IN THE HIGH COURT OF MADHYA PRADESH AT GWALIOR

BEFORE

HON'BLE SHRI JUSTICE MILIND RAMESH PHADKE

ON THE 16th OF JUNE, 2026

WRIT PETITION No. 7530 of 2022

MADHAVDAS MAHAVIDHYALAYA KRISHI SAMITI MARYADIT CHALLAPURA DATIA THR. SECRETARY MAHENDRA BAUDH

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

Appearance:

Shri N.K.Gupta -Senior Advocate with Shri Yashasvi Pratap Singh Rathore - Advocate for petitioner.

Shri Ravindra Dixit - Govt. Advocate for respondent/State.

ORDER

This petition under Article 226 of the Constitution of India has been filed by the petitioner seeking following reliefs:-

> *"(1) That, the impugned order dated 16.11.2021 (Annexure P-1), order dated 14.09.2018 (Annexure P-2) and order dated 15.01.2018 (Annexure P-3) may kindly be set aside.*
>
> *(2) Any other suitable further orders may kindly be passed in the interest of justice. Cost may also kindly be awarded."*

In brief, the facts of the case are that the petitioner Society is a duly registered society under the Society Registrikaran Adhiniyam bearing Registration No. 2257. Presently, Shri Mahendra Baudh is serving as the Secretary of the Society and is duly authorized and competent to institute and prosecute the present petition on behalf of the Society pursuant to a valid resolution authorizing him to do so. The principal object of the petitioner

Signature Not Verified
Signed by: YOGENDRA OJHA
Signing time: 6/23/2026 10:31:12 AM

Society is to promote and impart education among students belonging to the Scheduled Castes and Scheduled Tribes. In furtherance of its objectives, the Society submitted representations to the State Government seeking allotment of land for the establishment of educational institutions, including a school, college, and hostel, in terms of Chapter IV, Serial No. 3, Part-II of the Revenue Book Circular. Considering the noble objectives of the petitioner Society, the State Government was pleased to approve the proposal for allotment of land. Consequently, the competent authority, by order dated 17.08.1976 passed in Case No. 22/1975-76/X-B-121, allotted to the petitioner Society land bearing Survey No. 257/1/2 admeasuring 5 hectares and Survey No. 257/9/2 admeasuring 5 hectares situated at Village Datia Gird, Tehsil and District Datia, Madhya Pradesh. Although the petitioner Society made sincere efforts to obtain a copy of the original patta/lease order, its application was returned with an endorsement that the concerned record was not available. Pursuant to the aforesaid allotment order, the name of the petitioner Society was duly recorded in the revenue records by order dated 17.12.1976 passed by the Collector, Datia. Since then, the petitioner Society has continuously remained recorded in the revenue records as owner in possession of the land in question. After a lapse of several decades, the Patwari of Mauja Datia Gird submitted a report before the Tehsildar, Datia, regarding Survey No. 257 situated at Village Datia Gird. In the said report, it was stated that during a mutation campaign it came to notice that Survey No. 257 admeasuring 57.514 hectares was recorded as “Jungle” in the Kishtbandi Khatauni of the year 1943-44, whereas in the present revenue records the

Signature Not Verified
Signed by: YOGENDRA OJHA
Signing time: 6/23/2026 10:31:12 AM

