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WP-18681-2022

IN THE HIGH COURT OF MADHYA PRADESH
AT GWALIOR

BEFORE

HON'BLE SHRI JUSTICE MILIND RAMESH PHADKE

ON THE 7th OF JULY, 2026

WRIT PETITION No. 18681 of 2022

DR. GANESH RAM JAIN AND OTHERS

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

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Appearance:

Shri Prakash Chandra Chandil - Advocate for the petitioners.

Shri Yogesh Kumar Parasar - Govt. Advocate for the respondent/State.
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ORDER

The present petition under Article 226 of the Constitution of India has been filed by the petitioners seeking quashment of the order dated 18.10.2021 passed by the Collector, District Gwalior, in Case No. 02/2015-16/Suo Motu Revision, whereby the Patta granted in favour of late Ram Singh in Case No. 10/80-81/A-19 by order dated 19.06.1981 was cancelled. Consequentially, the sale deeds executed pursuant to the said Patta were declared null and void, and the land in question was held to be Government land.

The short facts of the case are that the land bearing Survey No. 60, situated at Village Sasan, Tahsil Bhitwar, District Gwalior, was originally recorded as *charnoi* land. However, the land was cultivable (*kabil kast*), and therefore, the competent revenue authorities allotted different portions thereof to nearly fifty eligible persons after due demarcation and partition



(*batankan*). The present petition concerns only Survey No. 60/2 admeasuring 1.500 hectares, which was allotted to late Ram Singh by the Tahsildar in Case No. 10/80-81/A-19 vide order dated 19.06.1981. Initially, a patta was issued in Form-E and, thereafter, in the year 1985, Ram Singh was conferred *bhumiswami* rights under the provisions of the Madhya Pradesh Land Revenue Code, 1959, by issuance of a patta in Form-A. Thus, Ram Singh acquired valid and lawful title over the land. After acquiring *bhumiswami* rights, Ram Singh, during his lifetime, transferred different portions of the land in favour of various purchasers through registered sale deeds. The present petitioners are bona fide purchasers who acquired their respective portions for valuable consideration. After purchase, several petitioners obtained diversion orders from the competent authority, including orders passed on 04.06.2016, permitting the use of the land for non-agricultural purposes. Necessary building permissions were also granted by the Nagar Panchayat on 30.09.2005, pursuant to which some of the petitioners constructed permanent residential houses and are residing therein, while others continue to remain in peaceful physical possession of their respective plots, intending to raise construction as and when their financial circumstances permit. Significantly, from the date of allotment in 1981, the conferment of *bhumiswami* rights in 1985, and the subsequent transfers, no objection was ever raised by any revenue authority regarding either the validity of the allotment or the petitioners' possession and enjoyment of the land. After more than three decades, a representation was submitted by the Tahsildar, on the basis of which the Collector initiated suo motu revisional



proceedings by registering Case No. 06/2013-14/Suo Motu Revision. Upon detailed consideration of the entire matter, the Collector dismissed the revision holding that although the land was originally recorded as *charnoi*, it was cultivable land and, therefore, the allotment made by the Tahsildar in favour of Ram Singh was legal and valid. The Collector further held that the grant of patta in Form-E, the subsequent conferment of *bhumiswami* rights through Form-A in the year 1985, and the transfers effected by Ram Singh were all in accordance with law. It was specifically held that the transfers were not hit by Section 165(6) of the Madhya Pradesh Land Revenue Code and neither the allotment nor the subsequent sale transactions suffered from any legal infirmity. Despite the aforesaid final adjudication, the Tahsildar again submitted another representation before the Collector alleging irregularities in the original allotment. Acting upon the said representation, the Collector registered another suo motu revisional proceeding being Case No. 02/2015-16/Suo Motu Revision. By order dated 16.05.2016, notices were directed to be issued, and since Ram Singh had expired, notices were ordered to be served upon his legal representatives. Subsequently, by order dated 28.02.2017, the matter was referred to the Additional District Magistrate, Gwalior, for a detailed inquiry. After conducting a comprehensive inquiry, the Additional District Magistrate submitted a report dated 22.08.2017 categorically concluding that the allotment made in favour of Ram Singh was legal and valid, the conferment of *bhumiswami* rights in 1985 was lawful, and the subsequent transfers made by Ram Singh were not prohibited under any provision of law. The inquiry report further opined that



no action could legally be taken against the legal heirs of Ram Singh or the subsequent purchasers. Notwithstanding these findings, the Collector, by the impugned order dated 18.10.2021, cancelled the original lease, declared the sale deeds executed in favour of the petitioners to be null and void, and held the land to be Government land.

