

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

BEFORE

HON'BLE SHRI JUSTICE G. S. AHLUWALIA

ON THE 26th OF JULY, 2024

MISCELLANEOUS PETITION No.2213 of 2024

PRADEEP KUMAR AGARWAL

Versus

NITIN AGARWAL AND OTHERS

Appearance:

Shri Siddharth Gulatee – Advocate for the petitioner.

Shri Ishteyaq Hussain – Advocate for the respondent no.6.

Shri Swapnil Ganguly – Deputy Advocate General for the respondent/State.

ORDER

Later on:

The case was taken up at 4 P.M. It is submitted by Shri Swapnil Ganguly, Dy. Advocate General, that because of forthcoming festival and religious gathering, the Collector, Narmadapuram could not come.

2. Considered the submissions made by Counsel for State.

3. Since, the presence of Collector was required to assist the Court as well as to explain her conduct in writing a letter directly to the Court, therefore, this Court is of the considered opinion, that Shri Ganguly, Dy. Advocate General can also explain the conduct of the Collector. Therefore, the appearance of Collector, Narmadapuram, is hereby exempted.

4. The matter was heard on merits, and also on the question of conduct of Collector, Narmadapuram in writing a letter directly to the

Court as well as the allegations of passing the impugned order on account of some extraneous considerations made against Tahsildar, Seoni Malwa, Distt. Narmadapuram and Addl. Collector, Narmadapuram.

5. Before considering the conduct of the Revenue Officers, this Court think it appropriate to consider the merits of the case.

6. This Miscellaneous Petition under Article 227 of Constitution of India has been filed against the order dated 27/2/2024 passed by Tahsildar, Seoni Malwa, District Narmadapuram in Case No.0109/A-27/Year 2023-24 and order dated 18/4/2024 passed by Additional Collector, Narmadapuram, District Narmadapuram in Case No.0001/Revision/2024-25.

7. By order dated 27/2/2024 the Tahsildar, Seoni Malwa, District Narmadapuram even after rejecting the objection raised by the petitioner with regard to interpretation of the order dated 25/9/2023 passed in MP No.972/2021, directed the Patwari to restore the *status quo ante* with regard to the mutation and also directed for proposing the partition. The petitioner is aggrieved by the order of the Tahsildar, Seoni Malwa, District Narmadapuram, by which the Patwari has been directed to propose the partition.

8. The facts necessary for disposal of the present petition in short are that the respondents no.1 to 4 filed an application for mutation of their names. The application was allowed by the Tahsildar. However, the appeal filed by petitioner was allowed by SDO and order of mutation was set aside. The appeal filed by respondents no.1 to 4 before Additional Commissioner was dismissed. Being aggrieved by order dated 23/2/2021 passed by the Additional Commissioner, Narmadapuram Division, Narmadapuram in Case No.427/Appeal/Year-

2019-20 as well as order dated 26/12/2019 passed by the SDO, Seoni Malwa, District Hoshangabad in revenue Case No.54/Appeal/2019-20 the respondents no.1 to 4 preferred MP No.972/2021. The said had arisen out of the mutation proceedings.

9. It appears that a suit was filed by Smt. Premlata Bai, Wd/o Dr. Hari Prasad against Ajit Kumar, Pradeep Kumar, Smt. Sheela Bai and Smt. Sona Bai, which resulted in a compromise decree and by a compromise decree the title of the respective parties was declared. No decree for partition or possession was passed. Since the order of mutation, which was allowed by the Tahsildar, was set aside by the SDO and Additional Commissioner, therefore, the same was assailed by respondents no.1 to 4 by filing MP No.972/2021. The said Miscellaneous Petition was finally disposed of by this Court by the following order:-

15. Furthermore, once S.D.O., Seoni Malwa, district Hoshangabad and Additional Commissioner, Narmadapuram Division, Hoshangabad had come to a conclusion that application filed under Sections 109 and 110 of MPLRC was bad on account of non-joinder of necessary party, then the matter should have been remanded back to Tahsildar, Seoni Malwa, district Hoshangabad for a decision afresh. Accordingly, order dated 23.2.2021 passed by Additional Commissioner, Narmadapuram Division, Hoshangabad in case no.427/Appeal/Year-2019-20 as well as order dated 26.12.2019 passed by Sub-Divisional Officer, Seoni Malwa, District Hoshangabad in revenue appeal no.54/Appeal/2019-20 as well as the order dated 18.4.2019 passed by the Tahsildar, Seoni Malwa, district Hoshangabad in revenue case no.283/A-06/Year 2018-19, are hereby **set-aside**. The matter is remanded back to the Tahsildar, Seoni Malwa, District Hoshangabad to decide the

application afresh strictly in accordance with the compromise decree passed by the District Judge, Hoshangabad on 7.1.1976 in Civil Suit No.1A/75.

16. Parties are directed to appear before the Tahsildar, Tahsil Seoni Malwa, District Narmadapuram on **16.10.2023**. No further notice will be issued to any of the parties. If any of the parties fails to appear before the Tahsildar, Tahsil Seoni Malwa, District Narmadapuram then the Tahsildar, Seoni Malwa, District Narmadapuram shall be free to proceed ex-parte against him. Further dates shall be given by the Tahsildar, Tahsil Seoni Malwa, District Narmadapuram. In view of the forthcoming election of State Assembly, it is directed that Tahsildar, Tahsil Seoni Malwa, District Narmadapuram shall decide the application positively by the end of **February, 2024**.

