

IN THE HIGH COURT OF MADHYA PRADESH  
AT GWALIOR  
BEFORE  
HON'BLE SHRI JUSTICE MILIND RAMESH PHADKE  
ON THE 22<sup>nd</sup> OF NOVEMBER, 2024  
**WRIT PETITION No.28077 of 2021**

**Between:-**

SHRIRAM S/O LT JEEVANLAL BAGHEL,  
AGED ABOUT 62 YEARS, VILL MOHANPUR  
MURAR (MADHYA PRADESH)

.....PETITIONER

*(BY SHRI SUNIL JAIN - ADVOCATE)*

**AND**

1. GOPAL S/O LT BABU, AGED ABOUT 60 YEARS, VILL MOHANPUR MURAR (MADHYA PRADESH)
2. CHHOTELAL S/O LATE SHRI BABU, AGED ABOUT 59 YEARS, GRAM MOHANPUR, MURAR (MADHYA PRADESH)
3. MOHANLAL S/O LATE SHRI BABU, AGED ABOUT 57 YEARS, GRAM MOHANPUR, MURAR (MADHYA PRADESH)
4. PRAHLAD S/O SHRI KARNA, AGED ABOUT 56 YEARS, MOHANPUR MURAR, GWALIOR (MADHYA PRADESH)

**5. SANTO S/O SHRI KARNA, AGED ABOUT 54 YEARS, MOHANPUR, MURAR (MADHYA PRADESH)**

**6. RAMKUNWAR D/O SHRI KARNA, AGED ABOUT 52 YEARS, MOHANPUR MURAR, GWALIOR (MADHYA PRADESH)**

**7. PUSHPA D/O SHRI KARNA, AGED ABOUT 50 YEARS, MOHANPUR MURAR, GWALIOR (MADHYA PRADESH)**

**8. ASHARAM D/O SHRI KARNA, AGED ABOUT 58 YEARS, MOHANPUR, MURAR (MADHYA PRADESH)**

**9. BHAGWANDEL D/O HUKUM SINGH, AGED ABOUT 55 YEARS, MOHANPUR, MURAR (MADHYA PRADESH)**

**10. REVENUE SECRETARY THE STATE OF MADHYA PRADESH VALLABH BHAWAN BHOPAL (MADHYA PRADESH)**

**11. REVENUE SECRETARY THE STATE OF MADHYA PRADESH VIDISHA (MADHYA PRADESH)**

**12. TEEKARAM S/O LATE SHRI JEEVANLAL BAGHEL, AGED ABOUT 59 YEARS, GRAM MOHANPUR, MURAR, GWALIOR (MADHYA PRADESH)**

**.....RESPONDENTS**

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

**ORDER**

The present petition, under Article 226/227 of the

Constitution of India, has been directed against order dated 23.11.2021 passed by Additional Collector, Gwalior whereby Revision No.008/Revision/2021-21 preferred by the petitioner and respondent No.12, Teekaram S/o Shri Jeevan Lal Baghel under Section 50 of the Madhya Pradesh Land Revenue Code, 1959 was rejected while affirming the order dated 09.03.2021 passed by the Divisional Officer, Morar in Case No.0023/Appeal/2020-21 by which application under Section 5 of the Limitation Act, preferred by respondent No. 12 was rejected and as a consequence thereof, the appeal was also rejected.

2. Learned counsel for the petitioner submits that the land bearing Survey Nos.4404, 4405, 4422 & 4423, ad-measuring 0.491, 0.436, 0.669, 1.714 hectares respectively total 4 Kita, ad-measuring 3.323 hectares situated at Village Morar, Gwalior belong to the petitioner, for which batankan has not been done legally and Respondents No.1 to 9 keeping the petitioner in dark had got the said land partitioned and thereafter got the said lands mutated in their names in the revenue records which was per se illegal as there was neither any consent nor any signature of the co-sharers. When this fact came to the knowledge of the petitioner, he moved an application before the Tehsildar to obtain the certified copy of namantran panji which he received on 03.12.2021 vide Annexure P/1 and on the basis of which, an appeal was preferred by the petitioner and Respondent No.12/Teekaram, /o Late Jeevanlal Baghel before the Sub-Divisioal Officer which was numbers as 0023/Appeal/2020-21 and vide order dated 09.03.2021, the said

appeal was dismissed being time barred. Against the aforesaid order, a revision was preferred by the petitioner and respondent No.12, Ss/o Shri Jeevan Lal Baghel under Section 50 of the Madhya Pradesh Land Revenue Code, 1959 before the Additional Collector, Gwalior which received the same fate vide order dated 23.11.2021. Being aggrieved by the aforesaid, the present petition has been filed.