said survey number had been subdivided into various survey numbers standing in the names of different private persons. The Patwari opined that such entries had no legal basis and recommended that the land be restored as Government land and its nature be recorded as “Jungle”. Acting upon the said report and concurring with the findings recorded therein, the Tehsildar, Datia, by order dated 23.12.2016 initiated proceedings and referred the matter to the Sub-Divisional Officer, Datia, purportedly under Section 113 of the Madhya Pradesh Land Revenue Code for correction of alleged clerical errors in the record of rights. After conducting proceedings, the Sub-Divisional Officer submitted a report to the Collector, Datia, who in turn forwarded the matter to the State Government for appropriate orders. The State Government, by order dated 25.04.2017, categorically held that the matter did not fall within the ambit of Section 57(2) of the Madhya Pradesh Land Revenue Code and directed the Collector to proceed in accordance with law. Thereafter, acting on the directions of the Collector, the Tehsildar, Datia, without affording any opportunity of hearing to the petitioner Society, passed an order dated 08.05.2017 under Section 248 of the Madhya Pradesh Land Revenue Code directing eviction of the petitioner Society from the land in question and imposing a penalty of Rs.1,00,00,000/-. Being aggrieved by the said order, which had been passed in complete violation of the principles of natural justice, the petitioner Society approached this Court by filing Writ Petition No. 3478 of 2017. The writ petition came to be dismissed by order dated 24.08.2017. Challenging the said order, the petitioner Society preferred Writ Appeal No. 413 of 2017 before the Division Bench of this Court. The

Signature Not Verified
Signed by: YOGENDRA OJHA
Signing time: 6/23/2026 10:31:12 AM

Division Bench, by judgment dated 27.10.2017, allowed the appeal and remanded the matter to the Tehsildar, Datia, with a direction to proceed afresh in accordance with the principles of natural justice. Pursuant to the aforesaid remand, the Tehsildar issued a show-cause notice dated 06.11.2017. However, the notice itself suffered from serious defects inasmuch as it mentioned incorrect survey particulars. The petitioner Society submitted a detailed reply pointing out that Survey Nos. 257/1/2 and 257/9/2 had been lawfully allotted in its favour and the proceedings under Section 248 of the Madhya Pradesh Land Revenue Code were wholly misconceived and not maintainable. Despite the specific stand taken by the petitioner Society, the Tehsildar neither summoned nor examined the original allotment records maintained by the Collector's office and failed to consider the reply submitted by the petitioner Society. Ignoring the material facts and documents on record, the Tehsildar passed the impugned order dated 15.01.2018 under Section 248 of the Madhya Pradesh Land Revenue Code, once again directing eviction of the petitioner Society from the land in question and imposing a penalty of Rs.1,00,00,000/-. The petitioner Society preferred an appeal before the Sub-Divisional Officer challenging the order of the Tehsildar. However, the Sub-Divisional Officer, without properly appreciating the grounds raised by the petitioner Society and without addressing the issues involved, dismissed the appeal by order dated 14.09.2018. Aggrieved thereby, the petitioner Society preferred a second appeal before the Additional Commissioner, Gwalior Division. The said appeal was also dismissed by order dated 28.12.2019 without affording

Signature Not Verified
Signed by: YOGENDRA OJHA
Signing time: 6/23/2026 10:31:12 AM

adequate opportunity of hearing to the petitioner Society. The order dated 28.12.2019 passed by the Additional Commissioner was challenged before this Court by filing Writ Petition No. 518 of 2021 on the ground of violation of principles of natural justice. This Court, by order dated 23.02.2021, allowed the writ petition and remanded the matter to the Additional Commissioner with a direction to decide the second appeal afresh after granting due opportunity of hearing to the parties. In compliance with the directions issued by this Court, the Additional Commissioner reheard the matter. However, by the impugned order dated 16.11.2021, the Additional Commissioner once again dismissed the second appeal and affirmed the orders passed by the subordinate revenue authorities. Being aggrieved by the impugned orders dated 15.01.2018, 14.09.2018 and 16.11.2021, the petitioner Society has preferred the present writ petition before this Court.

Learned counsel for the petitioners submits that the findings recorded in the impugned order are based merely on conjectures and surmises and are unsupported by any cogent evidence on record. The impugned order further proceeds on an erroneous premise by treating the land in question as forest land. Such a finding is contrary to the report dated 03.03.2017 submitted by the Divisional Forest Officer, wherein there is no reference whatsoever to the petitioners' land bearing Survey Nos. 257/1/2 and 257/9/2 as forest land. The Tehsildar has thus misread and misapplied the said report while arriving at the impugned conclusion.

