

**HIGH COURT OF MADHYA PRADESH, PRINCIPAL SEAT AT
JABALPUR**

SINGLE BENCH: JUSTICE VIJAY KUMAR SHUKLA

Writ Petition No. 7357 of 2014

Ranumal Sharma @ Ranu

VERSUS

The State of Madhya Pradesh

Kumari Sudipta Choubey, learned counsel for the petitioner.
Shri Punit Shroti, learned Panel Lawyer for the respondents.

O R D E R

(03.01.2017)

With consent of both the parties the petition is heard finally.

2. In the present petition under Article 226/227 of the Constitution of India the petitioner has prayed for a direction to set-aside the entry the name of the Collector as Manager of the Trust property of the petitioner. It is also stated that it be declared that the Collector can not be appointed as Manager with respect to the petitioner's temple.

3. Learned counsel for the petitioner further submits that one Shri Jai Ram S/o Laxmi Ji Jhat, R/o Bhonkhedi, executed a Tamseekhnama for looking after the temple of Shri Ramchandra Ji & Shankar Ji Mandir of Bhonkhedi in favour of petitioner, appointing him as Sarvakar for installation of Idol of Ramchandra Ji & Shankar Ji. He further submits that after his death his wife Ganga Bai & Rukmani Bai were given this right and after the death of these two wives it was to be looked after by his nephew Shri Ramdeen S/o Dayaram Jhat who died sometime in 2004 and after him the petitioner was given this right as per deed Annexure P-1. The grievance of the petitioner is that, without given any show-cause notice or opportunity of hearing, the respondents got entered the name of Collector in the capacity of Manager of the Private Trust. The copy of the Khasra entry is Annexure P-2 and P3.

4 At the outset the counsel for the petitioner submits that the present case is covered by the Judgment of this Court passed in W.P. No. 234 of 2004 dated 05.05.2011 in which this Court has held that with respect to the property of a private temple, the name of Collector can not be inserted in the revenue entries as Manager of the property. This court has passed the said judgment relying on the earlier judgment passed by this Court (Division Bench) in the Case of **Sadashiv Giri &**

Others Vs Commissioner, Ujjain and others, 1985 RN 317 and also the judgment of this Court (Single Bench) in the case of **Ghanshyamdas and others Vs. State of M.P. and another, 1995 RN235.**

5. Learned Panel Lawyer for the respondents submits that the name of Collector was entered into the khasra entries as Manager on the basis of circular of the Government.

6. After elaborate and extensive considerations, the law has been laid down by this court in the judgments mentioned (*supra*), this court passed following orders in W.P. No. 234/2004 which is quoted as under:-

*"In view view of the settled position the action of the respondents cannot be sustained in law and accordingly it is directed that the name of the Collector as Manager in the revenue record be deleted. However, the lands which are attached to the temple shall be governed by the law laid down by the Apex Court in **Mst. Kanchaniya and ors. Vs. Shiv Ram and Ors., 1992 Supp(2) SCC 250.** No third party right shall be created and the lands of the temple cannot be alienated, transferred in any manner by the persons who are*

managing the aforesaid land on behalf of Temple.

With the aforesaid directions this petition is finally disposed of."

7. From the aforesaid judgments, it is settled principle of law that on the basis of the executive instructions passed by the Government, the proprietary rights can not be brought to an end and the right of ownership which may be less than absolute ownership can only be brought to an- end by due procedure of law and such law has not been shown.

8. Learned counsel for the State could not distinguish the order passed by this Court either on the facts or on the law in the present case.

9. In view of the above submissions and taking into consideration the facts of the present case and also the law laid down by this court, the present petition is allowed. The action of the respondents entering the name of the Collector as Manager in the Revenue Record is declared illegal and accordingly it is directed that the name of the Collector as Manager in the revenue record be deleted. However, the land which are attached to the temple shall be governed by the law led down by the Apex Court in the Case of **Mst. Kanchaniya and ors. Vs. Shiv Ram and Ors., 1992 Supp(2) SCC 250**

(supra) no third party right shall be created and the land of the temple shall not be alienated, transferred in any manner by the persons who are managing the aforesaid land on behalf of the temple.

10. With the aforesaid directions, the present petition is finally disposed of with no orders as to cost.

(Vijay Kumar Shukla)
Judge