3. It was further argued that the Additional Collector while deciding the revision but by the impugned order dated 23.11.2021, had not considered the aspect that the appeal by SDO was not decided on merits nor any discussion in that regard was made by the learned Additional Collector thus the impugned order being per-se illegal deserve to be set aside.

4. It was further submitted that instead of giving opportunity of hearing or leading evidence, the same has been refused illegally which has caused serious injustice to the petitioner. The impugned order Annexure P/3 passed by the Additional Collector maintaining the order Annexure P/2 passed by the SDO is against the principle of natural justice, therefore, the same being not sustainable in the eyes of law be quashed.

5. Heard counsel for the petitioner and perused the record.

6. Admittedly, the petitioner had challenged the order of Tahsildar dated 08.11.1983 by filing an appeal before the SDO, Morar, Gwalior. The Tahsildar had passed an order of partition which was put to challenge by the petitioner. Since the appeal filed before the SDO, Morar, District Gwalior was barred by limitation

being delayed by 38 years, therefore, an application under Section 5 of the Indian Limitation Act was also filed. The said application was dismissed as barred by limitation as proper explanation for delay in filing the aforesaid appeal nor any reasonable explanation has been accorded for the delay caused in filing the appeal and as a consequence thereof, the appeal filed by the petitioner was also dismissed as barred by limitation. It appears that against the order of SDO, Morar, District Gwalior, the petitioner had filed a revision before the Additional Collector, Gwalior. The revision filed by the petitioner before the Additional Collector, Gwalior was dismissed by order dated 23.11.2021.

7. Relevant extract of impugned order dated 23.11.2023 is reproduced as under:-

प्रक्षणन्ययल्यमेंपंजीबद्धकर ग्रहित केबिटुओपर सुम जकर प्रक्षमयेग्यत्वैने  
सेग्रह्य किय गय तथ ॲधिनशन्ययल्यक रिवैड मंगय गया। दिनंक 13.08.2021 के  
ॲधिनशन्ययल्यसेअभिषेखप्रसहुआ प्रक्षणमेंप्रतिर्थिंगणों के पक्षसम्महेतु सूच्म प्र  
जरी विषेग्यो प्रतिर्थिंगणों के ओर सेअभिषक्षप्रेमस्थि पत उपस्थित्यें अभिषक्षके  
निश्चनीकरणद्वारा प्रस्तुत अवेक्षके प्रति प्रश्नयके गहु केपरिपत्ममेप्रतिर्थि अभिषक्ष  
द्वारा जब फ्रस्तुत किय गया। तप्त्वत प्रक्षणतर्फहेतु नियम किय गय। प्रक्षणमें दिनंक  
29.09.2021 के असप्त्न अधिक्ष द्वारा लिखिव्हमप्रस्तुतकि गहा प्रर्थ अभिषक्षद्वारा  
लिखिव्हमेऊलेखिकिय गयहै कि ॲधिनशन्ययल्यद्वारा दिन्क 177.932021 परी  
हेतु नियमकि गही थी विन्तु दिनंक 16.03.2021 केबज्य दिनंक 09.03.2021 के हेतु धरा  
5 के अवेक्षकप्र के नियस्तकर संर्पणअप्रिलके नियस्तकर दिय गय जो किविधिकेविशेत  
है। एं पंजी प्र किय गय बद्धरा एं बंकनमेविसंति है अवेक्षणों के 10 विश भूमि  
अधिकायिगयहै एं पंजी प्र किय ग बद्धरा व बंकनधरा 178 केविशेतहै रेषबद्धमें  
निश्चनी मेमो मेऊलेखिबिटुओके हेतु वेत्यग्य गयहै प्रतिर्थि अभिषक्षद्वारा ऊलेखिय  
गयहै किगममुरार स्थितक्तभूमिक विधिव्हमप्रबद्धरा तस्मैल्यर द्वारा दिनंक 08/11/1983