10. This Court was of the view that the mutation can be done only in accordance with the decree passed by the Civil Court and accordingly, the orders passed by the Tahsildar, Seoni Malwa, District Narmadapuram in Revenue Case No.283/A-06/Year 2018-19 as well as order dated 26/12/2019 passed by SDO, Seoni Malwa, District Hoshangabad in Revenue Case No.54/Appeal/2019-20 and order dated 23/2/2021 passed by Additional Commissioner, Narmadapuram Division, Hoshangabad in Case No.427/Appeal/Year-2019-20 were set aside and the matter was remanded back to the Tahsildar, Seoni Malwa, District Narmadapuram with a direction to decide afresh strictly in accordance with the compromise decree passed by the District Judge, Hoshangabad on 7/1/1976 in Civil Suit No.1A/1975 and the parties were directed to appear before the Tahsildar, Tahsil Seoni Malwa, District Narmadapuram on 16/10/2023 and the Tahsildar, Seon Malwa, District Narmadapuram was directed to decide the application positively by the end of February, 2024.

11. Being aggrieved by the said order, the petitioner preferred SLP before the Supreme Court, which was registered as SLP No.1116-1117/2024 and by order dated 19/1/2024 the said SLP was dismissed.

12. It appears that thereafter the respondent no.1 moved a fresh application on 16/10/2023 before the Tahsildar, Seoni Malwa, District Narmdapuram. In the said application, it was mentioned by the respondent no.1 that the High Court has passed an order dated 16/10/2022 and, therefore, copy of the order of High Court was also annexed alongwith the application for further action. Thereafter, the Tahsildar, Seoni Malwa by order dated 6/12/2023 directed the respondents no.1 to 4 to file an application for partition. It also appears that a fresh application in detail was also filed by respondents no.1 to 4 on 6/12/2023 for compliance of order passed in M.P. No.972/2021, but prayed for partition instead of mutation. The notices were issued by Tahsildar, Seoni Malwa, District Narmdapuram and after considering various objections filed by the petitioner, it was held by the Tahsildar, Seoni Malwa, District Narmdapuram that the High Court has set aside all the previous orders of mutation and the order of the High Court has been upheld by the Supreme Court and directed for maintaining *status quo ante* with regard to the mutation of names of the parties and also directed the **Patwari to send a proposal for partition.**

13. Being aggrieved by the said order, the petitioners preferred an appeal before the Court of Additional Collector, Narmdapuram, District Narmdapuram and Additional Collector, Narmdapuram, District Narmdapuram by order dated 18/4/2024 passed in Case No.0001/Revision/2024-25 held that the Tahsildar, Seoni Malwa, District Narmdapuram has already complied with the order passed by

the High Court prior to cut off date, i.e. February, 2024, therefore, no proceedings are left and the revision was dismissed.

14. Challenging the order passed by Revenue Courts, it is submitted by the counsel for the petitioner that the respondent no.1 has filed a Civil Suit for declaration of title as well as for partition, which is pending. The said fact was also brought to the notice of Tahsildar, Seoni Malwa, District Narmadapuram, but the Tahsildar directed the Patwari to submit the proposal for partition. It is further submitted that even the Tahsildar, Seoni Malwa, District Narmadapuram was directed to decide the application for mutation afresh in accordance with the decree passed in Civil Suit No.1A/1975, but the Tahsildar, Seoni Malwa, District Narmadapuram instead of reopening the old case, entertained a fresh application and without there being any application under Section 178 of MP Land Revenue Code, directed the Patwari to submit the proposal for partition. It is submitted that the aforesaid direction is bad in law, because:

- i- It was never directed by this Court.
- ii- It was not the subject matter of Civil Suit No.1A/1975.
- iii- No separate application under Section 178 of MPLRC was filed by respondents no.1 to 4.
- iv- A suit for declaration of title as well as partition is already pending before the Trial Court.

Furthermore, the petitioner had raised multiple grounds in the revision, but the Additional Collector, Narmadapuram, District Narmadapuram in a most casual and arbitrary manner has rejected the revision on the ground that the Tahsildar, Seoni Malwa, District Narmadapuram has complied with the order of the High Court within the specified time, i.e.

by the end of February, 2024, therefore, nothing more is required to be done. It is submitted that whenever a revision is filed against any order, then the Revisional Authority or the Appellate Authority is required to deal with all the grounds raised by the parties, but the Additional Collector, Narmadapuram, District Narmadapuram has dismissed the revision in a most malicious manner and it appears that it was for extraneous consideration.

15. *Per contra*, the petition is vehemently opposed by the counsel for the State. It was submitted by the counsel for the State that the order passed by the Tahsildar, Seoni Malwa, District Narmadapuram was in accordance with law.

16. The counsel for the respondents supported the order passed by the Tahsildar, Seoni Malwa, District Narmadapuram as well as Additional Collector, Narmadapuram.

