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WA-1442-2026

IN THE HIGH COURT OF MADHYA PRADESH  
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE VIVEK AGARWAL

&amp;

HON'BLE SHRI JUSTICE VIVEK JAIN

ON THE 1<sup>st</sup> OF MAY, 2026WRIT APPEAL No. 1442 of 2026*MAAN SINGH AND OTHERS**Versus**THE STATE OF MADHYA PRADESH AND OTHERS*

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Appearance:

*Shri Manoj Sharma, Senior Advocate assisted by Shri Qazi Fakhruddin, Advocate for petitioners, through video conferencing.*

*Shri Prashant Singh, Advocate General for respondents-State, through video conferencing.*

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ORDER

*Per. Justice Vivek Agarwal*

This Writ Appeal under Section 2(1) of the Madhya Pradesh Uchcha Nyayalaya (Khand Nyaypeeth Ko Appeal), Adhiniyam, 2005, is filed by the appellants being aggrieved of the order dated 27.04.2026, passed in Writ Petition No.50542 of 2025 (*Maan Singh and others Vs. State of Madhya Pradesh and others*), on the ground that learned Single Judge while vacating the earlier stay order granted by a Coordinate Bench, has not taken into consideration vital facts which were necessary for adjudication of the writ petition.

2. Shri Manoj Sharma, learned Senior Advocate, for appellants submits that first bone of contention is that vide Annx.A/4 and Annx.A/5, there was a direction to constitute a committee for dealing with the rights of the forest



dwellers/tribal community and before that committee could be constituted, order vacating stay has been passed.

3. It is also submitted that for three generations, petitioners/appellants have been living in that area and that area is specifically classified as "*Chhote Jhad Ka Jangal*", therefore, it is implicit that the State Government has accepted the petitioners/ appellants to be forest dwellers. It is also submitted that Section 2(c) and 2(o) of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006. (hereinafter referred to as the 'Act' for short), defines the 'Forest Dwellers'. Section 2(c) and 2(o) of the said Act reads as under:-

"(c) "*forest dwelling Scheduled Tribes*" means the members or community of the Scheduled Tribes who primarily reside in and who depend on the forests or forest lands for bona fide livelihood needs and includes the Scheduled Tribe pastoralist communities;

(o) "*other traditional forest dweller*" means any member or community who has for at least three generations prior to the 13th day of December, 2005 primarily resided in and who depend on the forest or forests land for bona fide livelihood needs.

Explanation.—For the purpose of this clause, "generation" means a period comprising of twenty-five years;"

4. Shri Manoj Sharma, learned Senior Advocate, submits that though



Section 2(o) of the Act covers even those persons who have been traditionally grazing their cattle on the forest land and even their resettlement is obligatory to be made. Thus, it is pointed out that unless and until such settlement is made, the interim order should be restored in favour of the petitioners and they be not disturbed.

5. It is also submitted by way of passing reference that land is going to be utilised for some 'Manas Bhawan', which has no right to utilise that land which belongs to forest dwellers.

6. Shri Prashant Singh, learned Advocate General, for the State, in his turn, draws attention of this Court to para 11 of the impugned order where the petitioners themselves argued that petitioners are tenant of one Shri Khurshid Ahmed, therefore, the Revenue Authorities or the Municipal Authorities cannot evict the petitioners. It is also submitted that in para 16, learned Single Judge has referred to the letter dated 05.01.2026, issued by the Conservator of Forest, which specifically speaks that Survey No.1413/1, is not a reserved or conserved forest land.

7. It is also submitted that admittedly a Civil Suit was filed by Shri Khurshid Ahmed for declaration of title at forest survey numbers including new Survey No.1413 measuring 103 acres, which was dismissed by the Civil Court. It is also submitted that this land situated at Shyamla Hills has been subject matter of litigation, inasmuch as, after dismissal of the Civil Suit, First Appeal No.395/1997, was filed before the High Court, which too was dismissed for want of prosecution. Thus, it is submitted that in absence of any lease hold rights or another letter of allotment either in favour of Shri



Khurshid Ahmed or in favour of the persons who are claiming through Shri Khurshid Ahmed, no equity is required to be balanced and no Fundamental Right of the petitioners is established.

8. Shri Manoj Sharma, learned Senior Advocate, submits that gist of the letter issued by the Conservator of Forest is that the land contained in Survey No.1413/1, is not a protected forest land and, therefore, there being a difference between protected forest land and reserved or conserved forest land, rights of the petitioners cannot be abrogated.

9. After hearing learned counsel for the parties and going through the record, we specifically asked Shri Manoj Sharma, learned Senior Advocate, for the appellants/petitioners to show us from documentary evidence that any lease hold rights or ownership rights were ever granted in favour of the petitioners, but frankly and fairly Shri Manoj Sharma, learned Senior Advocate, admits that no such documentary evidence is available except that petitioners are residing in that area for last three generations.

10. We also wanted to know from Shri Manoj Sharma, learned Senior Advocate that if the petitioners, since not all are belonging to Scheduled Tribe community, have any cattle to graze upon or have any record of earning their livelihood through forest produce and if there is any record of their owning cattle or sustenance through forest produce so to fall within the definition of traditional forest dwellers under Section 2(O) of the Act, but Shri Manoj Sharma, learned Senior Advocate fairly admits that no such documentary evidence is available except that their being residing in that area for last three generations.



11. Thus, we are of the opinion that when petitioners are neither the allottees of the said land nor they have any legal right and further they themselves admits that they are claiming their title through Shri Khurshid Ahmed and they had already lost the suit before the learned trial Court, for which appeal was filed in the year 1997, before the High Court and since 1997, for last 29 years, no indulgence has been shown by the High Court in the First Appeal, we are afraid that petitioners having failed to establish any of their Fundamental Rights over the land in question contained in Survey No.1413/1, no equity exists in favour of the petitioners so to call us to show indulgence, therefore, we are unable to show any indulgence in the matter.

12. However, before we part, we are conscious of the fact that though equity is not existing in favour of petitioners, but fair play demands that State should provide basic amenities as per its policy for rehabilitation of persons who are going to be uprooted. Government shall provide those amenities tomorrow itself, if eviction is to take place tomorrow or on the following day as and when eviction takes place. We have tacit consent of Shri Prashant Singh, learned Advocate General for the State, to this order of ours that State shall provide all assistance for rehabilitation of uprooted persons.

13. At this stage, Shri Prashant Singh, learned Advocate General for the State undertakes to direct the State Authorities to provide amenities for rehabilitation, as per their entitlement.

14. With the aforesaid, we dispose of the interim prayer and, accordingly, Writ Appeal, because nothing more survives for adjudication in this Writ Appeal. We have been informed that Writ Petition is still pending.



Now, parties agree that nothing survives for adjudication in the writ petition also that too is disposed of.

Any observation made hereinabove will not cause any prejudice to the interests of the parties in F.A.No.395/1997.

**(VIVEK AGARWAL)**  
**JUDGE**

**(VIVEK JAIN)**  
**JUDGE**

A.Praj.