के विचार गया। अधिकारी अमेठी खबर पर फिल्मे 38 र्या सेकाबिज देवर वास्तव करते चले आरहे हैं व्यायाल अतिरिक्त तस्वीर द्वारा अभियंत्र में भी अविळ विचार गया है कि ऊपरी इच्छा व ऊपरी समति के अमुसर वे दिनंक 08.11.1983 के अधेक्षणाव अधेक्षणाव के मध्य बदला विचार गया है जिसमें लगभग 38 र्या बदल ऊपरी अमेठी द्वारा चैंसेज विचार गया है तथा विचार का पर्याप्त कारण भी नहीं बताया गया है।

मेर द्वारा निश्चानी अखेक्षन पर्ष, संभान दस्तवेज, अधिनस्थन्ययल्य सेप्रस अभिन्न एं अथ पक्ष अभिष्क द्वारा प्रस्तुत लिखा बहस क अखेक्न विय गया। अखेक्न मैं पय गय किनिशनीकर्त द्वारा ग्रम मुरार मैंसिस भूमि संघ क्रमंक 4404 खब 0.491 हेटेयर, संघ क्रमंक 4405 खब 0.436 हेटेयर, संघ क्रमंक 4422 खब 0.669 हेटेयर, संघ क्रमंक 4423 खब 1.714 कुल वित 4 कुल खब 3.323 हेटेयर भूमि क विधिस बछरा एं बतंकन अभि तकन्ही हैने से एं प्रतिर्थिगणों ने अखेक्षगणों के सूचिविय बैर पंजी पर बछरा एं बतंकन करा लिय थ केविल्द अपील संघित अस्विधागीय अधिकारी के गई जिसमें अस्विधागीय अधिकारी द्वारा सुन्दरी कर धर 5 क अखेक्षन पर दिनक 09.03.2021 के निस्तकर दिय गय है। ऊसंधनमें निश्चानीकर्त द्वारा भी कोई तेस दस्तवेज प्रस्तुत नहीं विय गय है। इस प्रकार अधिनस्थन्ययल्य द्वारा प्रकरण क्रमंक 0023/अपील 2020-21 मैं परित अद्वा दिनक 09.03.2021 विधिस जंच उपरांत परित विय गय है। इस तरण प्रर्थ द्वारा सुन्दरी अखेक्षन पर निस्तविय जार अधिनस्थन्ययल्य क अद्वा स्थिर रख जत है। संघित सूचिविय है। अधिनस्थन्ययल्य क अभिष्क अद्वा के प्रति के सथ वपस है। वद कर्यघवि प्रकरण ऊसंक्षेप वियहै।

8. From perusal of the aforesaid order, it would be evident that the petitioner remained negligent in not filing the appeal in due time and without any justified reasons and unexplained, the delay of 38 years would have been condoned, thus, the Revisional Court had rightly dismissed The revision.

9. Even otherwise the scope of interference in exercise of jurisdiction under Article 227 of the Constitution of India is limited. The Supreme Court in the matter of **Shalini Shyam Shetty and Another vs. Rajendra Shankar Patil** reported in

**(2010) 8 SCC 329** has held that High Court in exercise of its power cannot interfere to correct mere errors of law or fact or just because another view than the one taken by the tribunals or courts subordinate to it, is a possible view. The High Court can exercise this power when there has been a patent perversity in the orders of the tribunals and courts subordinate to it or where there is manifest failure of justice or the basic principles of natural justice have been flouted.

10. Thus, this Court finds that no illegality or perversity committed by the Trial Court in passing the impugned orders herein. Accordingly, the admission is **declined** and the present petition being sans merits is hereby **dismissed**.

**(Milind Ramesh Phadke)  
Judge**