17. Heard learned counsel for the parties.

18. Decree passed on 7/1/1996 in Civil Suit No.1A/1975, reads as under:-

अ- वार्ड नम्बर 9 सिवनी मालवा में स्थित मकान नं 105 की वादिनी प्रेमलता के हिस्से में दिया है अतः उसकी स्वामिनी रहेगी। तथा उसका किराया व आय लेने की अधिकारिणी रहेगी।

ब- सिवनी मालवा वाहननम्बर 11 में स्थित मकान नम्बर 27 प्रतिवादी अजीत कुमार पुत्र हरी प्रसाद के हिस्से में दिया गया। प्रतिवादी अजीत कुमार इस संपत्ति का एककाकी स्वामी रहेगा।

त- काश्तकारी भूमि खसरा नम्बर 237 ग्राम निपनिया में से 15.00 एकड़ भूमि प्रतिवादी अजीत कुमार के हिस्से में दी गई वह इसका एकाकी स्वामी रहेगा।

द- आ.नं० 237 में से उपरोक्त 15 एकड़ छोड़कर शेष रही भूमि 1.20 एकड़ भूमि जो खसरा नंबर 238 से लगी हुई वह भूमि तथा संपूर्ण ख नं० 231 रकवा 11.55 एवं 238 रकवा 16.17 एवं खनं० 224 रकवा 8.82 एकड़ जुमला 29.74 की भूमि प्रतिवादी प्रदीप कुमार शीला एवं सोनाबाई के हिस्से में दी गई। वे तीनों इस भूमि की स्वामी रहेंगे।

क- ग्राम निपनिया का काश्तकारी मकान एवं खला प्रतिवादी नम्बर 2 से 4 के हिस्से में दिया गया वे उसके स्वामी रहेंगे।

ख- डाक्टर हरी प्रसाद के नाम से स्टेट बैंक में जमा निम्नांकित रकमें प्रतिवादी/अजीत कुमार के हिस्से में दी गई है।

अ- एफ० डी०सी०/188376-17-10-73-रु 8000

ब- सेविंग बैंक खाता एफ रु 21473.10 पैसे और ब्याज
 स- करंट खाता ----- रु 365-90 पैसे और ब्याज
 द- मे० मूलचंद भैरूलाल हरदा के पास जमा रु 10000 रु ब्याज
 ग- प्रदीप कुमार को निम्नानुसार हिस्सा दिया नेशनल सेविंगसर्टिफिकेट 12 वर्ष की अवधि के -

क्रमांक	सीअंकी दिनांक	हल्का सर्टिफिकेट नम्बर	रुप्या	अवधि
1-30/7/64	ई/आ	923509	500/-	12 साल
2-30/7/64	एफ/आं	823877	1000	12 साल
3-30/7/64	एपआं	823878	1000	12 ताल
4-30/7/64	एप/आं	823879	1000/-	12 साल

एवं दिनांक 27/12/1948 के दि० नेशनल न्यूज प्रिंट पेपर मिल्स लिमिटेड नेपालगर के 50 शेयर नम्बर 37781 से 37830 जो दस रूपये प्रत्येक शेयर की कीमत के पांच सा रूपये के प्रतिवादी नम्बर प्रदीप कुमार अग्रवाल इन शेयरो को अकेले अपने नाम पर ट्रान्सफर करने का अधिकारी रहेगा। प्रतिवादी नम्बर 1,3, एवं 4 का कोई अधिकार नहीं रहेगा।

घ- वादी व प्रतिवादी अजीत कुमार को इस विभाजन में दी हुई उपरोक्त संपत्ति के अलावा किसी भी चल एवं अचल संपत्ति के अब कोई उत्तराधिकार प्राप्त नहीं होगा।

6- इस वाद का व्यय पक्षकार अपना अपना भुगतेंगे जय पत्र का पंजीकरण एवं निर्धारित शुल्क के लिए आवश्यक व्यय में से 1/3 प्रतिवादी अजीत कुमार एवं शेष व्यय प्रतिवादी 2 से 4 भुगतेंगे।

19. From the plain reading of this decree, it is clear that only the title of the parties was declared and no decree for partition was passed. By order dated 25/9/2023 passed by this Court in MP No.972/2021 all the previous orders of mutation were set aside and the Tahsildar, Seoni Malwa, District Narmadapuram was directed to decide the application afresh in the light of the judgment and decree passed in Civil Suit No.1A/1975. Therefore, it was obligatory on the part of the Tahsildar, Seoni Malwa, District Narmadapuram to reopen the case file of Case No.283/A-06/Year 2018-19 and should not have registered a new case, but it appears that on 16/10/2023, i.e. the date of appearance before the Tahsildar, Seoni Malwa, District Narmadapuram, respondent no.1 produced a copy of the order passed by the High Court and requested for further proceedings. Thereafter, on 6/12/2023 the Tahsildar directed for filing an application for partition and the respondents no.1 to 4 filed

another application seeking compliance of order dated 25/9/2023 passed in MP No.972/2021. The said application was titled as under:-

आवेदन पत्र वास्ते माननीय उच्च न्यायालय जबलपुर के प्रकरण क्रं.एम. पी. 972/2021 में पारित आदेश दिनांक 25.09.2023 के अनुसार कार्यवाही किये जाने बावत्।

20. In paragraph 3 of the said application, it was also submitted that this Court has directed for partition of property in accordance with the decree passed by the District Judge, Hoshangabad. Paragraph 3 of the application dated 6/12/2023 reads as under:-

