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WP-26026-2025

IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE

BEFORE

HON'BLE SHRI JUSTICE PRANAY VERMA

ON THE 18th OF JULY, 2025WRIT PETITION No. 26026 of 2025

*M/S IMPERIAL ECHORS THROUGH AUTHORISED SIGNATORY
SANTOSH MEENA*

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

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Appearance:

Shri Hitendra Tripathi - Advocate for the petitioner.

Shri Kushal Goyal appearing on behalf of Advocate General.

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ORDER

Learned counsel for the petitioner is heard on the question of admission.

02. This petition under Article 226 of the Constitution of India has been preferred by the petitioner being aggrieved by the order dated 24.04.2024 (Annexure P/4) passed by the Sub Registrar, District Indore refusing to register the document in question. The petitioner has also challenged the order dated 03.07.2024 (Annexure P/5) passed by the Senior District Registrar, District Indore whereby the appeal preferred against the aforesaid order has been dismissed.

03. Learned counsel for the respondent/State has raised a preliminary objection to the maintainability of the petition submitting that against the impugned appellate order, a suit lies under Section 77 of the Registration Act, 1908 (hereinafter referred to as 'the Act') hence this petition is not liable



to be entertained.

04. Learned counsel for the petitioner has submitted that against the impugned order passed by the Senior District Registrar, suit under Section 77 of the Act is not maintainable. In any case, in view of the facts and circumstances of the case, this writ petition deserves to be entertained. Reliance has been placed by him on the decisions of the Apex Court in *Dhula Bhai Vs. State of M.P. and Another, 1968 SCC Online SC 40* and *State of U.P. and Another Vs. Johri Mal, AIR 2004 SC 3800*.

05. For the purpose of ascertaining as to whether remedy of a civil suit is available to the petitioner under Section 77 of the Act, it would be apt to refer to the relevant provisions of the Act, which are as under:-

"71. Reasons for refusal to register to be recorded.—(1) Every Sub-Registrar refusing to register a document, except on the ground that the property to which it relates is not situate within his sub-district, shall make an order of refusal and record his reasons for such order in his Book No. 2, and endorse the words "registration refused" on the document; and, on application made by any person executing or claiming under the document, shall, without payment and unnecessary delay, give him a copy of the reasons so recorded.

(2) *****

72. Appeal to Registrar from orders of Sub-Registrar refusing registration on ground other than denial of execution.—(1) Except where the refusal is made on the ground of denial of execution, an appeal shall lie against an order of a Sub-Registrar refusing to admit a document to registration (whether the registration of such document is compulsory or optional) to the Registrar to whom such Sub-Registrar is subordinate, if presented to such Registrar within thirty days from the date of the order; and the Registrar may reverse or alter such order.

(2) *****

76. Order of refusal by Registrar.—(1) Every Registrar refusing—

(a) *****

(b) to direct the registration of a document under section 72 or section 75,

shall make an order of refusal and record the reasons for such order in his Book No. 2, and, on application made by any person executing or claiming under the document, shall, without unnecessary delay, give him a copy of the reasons so recorded.



(2) No appeal lies from any order by a Registrar under this section or section 72.

77. Suit in case of order of refusal by Registrar.—(1) Where the Registrar refuses to order the document to be registered, under section 72 or a decree section 76, any person claiming under such document, or his representative, assign or agent, may, within thirty days after the making of the order of refusal, institute in the Civil Court, within the local limits of whose original jurisdiction is situate the office in which the document is sought to be registered, a suit for a decree directing the document to be registered in such office if it be duly presented for registration within thirty days after the passing of such decree."

*(2) *****"*

06. A perusal of the aforesaid provisions shows that application for registration of a document is refused under Sub Section (1) of Section 71. Against such an order, an appeal lies before the Registrar under Section 72(1). As per Section 76(1)(b), in case of the Registrar refusing to direct the registration of a document under Section 72, he has to make an order of refusal. As per Sub Section (2) of Section 76, no appeal lies from any order by a Registrar under Section 72. As per Section 77(1), where the Registrar, under Section 76(1)(b), refuses to order the document to be registered under Section 72(1) i.e. dismisses an appeal preferred against the order passed by the Sub Registrar refusing registration under Section 71(1), any person claiming under the document may institute in the Civil Court, a suit for a decree directing the document to be registered.

07. In the present case also, application for registration of the document preferred by the petitioner was rejected by the Sub Registrar under Section 71(1) of the Act. Appeal against the said order was preferred by the petitioner before the Registrar under Section 72(1). The same has been dismissed i.e. the Registrar has refused to direct registration of a document under Section 72(1) read with Section 76(1)(b) of the Act. No appeal lies against such an order as per Section 76(2). As per Section 77(1) of the Act,



the order passed by the Registrar can certainly be challenged by preferring a suit in the Civil Court for directing the document to be registered.

08. The remedy of a suit cannot in any manner be said to be not an efficacious remedy. The same is before a Court of law i.e. before the Civil Court. The facts of the case do not warrant bypassing the efficacious remedy and entertaining this writ petition. The judgments relied upon by the learned counsel for the petitioner are in respect of power of issuance of a writ and do not deal with the issue of availability of alternate remedy, hence are of no benefit to the petitioner.

09. Thus, in view of availability of alternate remedy to the petitioner of challenging the impugned order by preferring a suit before the Civil Court under Section 77(1) of the Registration Act, 1908, I do not deem it to be a fit case for exercise of jurisdiction under Article 226 of the Constitution of India. The petition is hence declined to be entertained and is accordingly dismissed reserving liberty to the petitioner to avail the remedy as available to it under the law.

(PRANAY VERMA)
JUDGE

Shilpa