

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

BEFORE

**HON'BLE SHRI JUSTICE RAVI MALIMATH,
CHIEF JUSTICE**

&

HON'BLE SHRI JUSTICE PURUSHAINDR KUMAR KAURAV

ON THE 4th OF APRIL, 2022

WRIT APPEAL No. 248 of 2020

Between:-

- 1 **THE STATE OF MADHYA PRADESH THR.
PRINCIPAL SECRETARY REVENUE DEPT.
VALLABH BHAWAN, BHOPAL (MADHYA
PRADESH)**
- 2 **THE SETTLEMENT COMMISSIONER CUM
COMPETENT AUTHORITY (CEILING)
GWALIOR MOTI MAHAL GWALIOR
(MADHYA PRADESH)**
- 3 **THE COLLECTOR OFFICE OF COLLECTOR
SATNA DISTT SATNA (MADHYA PRADESH)**
- 4 **THE TEHSILDAR MAIHAR OFFICE OF
TEHSIL MAIHAR SATNA DISTT SATNA
(MADHYA PRADESH)**

.....APPELLANTS

(BY SHRI SUYASH THAKUR - GOVERNMENT ADVOCATE)

AND

SHYAM SUNDAR SHARMA

.....RESPONDENT

(BY SHRI D.K. UPADHYAY - ADVOCATE)

.....

*This petition coming on for orders this day, **Hon'ble Shri Justice Ravi Malimath, Chief Justice** passed the following:*

ORDER

1. Aggrieved by the order dated 14.06.2018 passed by the learned Single Judge in WP No.12825 of 2018 in issuing directions to the respondents with regard to recording the names of the petitioner and legal representatives of Late Badri Prasad as owner of the land and consequential orders, the State is in appeal.

2. The primary contention of the appellants is that the order has been passed by the learned Single Judge with undue and unexplained haste and urgency. The petition was filed on 12.6.2018. It was summer vacation. There was no prayer for interim relief. However, an application in IA No.7217 of 2018 was filed for urgent hearing during summer vacation. On the very first day, the matter was listed, the petition has been disposed off by giving various directions. Hence, on this ground itself the writ petition requires to be dismissed. It is further contended that the prayer sought for by the writ petitioner is for implementation of Annexure-P/1 and the second prayer to hold that the order dated 13.1.1983 has attained finality. What has been granted by the learned Single Judge is a direction to record the names of the petitioner and LRs of Late Badri Prasad as owner of the land, in terms of the order dated 13.1.1983. However, the order dated 13.1.1983 is an order of remand and not an order directing to enter anybody's name. In spite of it, such an order has been passed. It is further contended that even though references have been made subsequent to the order of 13.1.1983, even then a direction was given to

execute the order dated 13.1.1983. It is submitted that 142 acres of precious lands are involved in this petition. That the Government should have been heard before any order was to be passed. Without even issuing any notice, the order has been passed. It is further pleaded that there is material suppression of facts by the petitioner. That various acts that have taken place in the proceedings, have not been brought to the notice of the learned Single Judge. Hence, he pleads that for all these grounds, the appeal be allowed. The same is disputed by the learned counsel appearing for the respondent.

3. Heard learned counsels.

4. It is very unfortunate that gross injustice has happened. We fail to understand as to how such proceedings could prevail in a court of law. Firstly, is the fact that the petition was filed on 12.6.2018. It was listed on the very next working day namely on 14.6.2018. It was a summer vacation. It is only matters of absolute urgency that could be filed during summer vacation. There is not even an interim order sought for in the petition. However, an application for urgent hearing is filed. The petition is disposed off without even notice to the government. It is needless to state that on this ground itself not only the writ appeal should be allowed, but even the writ petition should be dismissed for such conduct of the petitioner. It is obvious that the intention of the petitioner is otherwise. When there is no urgency, the question of filing such a petition and moving it on the ground of an application for urgent hearing cannot be encouraged by this Court.

5. Secondly, assuming that there was an urgency, there was no necessity, nor do we find any reason as to why the writ petition should have been disposed off by a final order. The only conclusion that can be drawn is to pre-empt the respondents from taking any action against the petitioner for such illegal acts committed by him. Even assuming for the sake of arguments that the petitioner has made out that an appropriate interim relief could have been granted subject to hearing the State, even that has not been done. Obviously, it could not be done because there was no prayer for interim relief at all. Therefore, the entire manner in which the proceedings have been conducted, in our considered view, does not entail any order in favour of the petitioner.