3/- यह कि, श्रीमति सोना बाई पत्नि स्व० रामनारायण अग्रवाल एवं श्रीमति शीला बाई पुत्री हरीप्रसाद की मृत्यु क्रमशः सन् 1982 एवं सन् 2005 हो चुकने के पश्चात उनके नाम की भूमि पर आवेदकगणों के द्वारा नियमानुसार फौती नामान्तरण किये जाने हेतु आवेदन दिया गया था, जिस पर तहसीलदार महोदय, सिवनी मालवा के द्वारा समस्त दारसानों का नाम राजस्व अभिलेखों में दर्ज किये जाने का आदेश पारित किया गया था जिसे अनुविभागीय अधिकारी सिवनी मालवा के द्वारा निरस्त कर दिया गया था तथा आयुक्त महोदय, नर्मदापुरम संभाग के द्वारा भी अनुविभागीय अधिकारी सिवनी मालवा के आदेश को उचित माना जिसके विरुद्ध आवेदकगण के द्वारा माननीय उच्च न्यायालय जबलपुर के समक्ष रिट याचिका प्रस्तुत की गई थी जिसे माननीय उच्च न्यायालय जबलपुर के द्वारा याचिका को स्वीकार करते हुए माननीय जिला न्यायाधीश महोदय, होशंगाबाद (नर्मदापुरम) के द्वारा पारित निर्णय के अनुसार सोना बाई शीला बाई एवं प्रदीप कुमार के मध्य बटवारा किये जाने का आदेश दिया गया है।

21. The aforesaid contention made by respondents no.1 to 4 to the effect that this Court has directed for partition of property was factually incorrect for the reason that this Court has directed for mutation of the names of the parties in accordance with the decree drawn by the Civil Court in Civil Suit No.1A/1975. Paragraph 4 of the order dated 25/9/2023 passed in MP No.972/2021 contains the summary of the controversy involved in the Miscellaneous Petition and the orders passed by the Revenue Courts, i.e. Tahsildar, Seoni Malwa, District Narmadapuram, SDO, Seoni Malwa, District Narmadapuram and Additional Commissioner, Narmadapuram Division, Hoshangabad were set aside by the said order. Even it is clear from paragraph 2 of the order dated 23/2/2021 passed by the Additional Commissioner,

Narmadapuram Division, Narmadapuram in Appeal No.427/Appeal/Year-2019-20 that the proceedings were with regard to mutation. Therefore, the Revenue Courts were aware of the fact that MP No.972/2021 was filed against the order passed in the mutation proceedings and thus, the direction given by this Court in MP No.972/2021 is also confined to mutation proceedings. If the Tahsildar, Seoni Malwa, District Narmadapuram had any doubt about the interpretation of the order dated 25/9/2023, then he should have obtained legal opinion and without clarifying any doubt, he should not have proceeded with the matter.

22. From the order dated 27/2/2024 passed by the Tahsildar, Seoni Malwa, District Narmadapuram in Case No.109/A-27/Year 2023-24, it appears that multiple objections were raised. Even an objection raised by the petitioner to the extent that after the orders were passed by the Supreme Court in SLP No.1116-1117/2024, the directions given by this Court have lost its efficacy, was rejected by the Tahsildar, Seoni Malwa, District Narmadapuram by holding that the petitioner is trying to misconstrue the directions given by this Court, specifically when the Supreme Court has refused to interfere with the order passed by this Court. Thus, it is clear that the Tahsildar, Seoni Malwa, District Narmadapuram had minutely gone through the order passed by this Court as well as the order passed by the Supreme Court and came to a conclusion that as the order passed by this Court has been affirmed by the Supreme Court, therefore, the petitioner is trying to misconstrue the orders and rightly held that the directions given by the High Court are binding on the parties. Once there was so much of discussion before the Tahsildar, Seoni Malwa, District Narmadapuram with regard to the direction given by this Court in MP No.972/2021, then it is impossible

for this Court to accept the excuse given by Tahsildar, Seoni Malwa, District Narmadapuram that he could not understand the order passed by this Court. Furthermore, in the orders passed by the Revenue Courts, in the earlier round of litigation, it was specifically mentioned that the proceedings relate to the mutation. Be that whatever it may be.

23. Respondents no.1 to 4 by filing an application on 6/12/2023 without quoting the proceedings of Section 178 of MPLRC, pleaded that this Court by order dated 25/9/2023 passed in MP No.972/2021 has directed for partition of the property. Thus, it is clear that respondents no.1 to 4 by filing such an application and making various submissions has tried to develop a new case, which was neither here nor there and the Tahsildar, Seoni Malwa, District Narmadapuram even after understanding the order in proper perspective, directed the Patwari to prepare the proposal for partition.

24. Admittedly, there is no decree by the Civil Court for partition. Admittedly, there is no order by any Revenue Court for partition. Admittedly, there is no application under Section 178 of MPLRC for partition and without any application under Section 178 of MPLRC, the Tahsildar, Seoni Malwa, District Narmadapuram directed the Patwari to submit the proposal for partition. How such a direction can be given by misquoting the order of the High Court, could not be explained by the Tahsildar, Seoni Malwa, District Narmadapuram. Under these circumstances, the submissions made by the counsel for the petitioner that the entire proceedings conducted by the Tahsildar, Seoni Malwa, District Narmadapuram were for some extraneous consideration cannot be ignored in a very light manner. Neither the decree passed in Civil Suit No.1A/1975 had authorized the Tahsildar, Seoni Malwa, District Narmadapuram to carry out partition nor this Court had directed for

partition of the property, but the Tahsildar, Seoni Malwa, District Narmadapuram by taking shelter of the order passed by this Court initiated new proceedings and that too contrary to law.

