirman Samithi Maryadit, Raipur vs. State of Madhya Pradesh and Others AIR 1989 MP 163**.

8. The prayer of the petitioner is vehemently opposed by counsel for the respondent and it is submitted that the petitioner has been rightly issued the impugned notice seeking NOC from Co-operative Department. It is also submitted that under Sub-Rule 3 of Rule 9 of the Rules of 2021, the



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Authority has power to obtain additional necessary information and documents. It is also submitted that the sale deed has been executed in favour of the petitioner in violation of the provisions of Section 41 (A) of M.P. Co-operative Societies Act, 1960. Therefore, no case of interference is made out and prays for dismissal of the petition.

9. In rebuttal of the aforesaid, counsel for the petitioner submits that this provision is not applicable in the present case and the same shall be applicable only if any member of the Co-operative Society obtained loan from the society and unable to pay the same, the Society may sell the such part of land to other person.

10. Heard counsel for the parties and perused the record.

11. From the record, it is apparent that the petitioner has been issued notice dated 28.04.2025 by the respondent No.2 Executive Engineer, Colony Cell, Indore Municipal Corporation directing the petitioner to obtain the NOC from the Co-operative Department, as he has purchased the land from the Co-operative Society, namely, *Kiran Co-operative Housing Society Ltd.* and information is sought that whether the said society has sold the land to the petitioner, instead of allotting the same to its members. However, on perusal of the Rules of 1998 relied upon by the petitioner in this regard, there is no such requirement to be obtained from the Co-operative Department, and it appears that only as a caution and to ensure that the rights of the members of the society be not violated, the aforesaid notice has been issued while relying upon executive instructions dated 04.11.2022 issued by the Collector, Indore.



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12. In such circumstances, the impugned order dated 28.04.2025 cannot be sustained in the eyes of law, and the same is hereby quashed, and the respondents are directed to grant the permission for development of colony in accordance with the Rules of 1998 and 2021, without insisting upon getting NOC from the Registrar, Cooperative.

13. Let the aforesaid exercise be completed within a further period of one month.

14. With the aforesaid, the petition stands *allowed* and *disposed of*.

(SUBODH ABHYANKAR)
JUDGE

Amit/Pankaj