



IN THE HIGH COURT OF MADHYA PRADESH
AT GWALIOR

BEFORE

HON'BLE SHRI JUSTICE G. S. AHLUWALIA

&

HON'BLE SMT. JUSTICE ANURADHA SHUKLA

ON THE 7th OF JULY, 2026

WRIT APPEAL No. 93 of 2025

MUNICIPAL CORPORATION GWALIOR

Versus

SMT. PADMA BANSAL AND OTHERS

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Appearance:

Shri Gaurav Mishra - Advocate for appellant.

*Shri Arvind Dudawat - Sr. Advocate, assisted by Shri Rahul Jha - Advocate for
respondent No. 1.*

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JUDGMENT

Per. Justice Gurpal Singh Ahluwalia

This writ appeal under Section 2 (1) of Madhya Pradesh Uchcha Nyayalaya (Khand Nyayapeeth ko Appeal) Adhiniyam, 2005 has been filed against the order dated 21.08.2024 passed by learned Single Judge in Writ Petition No. 1162/2023, by which appellant was directed to consider the case of respondent under Rule 23(3) of Bhumi Vikas Rules, 2012 (in short 'Rules, 2012') for extension of building permission.

2. Challenging the order passed by learned Single Judge, it is submitted by counsel for appellant that building permission was granted to respondent for raising construction. However, the construction did not begin within a period of three years, therefore, the life of building permission was extended by one year. Even in the extended period, respondent could not



begin the construction, therefore, it was further extended by a period of one year. The maximum life of the building permission is five years. Life of the building permission came to an end on 09.06.2020. Thereafter, another application for further extension of the life of building permission was filed on 06.08.2021. Said application was rejected, which was challenged by respondent by filing a writ petition before the High Court, which was registered as Writ Petition No. 12902/2021. Said writ petition was decided by learned Single Judge by order dated 27.07.2022 and by setting aside the order dated 06.08.2021, and appellant was directed to decide the application afresh under Rule 23(3) of Rules, 2012. Appellant was also directed to consider the effect of various restrain orders issued in the light of COVID-19 pandemic. It is submitted that since the project had not begun, therefore, the provisions of Rule 23(3) of Rules, 2012 were not applicable, and accordingly, application was rejected. However, said order has been set aside by learned Single Judge.

3. It was fairly conceded by counsel for appellant that the order dated 27.07.2022 passed by learned Single Judge in Writ Petition No. 12902/2021 was never challenged by appellant. It is further submitted by counsel for appellant that appellant is ready to reconsider the application of respondent under Section 300 of the Municipal Corporation Act.

4 . *Per contra*, it is submitted by counsel for respondent that it is incorrect to say that the construction had not begun during the subsistence of the building permission. Even otherwise, it is submitted that the life of the building permission had expired during the various restrictions imposed by



the Union of India on account of COVID-19 pandemic. Even a nationwide lockdown was also imposed with effect from 24.03.2020. Under these circumstances, even assuming that the construction had not begun, still appellant cannot insist the respondent to indulge in any activity which otherwise would have been contrary to the law of the land. It is submitted that in the light of nationwide lockdown imposed by the Union of India, it was impossible for the respondent to initiate any building construction, otherwise he would have been held liable for violating the orders passed by Union of India as well as the restrain orders issued by concerned SDMs. Thus, even if it is presumed that respondent had not resumed construction, then it is clear that he could have resumed construction on any date prior to the expiry of life of building permission, but that was not possible for the respondent to do in the light of various restraining orders issued by the authorities.

5. Heard learned counsel for parties.

6. It is a case where the life of building permission had expired on 09.06.2020. Admittedly, the restrain orders were in force and anybody found indulged in violating the restrain orders was liable to be prosecuted under the provisions of the IPC, including under Section 188 of IPC. Furthermore, the learned Single Judge, while deciding Writ Petition No. 12902/2021, had taken the aforesaid aspect into consideration, and only thereafter, appellant was directed to treat the application for extension under Rule 23(3) of Rules, 2012. If appellant was aggrieved by the said direction, then it should have assailed the same by filing a writ appeal. However, appellant, by taking the



same stand, cannot overrule the direction given by learned Single Judge.

7. There is another aspect of the matter which cannot be lost sight of. It is not the case of appellant that once the building permission has lapsed, then no fresh building permission can be granted. A fresh building permission can always be granted. However, the only requirement is that for applying for building permission afresh, the aspirant will be required to pay a fresh fee. Therefore, the entire fight of appellant is to collect the fresh fee from respondent for grant of building permission. Appellant has failed to see that once there was a restrain order by the Union of India as well as by the officers of the respective districts in view of COVID-19 pandemic, and the life of the persons was under danger on account of their exposure to the COVID-19 pandemic, then the conduct of Municipal Corporation in pressurizing the respondent to apply for a fresh building permission just in order to collect a fresh fee for such permission cannot be appreciated. The financial repercussions cannot be above the life of a person.

8. However, there is another aspect of the matter. Respondent is fighting hard for maintaining his building permission from the year 2021. More than five years have passed. Even the construction cost has gone up. The respondent has already suffered on account of delay.

9. Under these circumstances, this Court is of considered opinion that once there was already a direction to treat the application under Rule 23(3) of Rules, 2012, and appellant, without assailing the same in the writ appeal, could not have sat over the said direction and could not have held that the application cannot be considered under Rule 23(3) of Rules, 2012.



10. The learned Single Judge did not commit any mistake by setting aside the order passed by the Municipal Corporation and by allowing the petition.

11. As no illegality was committed by the learned Single Judge, no case is made out for interference.

12. Accordingly, this appeal fails and is hereby **dismissed**.

13. At this stage, it is submitted by counsel for appellant that since the life of the building permission of respondent had expired during the restrictions on account of COVID-19 pandemic, therefore, this Court should confine this order only to those cases where the life of the building permission had expired during the restriction period.

14. Aforesaid submission made by counsel for appellant appears to be *bona fide* because if the holder of building permission could not begin construction on account of legal impediments, then it cannot be said that he had voluntarily did not start the construction.

15. Accordingly, it is held that this order shall be confined only to those cases where the life of building permission had expired during the restrictions imposed by the respective governments on account of COVID-19 pandemic.

(G. S. AHLUWALIA)
JUDGE

(ANURADHA SHUKLA)
JUDGE