25. Thus, it is clear that the Tahsildar, Seoni Malwa, District Narmadapuram has deliberated exceeded its jurisdiction by making an attempt to put a burden of the same on the shoulders of the High Court. This conclusion is born out of the order dated 27/2/2024 because in the proceedings the petitioner had filed an application before the Tahsildar, Seoni Malwa, District Narmadapuram alongwith certain documents to show that a civil suit has been filed before the Court of Civil Judge, Seoni Malwa, District Narmadapuram, which has been registered as RCSA No.69/2023 and the said Civil Suit is for permanent injunction, partition as well as for possession, apart from declaration of title. In the order dated 27/2/2024 it has also been mentioned by the Tahsildar, Seoni Malwa, District Narmadapuram that a copy of the plaint is also annexed with the application.

26. In response to the said contention, the respondents no.1 to 4 had submitted that they are likely to withdraw the civil suit and, accordingly, the objection filed by the petitioner was rejected by the Tahsildar, Seoni Malwa, District Narmadapuram. Thus, the Tahsildar, Seoni Malwa, District Narmadapuram had already gone through the order passed by this Court in detail and was aware of the fact that some civil suit with regard to the partition is pending, therefore, *prima facie* it appears that with a solitary intention to give advantage to one of the litigating party, he directed the Patwari to prepare a proposal for partition. Had it been the case that a fresh application was moved by respondents no.1 to 4 for partition, then the Tahsildar, Seoni Malwa, District Narmadapuram was free to deal with the same in accordance with law, but prayer for

partition was made in an application, which was filed for compliance of the directions of the High Court passed in MP No.972/2021 and in fact there was no direction for partition by the High Court. Therefore, the submission made by the Tahsildar, Seoni Malwa, District Narmadapuram that he could not understand the order passed by this Court and, therefore, an erroneous order was passed is hereby rejected and the contention made by counsel for the petitioner that the order was passed by the Tahsildar, Seoni Malwa, District Narmadapuram on account of some extraneous considerations, appears to be *prima facie* correct.

Order dated 18/4/2024 passed by Shri Devendra Kumar Singh, Additional Collector, Narmadapuram, District Narmadapuram:

27. The Supreme Court in the case of **Central Board of Trustees Vs. M/s Indore Composite Pvt. Ltd.** decided on **26/7/2018** in **Civil Appeal No.7240/2018** has held as under:-

“13) In our opinion, the need to remand the case to the High Court has occasioned for the reason that the Division Bench dismissed the writ petition filed by the appellant (petitioner) cursorily without dealing with any of the issues arising in the case as also the arguments urged by the parties in support of their case.

14) Indeed, in the absence of any application of judicial mind to the factual and legal controversy involved in the appeal and without there being any discussion, appreciation, reasoning and categorical findings on the issues and why the findings impugned in the writ petition deserve to be upheld or reversed, while dealing with the arguments of the parties in the light of legal principles applicable to the case, it is difficult for this Court to sustain such order of the Division Bench. The only expression used by the Division

Bench in disposing of the writ petition is “on due consideration”. It is not clear to us as to what was that due consideration which persuaded the Division Bench to dispose of the writ petition because we find that in the earlier paras only facts are set out.

15) Time and again, this Court has emphasized on the Courts the need to pass reasoned order in every case which must contain the narration of the bare facts of the case of the parties to the lis, the issues arising in the case, the submissions urged by the parties, the legal principles applicable to the issues involved and the reasons in support of the findings on all the issues arising in the case and urged by the learned counsel for the parties in support of its conclusion. It is really unfortunate that the Division Bench failed to keep in mind these principles while disposing of the writ petition. Such order, in our view, has undoubtedly caused prejudice to the parties because it deprived them to know the reasons as to why one party has won and other has lost. We can never countenance the manner in which such order was passed by the High Court which has compelled us to remand the matter to the High Court for deciding the writ petition afresh on merits.”

28. Thus, it is clear that the reasons are the heard-beat of the orders and in the light of the judgment passed by the Supreme Court in the case of **Mohinder Singh Gill and Another Vs. Chief Election Commissioner, New Delhi and Others**, reported in (1978) 1 SCC 405, reasons which were not mentioned in the order cannot be supplied by a supplementary affidavit, because the action is to be judged by the reasons so mentioned and cannot be supplemented by fresh reasons in the shape of affidavit or otherwise. The Supreme Court in the case of **Mohinder Singh Gill (supra)** has held as under:-

“8. The second equally relevant matter is that when a statutory functionary makes an order based on

certain grounds, its validity must be judged by the reasons so mentioned and cannot be supplemented by fresh reasons in the shape of affidavit or otherwise. Otherwise, an order bad in the beginning may, by the time it comes to court on account of a challenge, get validated by additional grounds later brought out. We may here draw attention to the observations of Bose, J. in *Gordhandas Bhanji [Commr. of Police, Bombay v. Gordhandas Bhanji, 1951 SCC 1088 : AIR 1952 SC 16]* :

“Public orders, publicly made, in exercise of a statutory authority cannot be construed in the light of explanations subsequently given by the officer making the order of what he meant, or of what was in his mind, or what he intended to do. Public orders made by public authorities are meant to have public effect and are intended to affect the actings and conduct of those to whom they are addressed and must be construed objectively with reference to the language used in the order itself.”

Orders are not like old wine becoming better as they grow older.