Learned counsel for the petitioners submits that the impugned order is wholly without jurisdiction and unsustainable in law. It is contended that once the Collector had already exercised suo motu revisional jurisdiction in Case No. 06/2013-14 and had upheld the legality of the allotment, the grant of *bhumiswami* rights, and the subsequent transfers, the Collector became functus officio and could not initiate a second suo motu revision on the very same subject matter. The subsequent proceedings were, in substance, an impermissible review of the earlier final order, although no power of review is vested in the Collector under the relevant statutory provisions. Therefore, the second exercise of suo motu revisional jurisdiction was wholly without authority of law.

It is further submitted that even during the second revisional proceedings, the inquiry conducted by the Additional District Magistrate culminated in a categorical finding that the allotment and subsequent transactions were perfectly legal. The Collector, without assigning any cogent reasons for disagreeing with the inquiry report and without dealing with the findings recorded therein, arbitrarily passed the impugned order, rendering the decision perverse and unsustainable.

It is also submitted that the impugned order has been passed in gross



violation of the principles of natural justice. The petitioners, who are bona fide purchasers and whose valuable civil rights stand directly affected by the impugned order, were never served with any notice nor afforded any opportunity of hearing before cancellation of the lease and declaration of their registered sale deeds as void. The petitioners remained completely unaware of the proceedings as well as the order dated 18.10.2021 and came to know about the same only on 30.07.2022, when the Patwari informed them that the Additional District Magistrate had initiated proceedings for dispossessing them pursuant to the Collector's order. Thus, the impugned order has been passed behind the back of the petitioners and in flagrant violation of the audi alteram partem rule.

It is lastly submitted that although a statutory alternative remedy may otherwise be available, the same does not operate as a bar to the maintainability of the present writ petition, as the impugned order is ex facie without jurisdiction, amounts to an unauthorized exercise of review in the guise of suo motu revision, and has been passed in complete breach of the principles of natural justice without notice or hearing to the petitioners. It is well settled that where an order is passed without jurisdiction or in violation of fundamental principles of natural justice, the existence of an alternative remedy is not an efficacious bar to the exercise of extraordinary jurisdiction under Article 226 of the Constitution of India. Accordingly, the petition deserves to be allowed and the impugned order dated 18.10.2021 is liable to be quashed.

Per contra, learned counsel appearing for the State submits that the



present writ petition is misconceived and not maintainable in view of the availability of an efficacious statutory alternative remedy under the provisions of the Madhya Pradesh Land Revenue Code, 1959. It is contended that the Collector has rightly exercised his suo motu revisional jurisdiction to rectify a patent illegality committed in the original allotment, as the land in question was recorded as Government charnoi land, which could not have been allotted in contravention of the statutory provisions governing such land. The State further submits that the earlier revisional proceedings do not operate as a bar to the exercise of revisional jurisdiction where fresh material disclosing serious illegality in the original allotment subsequently came to light, and therefore the impugned proceedings cannot be construed as an impermissible review of the earlier order. It is further argued that the inquiry report submitted by the Additional District Magistrate was merely recommendatory in nature and not binding upon the Collector, who, being the competent statutory authority, was fully empowered to independently appreciate the entire record and arrive at his own conclusion. Learned counsel submits that the petitioners, claiming through the original allottee, cannot acquire any better title than that of their predecessor-in-interest, and if the very foundation of the title, i.e. the original lease and conferment of bhumiswami rights, is found to be illegal, all subsequent transfers automatically become void and confer no enforceable right upon the purchasers. It is further submitted that the proceedings were initiated against the original allottee and his legal representatives, and in any event, the petitioners have an adequate statutory remedy to agitate all factual and legal



issues before the competent appellate authority. It is, therefore, prayed that the writ petition, being devoid of merit, deserves to be dismissed.

Heard counsel for the parties and perused the record.

The power of revision is a supervisory jurisdiction intended to correct jurisdictional errors, illegalities or material irregularities committed by subordinate authorities. Such power is not intended to confer an unrestricted authority to repeatedly reopen matters which have already attained finality. Once the revisional authority has exercised its jurisdiction, examined the legality of the proceedings and rendered a final decision, the jurisdiction stands exhausted. In the absence of any express statutory provision conferring power of review or permitting successive revisions on the same subject matter, the authority becomes functus officio. Any subsequent attempt to reconsider the same issue would amount not to an exercise of revisional jurisdiction but to an impermissible review of the earlier order.