It is also submitted that although the State Government had already held, while returning the matter on 25.04.2017, that no title dispute existed in

Signature Not Verified
Signed by: YOGENDRA OJHA
Signing time: 6/23/2026 10:31:12 AM

the case, the Tehsildar, while passing the impugned order, virtually adjudicated questions relating to title and ownership, which were beyond his jurisdiction. The provisions of Sections 115 and 116 of the Madhya Pradesh Land Revenue Code were also invoked to direct correction of revenue entries and deletion of the petitioners' names from the khasra records, despite the fact that such entries had remained in existence for more than fifty years. The action of deleting long-standing revenue entries without proper inquiry and without due process is wholly unsustainable in law.

It is further submitted that the Tehsildar has further observed in the impugned order that transfer of stolen property does not confer ownership upon a purchaser and has proceeded to impose penalty upon the petitioners. Such observations are wholly irrelevant to the facts of the present case and demonstrate complete non-application of mind. There is no material on record to justify such findings or the consequential imposition of penalty. The impugned order also records that prior to the year 1944 the land was entered as "Jungle" in the revenue records. However, the petitioners submit that the revenue records pertaining to the year 1943–44 show Survey No. 257 recorded as "Kadim" and not as forest or jungle land. Thus, the finding recorded by the Tehsildar is factually incorrect and contrary to the available record.

It is further submitted that the Tehsildar has further observed that the revenue records of Datia Gird for the period from 1943 to 1961 are not available. It is respectfully submitted that maintenance and preservation of official records is the responsibility of the State authorities. No inquiry

Signature Not Verified
Signed by: YOGENDRA OJHA
Signing time: 6/23/2026 10:31:12 AM

whatsoever was conducted to ascertain how and under what circumstances the records became unavailable. No report was obtained from the Record Keeper or any competent authority regarding the alleged missing records. In the absence of such inquiry, no adverse inference could legally have been drawn against the petitioners. The petitioners have no role, responsibility, or connection with the maintenance of government records and cannot be prejudiced on account of any lapse on the part of the authorities. The petitioners own only the aforesaid parcels of land, whereas Datia Gird comprises a much larger area. Before arriving at any adverse conclusion affecting the valuable rights of the petitioners, the competent authority was required to conduct a thorough and fair inquiry into the relevant records and circumstances. Instead, the impugned order has been passed on assumptions and presumptions, thereby causing grave prejudice to the petitioners.

Learned Senior Counsel for the petitioner, while referring to the order dated 29.04.2026 passed in W.P. No. 8023/2021, submits that the matter was initially referred to the State Government under Section 57 of the M.P. Land Revenue Code on the premise of an alleged dispute regarding title. However, the State Government, vide order dated 25.04.2017, categorically held that no title dispute existed and directed the competent revenue authority to decide the matter after conducting a proper enquiry. Despite such specific directions, neither the Tehsildar nor the Sub-Divisional Officer conducted any enquiry in accordance with law. No opportunity was afforded to the petitioner to adduce evidence in support of its case, nor any opportunity was granted to cross-examine the Patwari whose report ultimately formed the

Signature Not Verified
Signed by: YOGENDRA OJHA
Signing time: 5/23/2026 10:31:12 AM

sole basis of the proceedings and the adverse findings recorded therein.

It is submitted that the Tehsildar, without conducting any enquiry and in complete disregard of the statutory mandate, proceeded to pass the order dated 15.01.2018 declaring the petitioner's land to be Government land. The said order was passed ex parte, without any legal evidence on record and in gross violation of the principles of natural justice. The Tehsildar acted wholly beyond the scope of his jurisdiction inasmuch as Sections 115 and 116 of the M.P. Land Revenue Code do not confer upon him any authority to adjudicate disputed questions relating to title. More particularly, when the State Government had already recorded a finding that no title dispute existed, the Tehsildar could not have assumed jurisdiction to determine rights, title, and interest in respect of the land in question. The findings recorded by him are therefore ex facie perverse, contrary to the material available on record, and unsustainable in law, especially when the petitioner's title is founded upon registered sale deeds, including documents emanating from a Government auction and carrying presumptive evidentiary value under Section 90 of the Evidence Act.

