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WP-17358-2025

IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE AVANINDRA KUMAR SINGH

ON THE 10th OF MAY, 2025

WRIT PETITION No. 17358 of 2025

ABDUL REHMAN AND OTHERS

Versus

STATE OF M.P. AND OTHERS

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Appearance:

Shri Abhishek Pandey & Shri Zeeshan Malik, Advocates for the petitioners.

*Shri Manan Mani Verma - Government Advocate for the respondents 1, 2 &
4 and on oral instructions accepts notice and appear on behalf of respondent No.3.*

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ORDER

This petition under Article 226 of the Constitution of India alleging that petitioner has purchased a piece of land situated in Ward No.05, Old Basti, Kotma on 16.1.2024 for a sale consideration of Rs.25 lacs and said transaction was duly registered vide Sale Deed No.MP46092024A1065566 (Annexure-P/1). The property consists of Khasra No.58/1/2, total area 0.815 hectares out of which 0.051 hectares has been purchased by the petitioners. Thereafter, petitioners applied for electricity connection which provided Consumer No.N-1331036807 vide Annexure-P/2. Copy of revenue document in this regard has been brought on record as Annexure-P/3.

2. The petitioner received notice (Annexure-P/4) from the respondent-Nagar Palika Parishad, Kotma alleging that they have constructed 15x40 sq.ft. and 55x12 sq.ft. AC Sheeted building adjacent to Gurukripa Dhabha in Ward No.4 within the limits of Municipal Council, Kotma



without permission of the Municipal Council. It is stated that information regarding said construction has been sought by the Police Station, Kotma requiring document of title, building construction permission, diversion, blue map of proposed construction within 03 days. The petitioner submitted his reply (Annexure-P/5) to the respondent/Municipal Council, Kotma on 07.5.2025. Without giving show cause notice to the petitioner his house is being sought to be demolished at 02 pm on 10.5.2025 a news was published in this regard in newspaper stating that petitioners are involved in cattle trafficking. A copy of newspaper cutting has been brought on record as Annexure-P/6.

3. It is urged by learned counsel for the petitioner that after purchase of land approval proceedings for the constructions has been done but in the absence of petitioner, the Police of Kotma Police Station and before that a group of 15-20 persons vandalized residential house of petitioner and took away many documents due to which the petitioner is unable in providing documents at present. It is further submitted that respondents should obtain information in this regard from his own office and if official file is not received then under section 187(a) of the Municipalities Act the petitioner is ready to settle the permission proceedings and pay the prescribed settlement fees. The petitioner purchased above land from Kesar Bai Sharma. For installation of electric connection a NOC was obtained from the Nagar Palika Parishad, Kotma. Diversion permission has also been received through revenue case No. 0116/A-02/2020-21 vide order of SDO, Kotma dated 16.5.2022 and information was confirmed on 15.1.2024, which is shown in



copy of Khasra Panchshala. No notice has been issued to brothers of petitioners who are co-owners. Therefore, petitioner prays for issuance of writ of mandamus that house of petitioner should not be demolished without any notice.

4. Learned Government Advocate for the respondents at the outset submitted that instant writ petition is not maintainable because in Annexure-P/1 sale deed it is mentioned that land is not diverted, on the property sold no house is constructed at the time of registration. Therefore, it is established that construction has been done without permission of the Municipal Council and hence, they have right to demolish the illegal construction.

5. Considered the arguments and perused the record. The sale deed (Annexure-P/1) is dated 16.1.2024 whereby Kesar Bai Sharma sold property bearing Khasra No.58/1/2, area of 0.051 out of 0.815 hectares to Abdul Rehman, Mohd.Wajid, Mohd.Aftab and Mohd.Altaf for a sale consideration of Rs.25 lacs, as described in the sale deed. It is mentioned therein that land is not diverted and is situated in village Kotma, Ward No.4, Nagar Palika, Kotma. *Prima faice* meaning thereby that the land is not diverted and is an agricultural land. Page No.23 of the paper book of petition is very faint and is not readable. Similarly, photographs at Pg.No.26 are not visible. Electricity Bill of the month of December, 2024 (Annexure-P/2) shows that electricity connection in name of Mohd.Wajid is domestic connection. Annexure-P/3 is revenue document (Khasra) showing land bearing Khasra No.58/1/2 in the names of Kesharbai, Abdul Rehman, Mohd.Wajid, Mohd.Aftab & Mohd.Altaf. In this khasra it is also mentioned that an order



dated 14.5.2022 has been passed by the SDO, Kotma in Revenue Case No.116/A-2/2020-21 and information of Diversion is bearing No.22067418913 and challan for diversion fees of Rs.0 has been paid by and same has been verified by the SDO, Kotma on 15.1.2024. It is also mentioned that property has been purchased by Mohd.Aftab, Mohd.Altaf, Abdul Rehman and Mohd.Wajid and record has been updated vide order dated 06.2.2024 as per case No.1074/A-6/2023-24.

6. Also perused notice (Annexure-P/4) issued by respondent No.3/Chief Municipal Officer, Kotma seeking information regarding construction raised and sought documents of title as also building permission, which was obtained from Tahsildar. It is also mentioned in the notice that if within three days information/document is not submitted action shall be taken as per rules. Annexure-P/5 is the reply submitted petitioner (Mohd.Wajid) wherein same grounds have been taken specially that some persons entered the house in question and took all the documents. The other grounds of reply are same which are the part of averments made in the petition.

7. At the time of arguments it is submitted that Hon'ble Supreme Court in the case of *In Re: Directions in the matter of Demolition of Structures, 2024 INSC 866* held that demolition of properties owned by accused/convicted individuals must follow due process, proportionality, and avoid collective punishment, with appellate scrutiny available and notice returnable as per Municipal Act or 15 days' time from the date of service of notice, whichever is later should be given



8. It is seen that Annexure-P/6 is the newspaper cutting from Vijaymat, Anuppur published from Shahdol on 10.5.2025 with heading to the effect that persons who are involved in cattle trafficking their illegal construction would be demolished today.

9. Taking into over all facts and circumstances of the case as also scrutinizing the material available on record as also appreciating the arguments advanced, it is seen that there is no FIR of vandalism or dacoity at the house of petitioner, therefore, contention that some persons taken away permission documents is prima facie not established. But looking to short period of 03 days notice only which is not in confirmation with direction of Hon'ble Supreme Court as mentioned above, it is directed that matter to be considered by Municipal Council (respondent No.3) in totality including that petitioners are ready to pay the compounding fee and notice has been issued to only one person and less period to reply has been given and after hearing them as per law to pass an order as per law within 30 days from today.

10 Accordingly, this petition is disposed with above direction and status quo as it exists today shall be maintained by both the parties regarding the property in question for next 30 days.

C.C. today.

(AVANINDRA KUMAR SINGH)
JUDGE