

**THE HIGH COURT OF MADHYA PRADESH**

**W.A.No.1186/2021**

*(Balaji Chemist Vs. Indian Red Cross Society & The General Secretary)*

**Jabalpur, Dated : 01.12.2021**

**Per: Purushaindra Kumar Kaurav, J.**

Shri K.C.Ghildiyal, learned counsel for the appellant.

Shri Pushpendra Yadav, learned Additional Advocate General for the respondents.

This appeal is directed against order dated 16.11.2021, passed by the learned Single Judge in Writ Appeal No.23877/2021, dismissing the appellant's writ petition.

The appellant-petitioner filed a writ petition challenging the N.I.T. dated 25.10.2021, whereby, the respondent invited offers from eligible bidders to rent out the shop situated within the premises of Hospital at Shivaji Nagar, Bhopal being run by the Indian Red Cross Society. The appellant-petitioner also sought for implementing the decision of the executive committee of the respondent, said to have taken place on 19.10.2020, purportedly deciding that the shop in question was to be let out to the petitioner by doubling the rent of the earlier tenant.

Learned counsel for the appellant-petitioner submitted that learned Single Judge has erred in dismissing the writ petition on the ground that the appellant- petitioner has not challenged the order dated 22.10.2021. He states that after the shop in question became vacant the temporary allotment was made in favour of the appellant vide order dated 30.07.2019 and rent was decided by the executive committee in its meeting dated 19.10.2020, but despite several requests the possession of the shop was not handed over to the appellant. According to him, the writ petition, against the N.I.T. was filed on

26.10.2021 and the order cancelling temporary allotment was issued on 22.10.2021 which was served on the appellant only on 29.10.2021. He relies upon the decision of the Supreme Court in the matter of ***Beg Raj Singh Vs. State of U.P & Others***<sup>1</sup>, ***Doiwala Sehkari Shram Samvida Samiti Limited Vs. State of Uttaranchal & Others***<sup>2</sup> and ***Kewal Krishan Vs. Rajesh Kumar & Others Etc.***<sup>3</sup> to substantiate his case that the time taken in contesting the litigation should not come in the way of the litigant.

Learned counsel appearing for the respondents supports the order passed by the learned Single Judge. He states that there is no legal or vested right in favour of the petitioner so as to claim for the relief as prayed for. He also submits that no agreement has been executed in favour of the appellant till date. The appellant was free to participate in N.I.T. dated 25.10.2021 which, the appellant has not chosen. The N.I.T. dated 25.10.2021 has been crystallized and the third party right has been created in favour of the successful bidder who has already deposited the advance rent for six months.

We have carefully perused the material available on record and also considered the decisions cited by the appellant-petitioner. It is seen that there exist no agreement between the appellant-petitioner and respondent so as to allow the appellant-petitioner to run the shop in question. So far as any temporary arrangement, if at all was made, vide order dated 30.07.2019, the same stood cancelled vide order dated 22.10.2021 and, in absence of challenge to the said order, no relief can be granted to the appellant. Moreso, the appellant himself admits in para 5.5 of the writ petition that the decision taken by the society could not be executed due to Covid-19 and for other reasons, hence for this

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1 (2003)1 SCC 726

2 (2007) 11 SCC 641

3 Civil Appeal No.6989-6992 of 2021

reason also grant of any relief would be in the nature of specific performance, which is not permissible under writ jurisdiction.

The decision in the case of *Beg Raj Singh*<sup>1</sup> cited by the appellant would not be applicable in the present case as in the said case<sup>1</sup>, the petitioner therein was granted lease for a period of one year in accordance with the then existing policy. The decision of *Doiwala Sahakari Shram Samvida Samiti Limited*<sup>2</sup> also relates to grant of lease for mining of minor mineral and in that case the rights of the party were crystallized at the time of filing of the litigation, which is not the case here. Last decision cited by the appellant *Kewal Krishan*<sup>3</sup> relates to civil dispute wherein the civil suits were filed by the parties and finally the matter travelled upto the Supreme Court. All the aforesaid judgements deal with different controversy.

In absence of any legal/vested rights in favour of the appellant, we do not find any reason to interfere in the order passed by the learned single Judge. Accordingly, the present writ appeal fails and, is hereby **dismissed**.

(SHEEL NAGU)  
JUDGE

(PURUSHAINDR KUMAR KAURAV)  
JUDGE