6. Furthermore, the first prayer is to quash Annexure-P/1. The Annexure-P/1 is a list of various figures which are said to be Khasra numbers and the area of land. It is not backed by any authentication. On a specific question being asked to the learned counsel for the writ petitioner, he is unable to answer the same. Annexure-P/1 does not contain any title nor a signature nor a seal nor any authentication by any State authority. It would appear that it is a document created by the petitioner for his own selfish needs. The writ petition should have been dismissed on this ground itself. But it is only in a conceited manner that by preparing such a document, such a writ petition has been filed. Therefore, the question of granting prayer No.1 does not and cannot arise for consideration at all.

7. The second prayer is to hold that the order dated 13.1.1983 has attained finality. We have considered the said order. It is an order passed

by the Board of Revenue. It is an order remanding the matter to the Additional Settlement Commissioner for a fresh disposal. The question of holding that the order dated 13.1.1983 has attained finality, has no meaning at all. It is an order remanding the matter. Therefore, to ask for a prayer to hold that the order has attained finality, in our considered view, is a meaningless prayer. In the guise of the order dated 13.1.1983, the learned Single Judge directs the respondents/State to record the names of the petitioner and Legal Representatives of Late Badri Prasad as owner of the land. Para 10 of the order dated 13.1.1983 passed by the Board of Revenue reads as follows :-

“10. उपरोक्त परिस्थिति में अपील का आवेदन पत्र स्वीकार किया जाता है व अपर बन्दोवस्त आयुक्त एवम् सक्षम प्राधिकारी के अंतिम आदेश दिनांक 11-5-66 एवम् 27-2-82 निरस्त किये जाते हैं । प्रकरण अपर बन्दोवस्त आयुक्त को इस निर्देश के साथ प्रत्यावर्तित किया जाता है कि वे धारक बद्रीप्रसाद के चारों उत्तराधिकारियों (अपीलांट्स) के विरुद्ध प्रकरण नये सिरे से संशोधित अधिनियम के अनुसार पंजीबद्ध कर उनका नियमानुसार निराकरण करें ।”

8. We are shocked beyond words, as to how such a direction could be passed. There is no direction in the order dated 13.1.1983. It is only an order of remand. By taking shelter under the order dated 13.1.1983 a direction of very serious civil consequences has been passed. It is beyond the records of the case; it is beyond facts; and it is beyond truth. Such a direction could never ever have been passed in the guise of the order dated 13.1.1983. Therefore, we have no hesitation to hold that the entire act of the petitioner in preparing the documents to file a writ petition without any interim order during the summer vacation; to move a matter for early hearing by filing an interlocutory application and obtaining an

order beyond pleadings of the case, is a self designed plan of the petitioner in order to hoodwink the respondents. In order to perpetuate the illegality and to ratify the illegal order, the writ petitioner has even gone to the extent of filing the Contempt Petition No.1424 of 2019 seeking initiation of proceedings for contempt against the respondents in the writ petition for non-compliance of the order dated 14.6.2018. This is a yet another indication of the attitude of the petitioner so far as the instant proceedings are concerned.

9. The reading of the concerned document would indicate that the proceedings pertain to an extent of about 142 acres of land. The extent of land itself is a fitting answer to the acts of the commission committed by the petitioner. The entire manner in which the petition has been prepared is a reflection due to the large extent of land that is involved in these proceedings.

10. We do not think such an act of the petitioner could be condoned by any Court of law. The petitioner has misused the rights granted to him, created false documents and obtained a false order. The petitioner requires to be dealt with appropriately. So far as the merits are concerned, the impugned order becomes unsustainable inasmuch as the writ petition.

11. Consequently, the writ appeal is allowed. The order dated 14.06.2018 passed by the learned Single Judge in WP No.12825 of 2018 is set aside. WP No.12825 of 2018 is dismissed with cost of Rs.1,00,000/- to be paid by the petitioner with the Registry of this Court within a period of two weeks from today.

12. Pending interlocutory applications are disposed off.
13. Call after two weeks to report compliance.

(RAVI MALIMATH)
CHIEF JUSTICE

(PURUSHAINDRA KUMAR KAURAV)
JUDGE

skm