A CAVEAT

29. The petitioner has filed copy of the memo of revision as Annexure P/14, which was filed before the Additional Collector, Narmadapuram. According to Shri Devendra Kumar Singh, Additional Collector, Narmadapuram, the said revision was filed on 26/3/2024. The revision filed by the petitioner was registered as Case No.1/Revision/2024-25, which was dismissed by order dated 18/4/2024 by passing the following order:-

प्रकरण आज लिया गया।

प्रकरण में आवेदक के अधिवक्ता को समक्ष में सुना गया।

पुनरीक्षण आवेदन में संलग्न दस्तावेजों का अवलोकन किया। माननीय उच्च न्यायालय जबलपुर के विविध पिटीशन क्रं0 972/2021 में पारित आदेश 25 सितम्बर 2023 में स्पष्ट रूप से माननीय व्यवहार न्यायालय के सिविल सूट प्रकरण क्रं0 1-अ/75 आदेश दिनांक 07/01/1976 में पारित समझौता डिक्री के आधार पर समस्त पक्षकारों को सुनवाई हेतु दिनांक 16/10/2023 को तहसीलदार सिवनी

मालवा, जिला नर्मदापुरम के समक्ष उपस्थित होने एवं तहसीलदार को न्यायालय तहसीलदार सिवनी मालवा के रा0प्र0क्र0 283/अ-6/2018-19 का माह फरवरी 2024 के पूर्व, आवेदन का अनिवार्यतः निराकृत करने के आदेश दिये गये है।

तहसीलदार सिवनी मालवा द्वारा माननीय उच्च न्यायालय के उक्त आदेश का पालन दिनांक 27/02/2024 को किया जाना पाया जाता है।

माननीय उच्च न्यायालय के आदेशानुसार तहसीलदार सिवनी मालवा द्वारा कार्यवाही की जा चुकी है।

अतः माननीय उच्च न्यायालय के आदेश के उपरान्त प्रस्तुत पुनरीक्षण प्रकरण में कोई कार्यवाही शेष ना होने से प्रस्तुत पुनरीक्षण याचिका अमान्य की जाती है।

पुनरीक्षणकर्ता आदेश टीप करें।

पश्चात प्रकरण नस्तीवद्ध होकर दाखिल अभिलेखागार होवे।

30. From the aforesaid order, it is clear that the Additional Collector, Narmadapuram did not consider the grounds raised by the petitioner at all and also did not consider the merits of the case, but simply held that since the Tahsildar, Seoni Malwa, District Narmadapuram has passed the order within the time fixed by the High Court, therefore, no further action is required. This Court could not understand the reason for dismissal of the revision. The petitioner had not filed any Contempt Petition before the Collector, Narmadapuram complaining non-compliance of order passed by this Court in MP No.972/2021. Even otherwise, it was beyond the competence of the Additional Collector, Narmadapuram to find out as to whether any contempt has been committed by the Tahsildar, Seoni Malwa, District Narmadapuram or not. Thus, it is clear that the order passed by Shri Devendra Kumar Singh, Additional Collector, Narmadapuram is a glaring example of an order passed because of some extraneous consideration.

Conclusion on merits

31. For the reasons mentioned above, it is clear that this Court had never directed for partition of property and had directed for re-adjudication of application for mutation strictly in accordance with the decree passed by the Civil Court in Civil Suit No.1A/1975. However, after remand, Tehsildar, Seoni Malwa, should have reopened the

original file No.283/A-06/year 2018-19 but instead of doing that he opened a new case and registered it as revenue case No.109/A-27/year 2023-24 and sought proposal for partition. Accordingly, entire proceedings of revenue case No.109/A-27/year 2023-24 are hereby **quashed**. Similarly the order dated 18/4/2024 passed by Additional Collector, Narmadapuram in Case No.0001/Revision/2024-25 is also hereby **quashed**.

32. The Tehsildar, Tehsil Seoni Malwa is directed to reopen the file of case No.283/A-06/year 2018-19 and decide the same in accordance with directions given by this Court on 25/09/2023 in M.P. No.972/2021.

33. With aforesaid observations, petition is **allowed** with cost of **Rs.25,000/-** to be deposited by respondents No.1 to 4 in the Registry of this Court within a period of 30 days, failing which Registrar General shall not only initiate the proceedings for recovery of cost but shall also initiate the proceedings for contempt of Court.

Now this Court would consider the conduct of Shri Rakesh Khajuria Tahsildar, Seoni Malwa, Distt. Narmadapuram and Shri D.K. Singh, Addl. Collector, Narmadapuram.

34. Considering the submissions made by counsel for the parties, this Court by order dated 25/7/2024 came to a conclusion that the Tahsildar, Seoni Malwa, District Narmadapuram has deliberately exceeded the order of remand and without there being any application under Section 178 of MPLRC directed the Patwari to submit the proposal for partition. Similarly, this Court had also found that the revision was dismissed by the Additional Collector, Narmadapuram, District Narmadapuram in a most cursory manner without going through the record and, therefore, it appeared that the Tahsildar, Seoni Malwa, District Narmadapuram and

Additional Collector, Narmadapuram, District Narmadapuram have decided the matter on account of certain extraneous considerations.

35. It is true that whenever a quasi judicial order is passed by the Presiding Officer, then he is not required to justify his order, but when the order is passed in an arbitrary manner and there is a possibility of having passed the said order for extraneous consideration, then personal hearing to such an officer becomes necessary. Accordingly, this Court by order dated 25/7/2024 decided to give an opportunity of personal hearing to Tahsildar, Seoni Malwa, District Narmadapuram and Additional Collector, Narmadapuram, District Narmadapuram to explain their conduct and further the Collector, District Narmadapuram being the head of the revenue district was also directed to remain personally present, so that she can assist the Court to consider the allegations made by the counsel for the petitioner with regard to deliberate acts of the Tahsildar, Seoni Malwa, District Narmadapuram and Additional Collector, Narmadapuram. The presence of Collector was required because she was the best person to apprise this Court regarding duties, responsibilities attached to the office of Tahsildar and Additional Collector.

