

High Court of Madhya Pradesh, Jabalpur
Bench at Indore

Writ Petition No.20312/2022

Indore, Dated 03.09.2022

Shri Vinay Saraf, learned Senior Counsel assisted by Shri Devaashish Dubey, Shri Rizwan Khan and Shri Rahul Maheshwari, learned counsel for the petitioner.

Shri Sanjay Karanjewala, learned counsel along with Shri Kamlesh Mandloi, learned counsel for the respondent / Madhya Pradesh Housing Board, on advance notice.

Heard on the question of admission and grant of interim relief through video conferencing.

The present petition is being heard at 9.10 pm, on a special request made by the petitioner for the reason that the impugned notice dated 31.08.2022 (Annexure P/1) has been served upon the petitioner today only at around 03.30 PM, wherein the petitioner is directed to remove her alleged illegal construction.

Shri Vinay Saraf, learned Senior Counsel appearing for the petitioner has submitted that the petition has been filed in a haphazard manner, as the petitioner had no time to collect all the documents relevant for the purpose of this petition, however, the impugned notice, served on the petitioner during the course of the day, has been filed along with the lease-deed dated 20.06.1992 (Annexure P/2) for a period of 30 (thirty) years, which according to the petitioner still subsists.

Shri Sanjay Karanjewala, learned counsel appearing for the respondent / Madhya Pradesh Housing Board submits that the lease of the petitioner has already been cancelled on 13.03.2020, and a notice has also been served upon the petitioner. Shri Karanjewala has also referred to the various documents which are available in his file, to submit that the petitioner has also made certain construction on the open land and the aforesaid construction only is being removed.

However, the aforesaid contention is objected to by Shri Saraf; and it is submitted that the lease is still in existence and the removal activities are being carried out by the MP Housing Board only on the basis of the undertaking given by the MP Housing Board in the Supreme Court in **Petition (s) for Special Leave to Appeal (C) No.29717/2018 (Laxmi Chand Jain v. Yusuf Ali Agrawala & others)** in which the petitioner is also not a party.

Senior Counsel has further submitted that the petitioner is deprived of her valuable right to defend her property which is threatened to be demolished at a short ante-dated notice only, as the petitioner is directed to remove her alleged encroachment immediately.

On due consideration of the rival submissions and on perusal of the documents, which are available on record, this Court *prima facie* finds that since the petitioner has not been given a proper notice to remove her alleged encroachment, this ground in itself is more than sufficient to grant interim relief to the petitioner.

Accordingly, the impugned notice dated 31.08.2022 (Annexure P/1), issued to the petitioner for removal of her illegal constructions is hereby stayed; and the respondents are directed not to carry out any demolition activities on the petitioner's building till the next date of hearing.

Let the matter be listed on **08.09.2022**.

Let the reply be filed on or before **06.09.2022**, so that the petitioner can also file her rejoinder along with additional documents, if necessary, before the next date of hearing.

Certified copy, as per rules, **today only**.

(Subodh Abhyankar)
Judge