



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

BEFORE

**HON'BLE SHRI JUSTICE SANJEEV SACHDEVA
CHIEF JUSTICE**

&

HON'BLE SHRI JUSTICE VINAY SARAF

ON THE 16th OF September, 2025

WRIT PETITION No.26454 of 2025

***M S EXTOL FINANCIAL SERVICES PVT LTD THROUGH DIRECTOR
SHRI GK BHATNAGAR***

Versus

STATE OF MP AND OTHERS

.....
Appearance:

*Shri Brian D'silva, Senior Advocate with Shri Sarabvir Singh Oberoi
and Shri Aditya Khandekar, learned counsel for the petitioner.*

*Shri Vivek Sharma, learned Deputy Advocate General for the
respondent/State.*

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Heard on : 11.09.2025

Pronounced on : 16.09.2025
.....

ORDER

Per: Justice Vinay Saraf :

1. By the instant writ petition preferred under Article 226 of the Constitution of India, petitioner company is seeking following reliefs:



- “(i) The Hon’ble Court be pleased to call for the entire record of the case.*
- (ii) Issue a writ(s) of certiorari, order(s) or direction(s) quashing the impugned order dated 6.5.2025 (Annexure P/1).*
- (iii) Issue a writ of mandamus or direction directing the Respondents to execute lease deed for plot no. E2/12 Arera Colony, Bhopal after removal of all encroachments at the earliest and without insisting on the additional three conditions as held by the Hon’ble Supreme Court.*
- (iv) Direct the respondents to pay interest @18 percent per annum on the deposited amount and adjust the same against the balance amount to be paid by the petitioner for grant of lease and refund balance amount, if any to the petitioner.*
- (v) Grant such other relief as this Hon’ble Court deems fit and proper in the interest of justice.”*
2. Shri Brian D’silva, Senior Advocate with Shri Sarabvir Singh Oberoi and Shri Aditya Khandekar, learned counsel appeared for the petitioner and Shri Vivek Sharma, learned Deputy Advocate General appeared for the respondent/State.
3. With the consent of learned counsel for the parties, the arguments were heard for the purpose of final disposal of the petition.
4. The facts of present case lie in narrow compass are that the respondent Nazul Officer (Rajdhani Pariyojana), Bhopal has issued a public notice on 14.12.1995 inviting offers for four plots proposed to be leased out for a period of thirty years located in Arera Colony Bhopal. Petitioner company submitted a bid of Rs.94



lacs for Plot No.E2/12 admeasuring 13251 Sq. Ft. and the bid was accepted by the competent authority vide letter dated 18.01.1996 with four conditions. The petitioner company deposit 25% of bid amount i.e. Rs.23,50,000/- against the total bid offer of Rs.94 lacs and the balance amount of Rs.70,50,000/- was required to be deposited within a period of seven days from the date of acceptance of the bid. Balance amount was not deposited by the petitioner company within stipulated time and by letter dated 29.01.1996, petitioner objected to the imposition of four new conditions and requested to waive the same.

5. A show cause notice was issued by the Collector on 08.02.1996 to the petitioner intimating that the petitioner had committed breach of term no.5 of the public notice and consequently, the amount deposited by the petitioner was liable to be forfeited. Petitioner submitted a response on 09.02.1996 and in the said response, submitted that some temporary huts (*jhuggi basti*) were available on the site, which should be removed first and thereafter the petitioner would deposit the balance amount.
6. On 30.05.1996, Nazul Officer informed the petitioner that encroachments had been removed and demanded to deposit the balance amount within three days. Petitioner Company instead of depositing the balance amount raised an objection that five huts still existed in the property and the encroachments had not been removed completely and on that pretext did not deposit the balance amount. Later, on 04.06.1996, petitioner company issued another



letter wherein the objection was raised that Civil Suit No.7A/1996 (Khushal Chandra Jetha Vs. State of M.P.) was pending in the Court of IInd Additional Civil Judge, Class I, Bhopal in respect of the subject plot and the respondent could not transfer the property in view of the provisions of Section 52 of the Transfer of Property Act. It was stated in the letter that the balance amount would be demanded after disposal of the civil suit.

7. As per petitioner, the civil suit was filed by one Khushal Chandra Jetha upon the allegation that in public auction dated 15.06.1967, he was declared a successful bidder but the lease deed of the property could not be executed in his favour as the property was under encroachment. Civil Court dismissed the application moved by him under Order 39 Rule 1 & 2 of the CPC seeking relief for restraining the Collector and Nazul Officer to execute the lease deed in favour of the petitioner company, however the petitioner company was restrained from further transferring the property by order dated 18.09.1997. Later on, the Civil Suit was dismissed by judgment and decree dated 24.07.2004.
8. Khushal Chand Jetha preferred F.A.No.532/2004 before single bench of this Court assailing the judgment dated 27.03.2004 which was dismissed on 27.07.2022 for want of prosecution. Thereafter, on 16.04.2024 petitioner submitted a cheque of balance amount of Rs.70 lacs along with a representation and thereafter filed W.P.No.19086/2024 before this Court which was decided by order dated 12.12.2024 by the Single Bench of this Court and a direction



was issued to the petitioner to file a fresh representation within 15 days and the Competent Authority was directed to decide the same by passing a speaking order within further 60 days.

