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

**BEFORE  
HON'BLE SHRI JUSTICE RAVI MALIMATH,  
CHIEF JUSTICE**

**&  
HON'BLE SHRI JUSTICE VISHAL MISHRA**

**ON THE 14<sup>th</sup> OF DECEMBER, 2022**

**WRIT PETITION No. 25940 of 2022**

**BETWEEN:-**

**ASHISH TIWARI S/O JAMUNA PRASAD TIWARI, AGED  
ABOUT 28 YEARS, OCCUPATION: FARMER R/O WARD  
NO. 4 DEVENDRA NAGAR, TEHSIL DEVENDRA NAGAR,  
DISTRICT PANNA (M.P)**

**.....PETITIONER**

**(SHRI K.C GHILDIYAL - SENIOR ADVOCATE WITH SHRI AKSHAT  
ARJARIA - ADVOCATE)**

**AND**

- 1. THE STATE OF MADHYA PRADESH THROUGH  
PRINCIPAL SECRETARY DEPARTMENT OF  
REVENUE GROUND FLOOR, VALLABHA BHAWAN  
ARRERA HILLS, BHOPAL (MADHYA PRADESH)**
- 2. COLLECTOR PANNA DISTRICT PANNA (MADHYA  
PRADESH)**
- 3. SUB DIVISIONAL OFFICER PANNA DISTRICT  
PANNA (MADHYA PRADESH)**
- 4. TEHSILDAR TEHSIL DEVENDRANAGAR DISTRICT  
PANNA (MADHYA PRADESH)**
- 5. SHRI SURESH PRASAD S/O SHRI SUNDARLAL  
BRAHMAN R/O POLICE LINE JABALPUR  
DISTRICT JABALPUR (MADHYA PRADESH)**

**.....RESPONDENTS**

**( SHRI AMIT SETH - DEPUTY ADVOCATE GENERAL FOR RESPONDENT  
NO.1, 2, 3 AND 4 )**

.....

*This petition coming on for admission this day, Hon'ble Shri Justice Ravi Malimath, Chief Justice passed the following:*

**ORDER**

The case of the petitioner is that he is the owner of lands bearing Khasra No.1032/2 measuring 1.312 hectare and Khasra No.1021/1 measuring 0.0310 hectare situated in Devendranagar, District Panna. That he is a farmer. His ancestors have been enjoying easementary rights over Khasra No.1031/2 and Khasra No.1021/1 for more than 50 years. That the respondent no.5 installed a board on Khasra No.1022 and Khasra No.1023/1 stating that the land is disputed and has physically stopped the petitioner to access his agricultural land bearing Khasra No.1032/2 and Khasra No.1021/1. Thereafter, he filed an application under Section 131 of the M.P Land Revenue Code, 1959 (for short "the Code of 1959") seeking right of entry into the land in order to reach his agricultural land. By the impugned order, the same was rejected. Hence, this writ petition.

2. Learned senior counsel appearing for petitioner's counsel submits that the order passed by the Tehsildar is erroneous. That all that the petitioner wants is a right to approach his land. That Section 131 clearly provides for grant of an interim relief to the petitioner. That the petitioner is entitled for such an order. The order passed by the trial court is therefore erroneous.

3. The same is disputed by the Deputy Advocate General appearing for respondents no.1 to 4. He supports the case of the Tehsildar who has dismissed the application under Section 131 of the Code of 1959 on the grounds that there is a decree of the civil court and also there is an interim order passed in W.P No. 14851 of 2015, which is a Public Interest Litigation.

4. Heard learned counsels.

5. The right to be exercised by the Tehsildar under Section 131 of the Code of 1959 is as contemplated under the said Section itself. Therefore, in case of any enquiry, an interim order could also be granted for a period not exceeding 90 days. However, admittedly a Suit No.10-A of 1999 in the court of First Civil Judge Class-II Panna, District Panna was decreed with regard to title and possession by order dated 28.09.2001. Therefore, the plaintiffs therein were declared to be the owner and in possession of the land in question. The very same land is the land through which the petitioner seeks to enter or seeks easementary rights to reach his land. The Teshildar having considered the same, came to the view that in the existence of a decree of a civil court, he has no powers to entertain the same. The second ground urged is that there was an interim order granted in the Public Interest Litigation with regard to maintenance of status quo.

6. We are of the considered view that the reasoning assigned by the Tehsildar appears to be just and appropriate. Irrespective of the plea of the petitioner, the admitted fact is that there is a decree passed by a civil court with regard to title and possession. The claim of the writ petitioner herein is a claim based on easementary rights. A right of easement is necessarily alien to the right of title. The title of defendant being accepted, the plaintiff could always seek a right of easement over the land in question for various reasons therein. However, when a decree for title and possession has been passed, the Tehsildar would not have any power under Section 131 of the Code of 1959 to pass an order to the contrary. If any order is to be passed under Section 131 of the Code of 1959, the same would amount to violation of the judgment and decree of the trial court, which is impermissible. Therefore, the Tahsildar was justified in rejecting the application. We find no good ground to entertain this writ petition.

7. Accordingly, the writ petition being devoid of merit is dismissed.
8. Pending interlocutory application is disposed off.

**(RAVI MALIMATH)**  
**CHIEF JUSTICE**

tarun

**(VISHAL MISHRA)**  
**JUDGE**

