

**THE HIGH COURT OF MADHYA PRADESH**  
**W.P. No.26887/2018**

**(MOHAMMAD KASIM Vs. MADHYA PRADESH STATE OF WAQF TRIBUNAL BHOPAL)**

**Jabalpur, Dated: 13.12.2018**

Shri K.C. Ghildiyal, learned counsel for the petitioner.  
Heard.

This petition under Article 226 of the Constitution of India is filed by the petitioner claiming to be a tenant of a shop belonging to the Jama Masjid Idgah Kabristan Committee, Shahdol.

The case of petitioner is that an agreement of lease was executed between the Waqf Committee and the petitioner and since then he was continuously occupying the shop and paying the rent to the Waqf Committee on regular basis till 2012. According to him, in the year 2012, a complaint was made before the Chief Executive Officer, Madhya Pradesh Waqf Board stating that the petitioner is an encroacher on the Waqf property, however, no notice was issued to him at that time.

It is the submission of learned counsel for the petitioner that a notice was ultimately issued to him in the year 2018 vide (Annexure P/4), and he was directed to remain present before the authority on 25.01.2018 at 11:00 A.M. However, an order was passed on 23.06.2018, wherein it has been mentioned that an *ex parte* proceeding has been initiated against him as he did not appear, and the Chief Executive Officer affirmed that the petitioner has encroached on 256 Sq. Ft. of land by constructing a shop there and has

initiated proceeding before the Tribunal for eviction. It is the contention of learned counsel for the petitioner that he has already filed an application for reconsideration of the said order before the Chief Executive Officer but the application has remained undecided. It is prayed that an opportunity may be granted to him to challenge the said order before the Tribunal and for that purpose 15 days' time may be granted to him.

It is seen from the notice issued to the petitioner as Annexure P/9 that the petitioner is required to produce all the documents upon which he intend to rely in support of his defence before the Tribunal. However, in the interest of justice, the prayer of petitioner is acceded to and he is granted 15 days' time to challenge the order dated 23.06.2018. In case the petitioner challenges this order before the Tribunal within a period of 15 days from the date of receipt of certified copy of the order passed today along with an application for interim relief, the Tribunal is directed to consider the same. Till then no coercive action shall be taken against the petitioner for a period of 15 days or till the application is decided, whichever is earlier.

With the aforesaid direction, this petition is disposed of.

**(Nandita Dubey)**  
**Judge**