9. Petitioner submitted a fresh representation on 21.06.2024, which was rejected by the impugned order dated 06.05.2025 on the ground that the petitioner failed to deposit the balance amount within a period of seven days from the date of acceptance of the bid offer and after such a long period, balance amount cannot be accepted from the petitioner and the amount which was deposited by the petitioner had already been forfeited. It was also mentioned in the impugned order dated 06.05.2025 that the present value of the property as per the circle rate guideline issued by the Collector (Stamps), Bhopal was Rs.12,56,13,000/-.
10. Assailing the order dated 06.05.2025, petitioner has preferred the instant petition.
11. Learned Senior Counsel appearing on behalf of the petitioner submits that petitioner was declared as a successful bidder and immediately deposited the 25% of the bid amount, however, the balance amount of 75% could not be deposited as there was encroachment upon the property and a civil suit was pending in respect of the subject land, which was finally dismissed by this Court in F.A.No.532/2004 by order dated 20.07.2022 and thereafter petitioner submitted the cheque of balance amount on 16.04.2024 and that the petitioner was ready and willing to deposit



the balance amount but due to the aforesaid reasons, the lease deed could not be executed in favour of the petitioner and the petitioner cannot be held liable for the aforesaid circumstances and therefore, the respondents are under obligation to execute the lease deed in favour of the petitioner.

12. He further submits that petitioner has not breached the terms of the public notice, however, respondents failed to provide a non-encumbered property to the petitioner and the show cause notice dated 08.02.1996 has been impliedly recalled by communication dated 13.05.1996, whereby the balance amount was demanded within further three days. He further submits that Section 52 of the Transfer of Property Act was applicable and therefore, respondents were legally restrained from executing the lease deed in favour of the petitioner even in the absence of any injunction issued by Civil Court. He submits that Petitioner has suffered huge financial losses in the last 28 years on account of conduct of the respondents, who failed to adhere the terms of the public notice.
13. He further submits that bid of the petitioner cannot be rejected on the ground that during the period of last 29 years, the value of the property was drastically increased from Rs.94 lacs to Rs.12,56,13,000/-. He prays for quashing the impugned order dated 06.05.2025 by which the representation of the petitioner was rejected and for issuance of writ of mandamus for necessary directions directing the respondents to execute the lease deed for



Plot No.E2/12 Arera Colony, Bhopal after removal of all the encroachments.

14. Learned Deputy Advocate General appearing on behalf of the respondent opposed the petition on the ground that as per the public notice dated 14.12.1995, petitioner was under an obligation to deposit balance 75% of the bid price within a period of seven days from the date of acceptance of the offer. However, admittedly, petitioner had not offered the balance amount to the respondents till 16.04.2024 and as the petitioner failed to pay the balance amount within seven days, no relief could be granted to the petitioner.
15. It is submitted that in order to avoid payment of the balance amount, initially petitioner objected qua the general conditions of the lease, thereafter he raised the issue of encroachment and when the encroachment was removed, petitioner was directed to deposit the balance amount within three days, petitioner raised the issue of pendency of the civil suit, wherein there was no interim order in force restraining the respondents to execute the lease deed in favour of the petitioner, but the petitioner of his own waited till the disposal of the suit, which was dismissed on merits by the trial court on 24.07.2004, but petitioner did not offer the balance amount even at that time and balance amount was offered by the petitioner on 16.04.2024 after almost two years of disposal of the first appeal. The conduct of the petitioner was highly objectionable and the petitioner was just trying to indulge the valuable property



for meager sum and that amount also was not deposited by the petitioner with the respondents.

16. He further submits that in the garb of the present writ petition filed under Article 226 of the Constitution of India, petitioner is seeking relief of specific performance of the contract, which cannot be granted to the petitioner and it is settled position of law that the petitioner has to prove the readiness and willingness throughout the period. He raised the objection regarding the maintainability of the instant petition on the ground that the present dispute is in respect of immovable property and the proper remedy for the petitioner is to approach the civil court, if law permits. He prays for dismissal of the petition.
17. No other point has been raised by learned counsel for the parties.
18. After consideration of the arguments advanced on behalf of the rival parties and perusal of the documents available on record, it reveals that public notice was issued on 14.12.1995 for disposal of the four plots located in Arera Colony, Bhopal for a period of thirty years through a lease. By letter dated 18.01.1996 issued by the Revenue Department of State of M.P., the bid submitted by the petitioner for Plot No.E2/12 admeasuring 13251 Sq. Ft. of Arera Colony of Bhopal was accepted upon the four additional conditions;- (i) lease rent would be 7.5% of the offer price, (ii) upon deposition of the advance lease rent of ten years, the lease rent for further 20 years would be exempted, (iii) after thirty years



renewal of lease deed would be required as per rules and (iv) terms of the auction would be binding upon the bidder.