36. Accordingly, the case was taken up today and in the first half of the day, it was submitted by the Tahsildar, Seoni Malwa, District Narmadapuram that he could not understand the order, therefore, wrong direction for submission of proposal for partition was passed and submitted his unconditional apology, but denied that the order was passed because of any extraneous consideration.

37. The Additional Collector, Narmadapuram, District Narmadapuram also denied the allegations of extraneous consideration, but submitted that he was under an impression that the matter should

have been decided by the end of February, 2024 and since it was already April, 2024, therefore, he passed two line order in order to avoid non-compliance of the order passed by the High Court. Accordingly, Shri Devendra Kumar Singh, Additional Collector, Narmadapuram was directed to point out from the order dated 25/9/2023 passed in MP No.972/2021 to show that even the Appellate/Revisional Authorities was also directed to decide the matter by the end of February, 2024, then it was fairly conceded by Shri Devendra Kumar Singh, Additional Collector, Narmadapuram that the said direction was only for Tahsildar, Seoni Malwa, District Narmadapuram. He also admitted that he has been taught by the State Government that whenever a revision / appeal is filed, then it has to be decided by a detailed order, thereby considering the objections and grounds raised therein, but submitted that since he had misconstrued the order passed by this Court, therefore, in a hurry he passed two lines order, thereby mentioning that the Tahsildar, Seoni Malwa, District Narmadapuram has complied with the order of the High Court within the stipulated period, therefore, no further action is required.

38. Thus, it is clear that the explanation given by Shri Rakesh Khajuria, Tahsildar, Seoni Malwa, Distt. Narmadapuram and Shri D.K. Singh, Add. Collector, Narmadapuram to the effect that they could not understand the order passed by the High Court is nothing but a false stand. The manner in which the authorities have deliberately misconstrued the order passed by this Court, with a solitary intention to play mischief with the petitioner, it is clear that things were moving on account of some extraneous circumstances. Therefore, the petitioner is granted liberty to prosecute the Shri Rakesh Khajuria, Tahsildar, Seoni Malwa, Narmadapuram and Shri D.K. Singh, Add. Collector,

Narmadapuram under the provisions of Prevention of Corruption Act. Since, both the revenue officers have exercised their powers in a malicious, arbitrary manner and for extraneous considerations, therefore, they are not entitled for protection under Judges Protection Act.

Conduct of Smt. Meena, Collector, Narmadapuram in writing a letter directly to the Court

39. It is not out of place to mention here that the Collector, Narmadapuram did not appear and no application seeking exemption from personal appearance was filed, however, Shri Swapnil Ganguly, Deputy Advocate General was in possession of an application for exemption from personal appearance and also sought permission from the Court to file the same. Since presence of the Collector, Narmadapuram was sought to ascertain the allegations made by the counsel for the petitioner against the Tahsildar, Seoni Malwa, District Narmadapuram as well as Additional Collector, Narmadapuram regarding passing of impugned orders for extraneous considerations, therefore, Shri Swapnil Ganguly, Deputy Advocate General was permitted to make oral submissions without submitting an application for exemption from personal appearance. The Tahsildar, Seoni Malwa, District Narmadapuram and Additional Collector, Narmadapuram were heard, they were directed to take their seats and, accordingly, both of them took their seats on the last bench of the Court. When Shri Swapnil Ganguly, Deputy Advocate General was making submissions for exemption from personal appearance of the Collector, Narmadapuram, all of a sudden the Additional Collector, Narmadapuram stood up, took out a brown colour envelop and started moving towards the dais. The manner in which Shri Devendra Kumar Singh, Additional Collector,

Narmadapuram started coming towards the dais alongwith the brown colour envelop in his hand, it was clear that it was with an intention to give it to the Court. Accordingly, this Court requested Shri Devendra Kumar Singh, Additional Collector, Narmadapuram to hand over the said envelop to the Court. Shri Devendra Kumar Singh, Additional Collector, Narmadapurm, who had already reached near the dais, tried to hand over the said brown colour envelop to Shri Swapnil Ganguly, Deputy Advocate General. Shri Swapnil Ganguly, Deputy Advocate General discouraged him and ultimately at the request of the Court, Shri Devendra Kumar Singh, Additional Collector, Narmadapuram handed over the brown colour envelop to the Court. The said envelop was in an open condition and was containing a letter written by Collector, Narmadapuram directly to the Court seeking exemption from her personal appearance. Looking to the open condition of the envelop, it transpired that before coming to the Court, the Additional Collector, Narmadapuram had already shown the said letter to Shri Swapnil Ganguly, Deputy Advocate General, which was written by the Collector, Narmadapurm directly to the Court and Shri Swapnil Ganguly, Deputy Advocate General rightly discouraged filing of the said letter and instead, had drafted an application for exemption from personal appearance of the Collector, Narmadapuram without annexing the said letter. Thus, it is clear that Shri Swapnil Ganguly, Deputy Advocate General must have refused to annex the letter, which was directly addressed to the Court, alongwith an application for exemption from personal appearance, but in spite of that Shri Devendra Kumar Singh, Additional Collector, Narmadapuram, who had taken his seat on the last Bench of the Court, took out a brown colour envelop from his file and came towards the dais alongwith the said letter with a solitary