The distinction between the powers of revision and review is well settled. While revisional jurisdiction authorizes examination of the legality of orders passed by subordinate authorities, the power of review enables the authority to reconsider its own concluded decision. Such power cannot be assumed by implication and must be expressly conferred by statute. Though Madhya Pradesh Land Revenue Code provides the Collector with powers to review his own revisional order but within the four corners of provision of Section 51. But the Collector had finally adjudicated the legality of the allotment in Suo Moto Revision No.06/2013-14 where he lacked jurisdiction to reopen the very same controversy merely because another representation



had been submitted by the Tahsildar.

The entire foundation of the second suo motu revision is the identical allotment order dated 19.06.1981, the same grant of bhumiswami rights in the year 1985 and the very same subsequent sale transactions which had already been examined in the earlier revisional proceedings. There is no finding in the impugned order regarding discovery of any new material, fraud or suppression of facts which could justify reopening of the earlier concluded adjudication. Mere submission of another representation by the Tahsildar could not revive a jurisdiction which had already been exercised and exhausted. If such repeated exercises of suo motu revisional power are permitted, there would be no finality to administrative adjudication and every concluded matter could be reopened repeatedly at the instance of the same authority, which is wholly alien to the rule of law.

Equally significant is the fact that even during the second revisional proceedings, the Additional District Magistrate, after conducting a comprehensive inquiry pursuant to the Collector's own direction, recorded categorical findings supporting the legality of the original allotment and the subsequent conferment of bhumiswami rights. The inquiry further concluded that no legal action could be initiated against the legal heirs of Ram Singh or the purchasers. The Collector has completely discarded the inquiry report without assigning any reason whatsoever for disagreeing with the conclusions recorded therein. An administrative authority exercising quasi-judicial jurisdiction cannot ignore material evidence placed before it nor can it reject a duly constituted inquiry report without recording cogent reasons.



Failure to deal with relevant material renders the decision arbitrary and perverse.

The impugned order suffers from yet another serious infirmity. Admittedly, the registered sale deeds executed in favour of the present petitioners have been declared null and void and their proprietary rights have been extinguished without issuing any notice to them or affording them an opportunity of hearing. The petitioners are admittedly bona fide purchasers claiming title through registered sale deeds and their civil rights have been directly affected by the impugned order. Any order adversely affecting vested proprietary rights could not have been passed behind their back. Compliance with the principles of natural justice is not an empty formality but constitutes an integral part of every quasi-judicial proceeding involving civil consequences. The audi alteram partem rule mandates that every person likely to be prejudicially affected must be given an effective opportunity of hearing before any adverse order is passed. The admitted absence of notice to the petitioners vitiates the entire proceedings.

It is well settled that although the existence of an alternative remedy ordinarily persuades this Court not to exercise jurisdiction under Article 226 of the Constitution, such rule is one of self-imposed restraint and not a jurisdictional bar. Where the impugned order is passed wholly without jurisdiction, where the authority exercises a power not vested in it by law, or where the order has been passed in flagrant violation of the principles of natural justice, this Court would be fully justified in exercising its extraordinary jurisdiction notwithstanding the availability of an alternative



remedy.

In the present case, the second suo motu revision itself was wholly without jurisdiction, being nothing but an impermissible review of an earlier revisional order which had attained finality. The Collector had no authority in law to reopen the same controversy for a second time. The impugned order is further vitiated by complete non-consideration of the inquiry report submitted by the Additional District Magistrate and by gross violation of the principles of natural justice inasmuch as the petitioners, whose registered sale deeds and proprietary rights have been annulled, were never afforded any notice or opportunity of hearing.

For all the aforesaid reasons, this Court is of the considered opinion that the initiation of the second suo motu revisional proceedings itself was wholly incompetent and without jurisdiction. Consequently, every action taken pursuant thereto stands vitiated. The impugned order dated 18.10.2021 passed by the Collector, District Gwalior in Case No.02/2015-16/Suo Motu Revision so far as it pertains to Ramsingh S/o Nandu Khatik and his successors-in-title i.e. the petitioners cannot be sustained in law and is accordingly quashed. All consequential proceedings and directions flowing therefrom shall also stand set aside.

The writ petition stands **allowed and disposed of.**

(MILIND RAMESH PHADKE)
JUDGE