19. Petitioner was under an obligation to deposit the balance amount within seven days from the date of acceptance of the offer i.e. 18.01.1996 and therefore, the letter was issued by the respondent, Nazul Officer on 24.1.1996 to the petitioner, whereby intimation was issued to the petitioner to deposit the balance amount within seven days. However, petitioner failed to deposit the said amount within time and raised the objection with regard to the condition of 7.5% annual lease rent decided by State Government. Thereafter, a show cause notice was issued to the petitioner on 08.02.1996 intimating that why the earnest money be not forfeited as the petitioner had failed to deposit the balance amount within seven days.
20. Interestingly, immediately thereafter the petitioner raised another issue of encroachment and on the pretext of the encroachment and availability of some temporary huts upon the subject property, petitioner avoided payment of balance amount. Petitioner company is having its office at E-4/97 of Arera Colony, Bhopal in the same locality and must be fully aware of the actual condition of the property on spot even before participating in the auction and thereafter submitted the bid without any demur and later on avoided the payment of balance amount on the ground of encroachment on the subject land.



21. When the encroachment was removed, petitioner was informed by letter dated 30.05.1996 and was asked to deposit the amount within a period of three days, but petitioner raised a new issue of pendency of a civil suit and then waited till dismissal of the civil suit as well as the first appeal.
22. Even after dismissal of the first appeal, petitioner did not offer the balance amount immediately and demanded 18% interest upon the 25% amount deposited by the petitioner and asked to adjust the interest amount in the balance amount with further demand that after adjusting the balance amount from the amount of interest, the remaining amount be paid to the petitioner along with execution of the lease deed. Meaning thereby, the petitioner demanded the execution of the lease deed without making the payment of balance 75% amount after a period of 29 years. Even in the present petition, the petitioner has sought similar relief and has sought relief no.3 in the similar manner, whereby the petitioner has demanded interest @18% per annum on the deposited amount and after adjusting the same against the balance amount, refund of the balance interest amount has been claimed by the petitioner.
23. In the present case, ofcourse there are averments that petitioner was always ready and willing to perform his obligation as per the terms of the auction, however, from the discussion of above facts and circumstances, it is apparent that petitioner always avoided to make the payment of the balance amount. It is mentioned in the impugned order that the value of the property has been increased



from Rs.94 lacs to Rs.12,56,13,000/- during last 28-29 years and the property is located in the posh colony in the town of Bhopal.

24. The Supreme Court of India in the case of *U.N. Krishnamurthy Vs. N. Krishnamurthy (2023) 11 SCC 775* has held that Court cannot overlook the fact of rise in the price of real estate and the court is obliged to take judicial notice on the phenomenal rise in the price of real estate. The Court cannot be oblivious to the reality and the reality is the constant and continuous rise in the values of the urban properties- fuelled by large-scale migration of people from rural areas to urban centers and by inflation.
25. In the impugned order, the current circle rate increase has been mentioned which is more than 1335% of the price offered by the petitioner. If the respondent are directed to accept the balance amount from the petitioner and execute the lease deed in favour of the petitioner, there will be huge loss of Rs.11,62,13,000/- to the public exchequer and therefore, it is essential to examine the conduct of the petitioner which reflects that the petitioner always avoided to make the payment of balance amount and even in the absence of any restraining order from the civil court, petitioner did not offer the balance amount. Similarly, after dismissal of the civil suit, petitioner did not offer the balance amount and waited for the disposal of the first appeal, which took 18 years and thereafter also, the petitioner waited for almost two years, whereas, as per the public notice, balance amount ought to have been deposited within seven days from the date of the acceptance of bid offer. By public



notice dated 14.12.1995, bids were invited to dispose of the subject plot on lease for a period of thirty years and now almost 29 years have already elapsed and practically nothing survives in the said offer.

26. In these facts and circumstances of the case in hand we have no hesitation in holding that an authority who invited the offer for disposal of the immovable property and received the earnest money of 25% of the bid amount with a condition of payment of balance amount within seven days from the date of acceptance of bid, if directed to execute the lease deed after a period of 29 years on the same bid price, that will be a travesty of justice and would result in injustice to the authorities.
27. In view of the above facts, we find no merit in the submission of learned Senior Advocate for the petitioner that petitioner was not at fault for delay that occurred in the payment of balance amount. We cannot be oblivious to the fact that a period of 29 years has elapsed and the prices have been increased by 1335% and if the respondents are directed to execute the lease deed in favour of the petitioner, there will be a huge loss to public exchequer. Relief of specific performance of the contract in the form of writ of mandamus cannot be granted to the petitioner.
28. Resultantly, we find no merit in the petition and the petition is hereby **dismissed**. However, this would be without prejudice to the right of the petitioner to make a claim for the amount already paid,



in accordance with law, by an appropriate proceeding before an appropriate forum, if permissible. There shall be no order as to costs.

(SANJEEV SACHDEVA)
CHIEF JUSTICE

(VINAY SARAF)
JUDGE

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