Learned Senior Counsel further submits that the Patwari's report, which forms the sole foundation of the impugned orders, was never proved in accordance with law. The Patwari was not examined as a witness and the petitioner was denied any opportunity to cross-examine him. Consequently, the contents of the report remained untested and unverified. Reliance upon such material, without affording an opportunity to challenge its correctness, is contrary to settled principles of law and renders the impugned proceedings

Signature Not Verified
Signed by: YOGENDRA OJHA
Signing time: 6/23/2026 10:31:12 AM

fundamentally defective.

It is further argued that the petitioner was denied a meaningful and effective opportunity to lead evidence, rebut the allegations levelled against it, and demonstrate the true factual position regarding the nature and status of the land. Had such opportunity been granted, it would have become apparent that the competent Forest Authorities had categorically reported that the land in question neither constitutes forest land nor falls within any notified forest boundary. Even the forest block records prepared in the year 1967 do not record the land as forest land. The authorities below have completely ignored these vital pieces of evidence, resulting in findings that are manifestly perverse and unsupported by the record.

It is also submitted that the petitioner possesses a valid and lawful title through registered sale deeds and has consistently been recorded in the revenue records as owner in possession of the land. The petitioner has further obtained all requisite permissions and approvals from the competent authorities, including diversion permissions, colonization registration, and other development-related approvals. Despite such long-standing and undisputed revenue entries in its favour, the petitioner’s rights have been unsettled without any lawful enquiry, without any complaint and without adherence to the procedure established by law, which is wholly impermissible.

Learned Senior Counsel additionally submits that the revenue records pertaining to the relevant period from 1945 onwards are admittedly either missing or torn and no attempt was made by the authorities to establish the

Signature Not Verified
Signed by: YOGENDRA OJHA
Signing time: 6/23/2026 10:31:12 AM

contents thereof through admissible and competent evidence. In such circumstances, adverse findings could not have been recorded against the petitioner on the basis of incomplete and unproved records. The impugned orders have the effect of depriving the petitioner of its property and exposing it to dispossession without authority of law and without compliance with due process. Such action is arbitrary, unconstitutional, and violative of the petitioner's constitutional right to property guaranteed under Article 300A of the Constitution of India, which mandates that no person shall be deprived of his property save by authority of law. Accordingly, the impugned order deserves to be quashed and set aside.

Per contra, learned counsel for the State submits that the order passed by learned Tehsildar is based on material available on record and after providing opportunity to the affected parties. Notices were issued to all the concerned persons including the petitioners and they were given opportuntiy to submit replied and documents. The order dated 25.04.2017 passed by the State Government specifically records that, according to the report of the Sub-Divisional Officer, the original Survey No. 257 stood recorded in the revenue records for the year 1943–44 entirely as forest land. It is contended that once the entire survey number was classified as forest land, no portion thereof could subsequently have been converted into private holdings upon subdivision in the absence of any order or authorization issued by a competent court or authority. It is further submitted that the Datia Gird records for the period from 1945 to 1961 are not available, as neither the original records are traceable in the District Record Office nor the boundary

Signature Not Verified
Signed by: YOGENDRA OJHA
Signing time: 6/23/2026 10:31:12 AM

register (Dayara Panji) is available for verification. The applicants had also failed to place on record any cogent and reliable documentary evidence to demonstrate the basis on which objections relating to proprietary rights (Bhumiswami rights) came to be recorded over the aforesaid government land.

