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

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

ON THE 28th OF SEPTEMBER, 2022

WRIT PETITION No. 8134 of 2012

BETWEEN:-

1. **HAR DAYAL BHAGAT (DEAD) THR. LRS BIHARI DAS S/O LATE SHRI HARDAYAL, AGED ABOUT 48 YEARS, OCCUPATION: CULTIVATOR R/O VILLAGE SEMRIKALA, TAHSIL SULTANPUR (MADHYA PRADESH)**
2. **KISHORILAL S/O HARDAYAL, AGED ABOUT 46 YEARS, OCCUPATION: CULTIVATOR R/O VILLAGE SEMRIKALA, TEHSIL SULTANPUR, (MADHYA PRADESH)**
3. **BUDHWANTI W/O JAGDISH D/O HARDAYAL, AGED ABOUT 55 YEARS, R/O VILLAGE CHANGONGODA, TAHSIL AND DISTT RAISEN (MADHYA PRADESH)**
4. **RADHA W/O SHYAM SINGH D/O HARDAYAL, AGED ABOUT 43 YEARS, R/O PATEL NAGAR BHOPAL (MADHYA PRADESH)**

....PETITIONERS

(NONE PRESENT)

AND

1. **THE STATE OF MADHYA PRADESH THR SECRETARY REHABILITATION DEPARTMENT VALLABH BHAWAN (MADHYA PRADESH)**
2. **DISTRICT COLLECTOR & SETTLEMENT OFFICER [DISPLACED PERSONS] CLAIM & REHABILITATION ACT 1954 (MADHYA PRADESH)**
3. **DEPUTY SECRETARY [REHABILITATION] STATE OF M.P. & ASSTT. CUSTODIAN GENERAL & SETTLEMENT COMMISSIONER (MADHYA PRADESH)**
4. **MANAGING DIRECTOR /TEHSILDAR TEHSIL**

.....RESPONDENTS

(BY SHRI PIYUSH BHATNAGAR, PANEL LAWYER)

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

ORDER

This writ petition is filed being aggrieved of order dated 25/04/2012 passed by respondent no. 1 i.e. Secretary, Rehabilitation Department, Vallabh Bhawan, Bhopal in file no. F-22-5/2005/28 challenging the order dated 25/04/2012 whereby the order of allotment of five acres of land in favour of the petitioners dated 13/08/2008 at village Rajalwadi, Tehsil Goharganj, District Raisen under the provisions of Displaced Persons (Compensation and Rehabilitation) Act 1954 has been cancelled for the reason that the Act of 1954 stood repealed in the year 2005, therefore, the order dated 25/04/2012 is without jurisdiction.

In the writ petition, it is mentioned that the petitioner was instructed by the Collector, Raisen to deposit 12 installments of Rs. 22,200/- each a sum of Rs. 2,66,400/-. Petitioner had made compliance of the said order and, therefore, the order cancelling the earlier allotment order is arbitrary and illegal.

Learned Panel Lawyer supports the impugned order and submits that once the Act was repealed, then the authorities were in error in making any allotment in favour of the petitioners. After repeal of the Act of 1954, by an Act to repeal the displaced persons vide gazette notification dated 6th September, 2005, there existed no authority in the allotment officer to make any allotment of land in favour of the petitioners. It is submitted that the civil suit is already pending in this regard.

Taking these facts into consideration that the Act of 1954 stood repealed

and, thereafter, allotment was made, such allotment cannot be given seal of approval as it was not within the competence of the authority to make allotment in favour of the petitioners under the Repeal Act.

In *Keshaven Vs. State of Bombay (AIR 1951 SC 128)*, it is held that under the common law rule, the consequences of repeal of a statute are very drastic. Except as to transaction past and closed, statute after its repeal is as completely obliterated as if it had never been enacted. The effect is to destroy all inchoate rights and causes of action that may have arisen under the repeal statute.

In *Mohan Raj Vs. Dimbeshwari Sakia (AIR 2007 SC 232)*, it is held that leaving aside the cases where proceedings were commenced, prosecuted and brought to a finality before the repeal, no proceedings under the repeal statute can be commenced or continued after the repeal.

Section 6 of the General Clauses Act, 1897, deals with effect of repeal which reads as under :-

"6. Effect of repeal. —Where this Act, or any 1 [Central Act] or Regulation made after the commencement of this Act, repeals any enactment hitherto made or hereafter to be made, then, unless a different intention appears, the repeal shall not— -

- (a) revive anything not in force or existing at the time at which the repeal takes effect; or
- (b) affect the previous operation of any enactment so repealed or anything duly done or suffered thereunder; or
- (c) affect any right, privilege, obligation or liability acquired, accrued or incurred under any enactment so repealed; or
- (d) affect any penalty, forfeiture or punishment incurred in respect of any offence committed against any enactment so repealed; or
- (e) affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid, and any such investigation, legal proceeding or remedy may

be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed as if the repealing Act or Regulation had not been passed.

The Displaced Persons Claims and other Laws Repeal Act, 2005 has no saving clause. Thus, no interest of petitioners can be protected.

There is no error in the impugned order calling for any interference.

Accordingly, the petition fails and is **dismissed**.

At this stage, Shri Amanulla Usmani, learned counsel appears and submits that petitioner had spend substantial amounts in developing the land after it was allotted in their favour in 2008. However, he is not in a position to answer legal issue that whether allotment could have been made by the authorities overlooking the fact that the Act stood repealed in the year 2005. Therefore, no proceedings could have been undertaken by the said allotment under the Repeal Act.

He is at liberty to undertake proceedings claiming damages against the responsible person(s).

(VIVEK AGARWAL)
JUDGE