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WP-31476-2024

IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE DWARKA DHISH BANSAL

ON THE 7th OF OCTOBER, 2024WRIT PETITION No. 31476 of 2024*CHRISTIAN MISSION DAMOH DISCIPLES OF CHRIST CHURCH**Versus**STAE OF MADHYA PRADESH AND OTHERS*

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Appearance:

Shri Shashank Shekar Sr. Advocate along with Shri Bhoopesh Tiwari - Advocate for the petitioner.

Shri H.S Ruprah and Shri Shri Amit Seth - Addl. Advocate General with Shri B.D Singh - Dy. Advocate General for the State/respondents 1, 2, 3 & 5.

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ORDER

This writ petition under Article 226 of the Constitution of India has been preferred by the petitioner challenging the order dated 04.10.2024 (Annexure P/18) passed by Tahsildar (Nazul), Tahsil and District Damoh, in Revenue case no.0004/A-68/2024-25 whereby order of dispossession has been passed under Section 248 of the M.P. Land Revenue Code, 1959.

2. After arguments at length, learned counsel for the petitioner prays for withdrawal of writ petition with liberty to file civil suit for declaration of title and consequential relief(s), if any, within a period of 15 days and submits that till the decision of application under Order 39 Rule 1 & 2 CPC the petitioner may be given protection by maintaining status quo.

3. Learned counsel appearing for the State/respondents 1, 2, 3 & 5 have no objection in withdrawal of writ petition but they oppose the prayer for interim protection, if any. They further submit that in the light of order



dated 04.10.2024 passed by the Tahsildar (Nazul), the encroachment/illegal construction raised by petitioner has already been removed and possession has also been taken.

4. Upon due consideration of the rival contentions made by learned counsel for the parties, in the opinion of this Court this writ petition deserves to be and is hereby permitted to be withdrawn with the observation that if such a civil suit before the competent Court along with application under Order 39 Rule 1 & 2 CPC, is filed within a period of 15 days from today then till the decision of application under Order 39 Rule 1 & 2 CPC, both the parties shall maintain status quo in respect of the property in question.

5. It is made clear that this Court has not expressed any opinion on merits and demerits of the case and the trial Court shall decide the application under Order 39 Rule 1 & 2 CPC on its own merits without being influenced by any of the observations made by this Court in the order passed today.

6. It is also made clear that if the civil suit is not filed by the petitioner within the aforesaid period i.e. on or before 22.10.2024, then the interim protection given by this Court shall stand vacated automatically.

7. With the aforesaid this writ petition is **disposed off**.

8. Misc. application(s), pending if any, shall stand **closed**.

(DWARKA DHISH BANSAL)
JUDGE