Learned counsel submits that, in view of the aforesaid circumstances, the matter was referred to the Revenue Department for determination under Section 57(2) of the Madhya Pradesh Land Revenue Code. It is contended that the report submitted in the matter did not fall within the scope and ambit of Section 57(2) of the Code and the facts and circumstances disclosed a matter of serious concern requiring a comprehensive inquiry. Accordingly, directions were issued that the entire matter be investigated under the direct supervision and control of the competent authority, that appropriate action be initiated against the officers and employees found responsible, and upon proper examination and verification of the relevant facts, suitable proceedings be undertaken by the competent authority in accordance with the provisions of the Madhya Pradesh Land Revenue Code.

It is further submitted that the impugned order has been passed pursuant to the aforesaid directions and in exercise of powers under Section 248 of the Madhya Pradesh Land Revenue Code. Therefore, according to the State, the impugned order is reasoned, based upon the available record, and has been passed strictly in accordance with law. Consequently, no case for interference under the writ jurisdiction of this Hon'ble Court is made out, and the present petition deserves to be dismissed.

Signature Not Verified
Signed by: YOGENDRA OJHA
Signing time: 6/23/2026 10:31:12 AM

Heard counsel for the parties and perused the record.

It is evident that the entire proceedings initiated by the Tehsildar were fundamentally flawed. The order dated 15.01.2018 has been passed without conducting any proper enquiry as mandated under the provisions of the Madhya Pradesh Land Revenue Code. No evidence was recorded, no witnesses were examined, and the petitioners were not afforded a fair and effective opportunity to establish their case. The reliance placed solely upon the report of the Patwari, which remained unproved and untested, without subjecting the same to the scrutiny of evidence or permitting cross-examination by the affected parties, constitutes a serious procedural irregularity. Such reliance on an unverified report, in the absence of any independent enquiry, cannot form the basis for recording findings having the effect of divesting a person of long-standing revenue rights and possession.

This Court further finds that the Tehsildar has clearly acted beyond the scope of his jurisdiction. Once the matter had been referred to the State Government under Section 57 of the M.P. Land Revenue Code and the State Government had categorically held that no title dispute existed, it was not open to the Tehsildar to embark upon an exercise which, in substance, amounted to adjudication of title. The powers conferred under Sections 115 and 116 of the Code are limited in nature and relate to correction of revenue records in accordance with law after due enquiry. Those provisions do not confer jurisdiction upon the Tehsildar to determine disputed questions relating to ownership, title, rights and interest in immovable property. Therefore, the conclusion recorded in the impugned order declaring the

Signature Not Verified
Signed by: YOGENDRA OJHA
Signing time: 6/23/2026 10:31:12 AM

petitioners' land as Government land is clearly beyond jurisdiction and contrary to the statutory scheme of the Code.

The impugned order is vitiated by a clear non-application of mind. Several observations contained therein, particularly those relating to the transfer of allegedly stolen property and conclusions purportedly drawn from unavailable records, have no rational nexus with the controversy involved in the present case. The findings recorded by the authority appear to be founded largely on assumptions and presumptions rather than on legally admissible evidence and relevant material available on record. Even the question as to whether the land in dispute is forest land has not been determined on the basis of cogent and reliable material. The report of the Divisional Forest Officer, General Forest Division, Datia, which itself runs contrary to the revenue entries, specifically records that out of Survey Nos. 257/8 and 257/9, only certain portions aggregating to 8.50 acres constitute forest land and stand notified under Section 4 of the Indian Forest Act, 1927. The report further states that in respect of the land recorded as forest land, namely Survey No. 257/8 admeasuring 1.50 acres and Survey No. 257/9 admeasuring 7.00 acres, the provisions of the Forest (Conservation) Act, 1980 would not be applicable. Consequently, the report does not support any inference that the remaining land recorded in the revenue records is forest land attracting the provisions of the said Act. The authority has also erred in drawing adverse conclusions regarding the *batankan* of Survey No. 257 into different parts. Admittedly, the records pertaining to the relevant period are unavailable. In the absence of such records, it was wholly impermissible to

