

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

BEFORE

HON'BLE SHRI JUSTICE SATYENDRA KUMAR SINGH

ON THE 29th OF DECEMBER, 2022

WRIT PETITION No. 30330 of 2022

BETWEEN:-

1. LATE SHRI R.M. SOJATIA FOUNDATION TRUST
THR ITS PRESIDENT ANAND SOJATIA S/O SHRI
ASHOK KUMAR SOJATIA, AGED ABOUT 46 YEARS,
OCCUPATION: BUSINESS 150 PRADEEP SADAN
TEHSIL BHANPURA DISTRICT MANDSAUR
(MADHYA PRADESH)
2. ANAND SOJATIA S/O SHRI ASHOK KUMAR
SOJATIA, AGED ABOUT 46 YEARS, OCCUPATION:
BUSINESS 212 SAKET NAGAR, INDORE (MADHYA
PRADESH)

.....PETITIONER

*(BY SHRI RAVINDRA SINGH CHABBRA SENIOR ADVOCATE WITH SHRI
MUDIT MAHESHWARI, ADVOCATE.)*

AND

1. THE STATE OF MADHYA PRADESH THROUGH
COLLECTOR MANDSAUR (MADHYA PRADESH)
2. NAYAB TEHSILDAR TEHSIL BHANPURA DISTRICT
MANDSAUR (MADHYA PRADESH)

.....RESPONDENTS

(BY SHRI MUKESH KUMAWAT, GOVT. ADVOCATE FOR STATE.)

.....
*This petition coming on for admission on this day, the court passed the
following:*

ORDER

This petition under Article 226 of the Constitution of India has been preferred to quash the show cause notice dated 27.12.2022 issued by the respondent no.2 to the petitioners to demolish the construction said to be made

on the govt. land on survey no.442 ad-measuring 0.066 hectares situated at Village Nimthur, Tehsil - Bhanpura, District - Mandsaur.

Learned counsel for the petitioners submit that the petitioners have filed an Election Petition against a sitting MLA of the ruling party and due to which the aforesaid notice was served upon the petitioners on 28.12.2022 at about 06:45 p.m. and he was directed to file their reply in the morning of the very next day i.e. 29.12.2012 otherwise the construction made by him on the aforesaid land will be demolished. The contents of the notice apparently shows that the same has been given with political reasons and proper opportunity has not been given to the petitioners to file their reply therefore, the same is required to be quashed.

Learned Govt. Advocate for the respondent/State submits that it is very specifically been mentioned that after demarcation, it was found that the petitioners have encroached about 0.066 hectares of govt. land therefore, the said notice was issued and he was provided an opportunity to file the reply and, therefore he is not entitled for any relief.

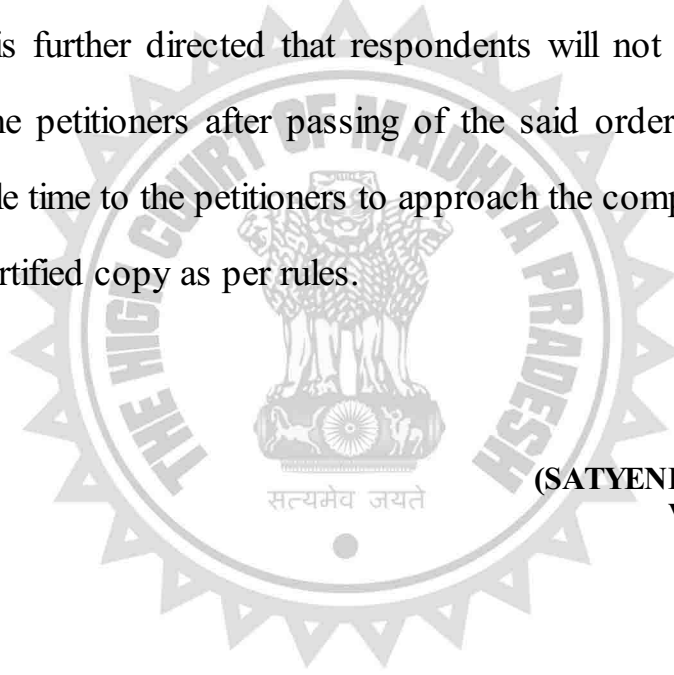
Heard learned counsel for both the parties and perused the record.

It is apparent from the record that the show cause notice dated 27.12.2022 was served upon to the petitioners on 28.12.2022 at about 6:45 p.m. and they were directed to file their reply on the very next day i.e. 29.12.2022 stating therein that otherwise the construction in question will be demolished. It is mentioned in the notice itself that petitioners are in possession of the land in dispute for last 10 years. In these circumstances, it appears appropriate to give some reasonable time to the petitioners to file the reply and till then the respondents is required to restrained from demolishing the construction in question.

Hence, the petition is disposed off with directions to the respondents that they will provide relevant papers with regard to demarcation of the land in question to the petitioners within 3 days and thereafter, petitioners will file their reply before the competent authority/ respondent no.2 within 10 days and thereafter, respondent no.2 will pass appropriate order in accordance with law after considering the reply submitted by the petitioners. In the meantime, respondents will not demolish the construction in dispute said to be made on the encroached land bearing survey no.442 ad-measuring 0.066 hectares situated at Village Nimthur, Tehsil Bhanpura, District Mandsaur.

It is further directed that respondents will not take any coercive action against the petitioners after passing of the said order for 7 days and provide reasonable time to the petitioners to approach the competent authority.

Certified copy as per rules.



(SATYENDRA KUMAR SINGH)
V. JUDGE

ajit