Signature Not Verified
Signed by: YOGENDRA OJHA
Signing time: 6/23/2026 10:31:12 AM

presume that the *batankan* was illegal. More importantly, when the specific case of the State was that the land constituted Government land, the burden lay squarely upon the State to establish that fact through credible evidence. Instead of discharging its own burden, the State effectively shifted the onus onto the petitioner, and the authority proceeded on that erroneous premise. The petitioner's claim relates specifically to Survey Nos. 257/1/2 and 257/9/2. Significantly, these survey numbers do not find mention in the report of the Divisional Forest Officer as constituting forest land. This vital and relevant aspect has been completely overlooked and has not been properly considered while passing the impugned order. The failure to examine this material evidence and to address its implications renders the impugned order arbitrary, unsustainable, and liable to be set aside. Moreover, the appellate authorities, namely the Sub Divisional Officer and the Additional Commissioner, have failed to independently examine the legality and correctness of the order passed by the Tehsildar. They have mechanically affirmed the findings without addressing the jurisdictional errors and procedural irregularities, thereby failing to exercise their appellate jurisdiction in accordance with law.

It is also apparent that the principles of natural justice have been grossly violated. The petitioners were neither granted adequate opportunity of hearing nor permitted to lead evidence in support of their claim. The denial of opportunity to cross-examine the Patwari, whose report formed the sole foundation of the proceedings, has caused serious prejudice to the petitioners. Any order having civil consequences and affecting valuable

Signature Not Verified
Signed by: YOGENDRA OJHA
Signing time: 6/23/2026 10:31:12 AM

property rights must be preceded by a fair procedure and meaningful opportunity of participation. Such requirement stands conspicuously absent in the present case.

The contention advanced on behalf of the State regarding alleged manipulation of records and the non-availability of certain historical revenue documents also does not advance its case. Mere absence or loss of Government records cannot, by itself, constitute a valid ground to deprive a citizen of property rights which have remained reflected in official records for decades. The burden to establish allegations of illegality, manipulation, or wrongful entries lies upon the State. Such burden is required to be discharged by producing cogent, reliable, and admissible evidence. No such evidence has been brought on record in the present case. The authorities cannot draw adverse inferences against the petitioners merely because certain records are stated to be missing, particularly when no enquiry appears to have been conducted regarding the circumstances in which such records became unavailable.

This Court is also mindful of the constitutional protection guaranteed under Article 300A of the Constitution of India. A person cannot be deprived of his property save by authority of law and only after adherence to the procedure prescribed by law. Any action resulting in deprivation of property rights must satisfy the requirements of fairness, legality, and due process. The impugned order fails to meet these requirements.

In view of the aforesaid facts and circumstances, this Court is of the considered opinion that the impugned orders suffer from lack of jurisdiction,

Signature Not Verified
Signed by: YOGENDRA OJHA
Signing time: 6/23/2026 10:31:12 AM

violation of the principles of natural justice, non-application of mind, absence of a proper enquiry, and non-compliance with the provisions of the Madhya Pradesh Land Revenue Code. The findings recorded therein are unsustainable in law and cannot be permitted to stand.

Consequently, the writ petition is allowed. The impugned order dated 15.01.2018 (Annexure P/3) passed by the Tehsildar, Tehsil and District Datia, the order dated 14.09.2018 passed by Sub-Divisional Officer, Datia and the order dated 16.11.2021 passed by Additional Commissioner, Gwalior Division are hereby quashed and set aside.

E-copy/Certified copy as per rules and directions.

(MILIND RAMESH PHADKE)
JUDGE

ojha

Signature Not Verified
Signed by: YOGENDRA OJHA
Signing time: 6/23/2026 10:31:12 AM