intention to hand it over to the Court. Accordingly, Shri Swapnil Ganguly, Deputy Advocate General was directed to explain the conduct of the Collector, Narmadapuram in writing the letter directly to the Court. However, it was submitted by Shri Ganguly, Deputy Advocate General that this act of the Collector, Narmadapuram was not appropriate and if the Collector, Narmadapuram was of the view that some written request is to be sent to the Court, then she should have addressed her letter to the Advocate General and not to the Court directly and further submitted that the Additional Collector under some misconception and misapprehension that the Collector, Narmadapuram may scold him for not giving the said letter to the Court, had tried to give the letter to the Court, therefore, the conduct of the Additional Collector, Narmadapuram in making an attempt to hand over the said letter, which was written by the Collector, Narmadapuram by addressing directly to the Court, may be pardoned. However, it was fairly conceded by the counsel for the State that a Collector cannot write a letter directly even to the Chief Secretary and it has to be written through the proper channel and, therefore, the conduct of the Collector, Narmadapuram in writing a letter directly to the Court may be excused, as it was written under some misconception of fact.

40. Since, the Counsel for the State was also of the view that the Collector, Narmadapuram, should not have written a letter seeking exemption from personal appearance directly to the Court, therefore, the personal presence of Collector, Narmadapuram was directed at 4 P.M. to explain her conduct.

41. In the second half of the day, it is submitted by Shri Swapnil Ganguly, Deputy Advocate General that because of a religious gathering likely to take place in future, the Collector, Narmadapuram is busy in

making arrangements and an accident had also taken place resulting in serious injuries to government employees, therefore, she could not come to the Court.

42. It is fairly conceded by Shri Swapnil Ganguly, Deputy Advocate General that the Collector, Narmadapuram should not have written a letter directly to the Court and her conduct in doing so cannot be justified.

43. Considered the submissions made by Shri Swapnil Ganguly, Deputy Advocate General.

44. Initially the presence of the Collector, Narmadapuram was sought for the simple reason that being the head of the revenue district she would be in a better position to understand the duties, liabilities and responsibilities of the revenue officers working under her. Therefore, she would be an asset for this Court to ascertain the allegations made by the counsel for the petitioner with regard to the acts of the Tahsildar, Seoni Malwa, District Narmadapuram and Additional Collector, Narmadapuram, District Narmadapuram as well as allegations made by the counsel for the petitioner that the Tahsildar, Seoni Malwa, District Narmadapuram and Additional Collector, Narmadapuram have acted on account of extraneous considerations. But, instead of assisting the Court, the Collector, Narmadapuram wrote a letter directly to the Court requesting for exemption from personal appearance. The Collector, Narmadapuram should have understood that her presence is required in a pending case and the State Government is a litigant and the rights of the State Government as a litigant are similar to that of other private litigants. No litigant can be allowed to approach the Court directly. If the Collector, Narmadapuram wanted to say anything, then she should have either filed an application before the Registry of this Court in the

proper format or should have got an application filed through the Advocate General's Office, but instead of doing that, the Collector, Narmadapuram thought that she can write a letter directly to the Court.

45. It was contended by Shri Swapnil Ganguly that Collector cannot write letter directly even to Chief Secretary and it has to go through proper channel, accordingly, Shri Swapnil Ganguly, Deputy Advocate General was required to clarify as to whether any of the litigant can write directly to the Court thereby seeking favourable order in the pending case or not, then it was fairly conceded by Shri Ganguly, Deputy Advocate General that the act of Collector Narmadapuram in writing a letter directly to the Court is not correct and it would not only amount to undermining the authority of the Court, but it also amounts to making an attempt to pursue the Court.

46. By condemning the act of Collector, Narmadapuram in writing the letter directly to the Court in **strong words**, the Chief Secretary, State of Madhya Pradesh is directed to look into the matter and to take necessary action against the Collector, Narmadapuram for taking misadventurous step by writing a letter directly to the Court.

47. Let the decision be taken in this regard within a period of one month from today and the Chief Secretary, State of Madhya Pradesh is directed to submit his report before the Registrar General of this Court latest by 30/08/2024.

Act of Shri Devendra Kumar Singh, Additional Collector, Narmadapuram in interfering with the Court proceedings

48. As already pointed out that after hearing the submissions made by Tehsildar, Seoni Malwa, District Narmadapuram as well as Additional Collector, Narmadapuram, they were requested to take their seats and accordingly, both the officers went back and took their seats on the last

bench of this Court. While Shri Swapnil Ganguly, Deputy Advocate General was making submissions for exemption of Collector from personal appearance, Shri Devendra Kumar Singh all of sudden took out a brown colored envelope from file and started moving towards the dais along with letter. That envelope was in an open condition and upper part of envelope was in torn condition, which makes it clear that before handing over it to the Court the envelope was already opened and it was read by somebody. It was fairly conceded by Shri Swapnil Ganguly, Deputy Advocate General that in the morning, the letter was given to him but he decided not to place it on record and had prepared an application for exemption of personal appearance and was making verbal submissions after he was permitted to do so.

49. Shri Devendra Kumar Singh, Additional Collector is holding a senior post in the local administration. The arguments which were being advanced by Shri Swapnil Ganguly, Deputy Advocate General were at the initial stage. He was narrating the facts which had compelled the Collector, Narmadapuram to stay back in her district resulting in her non-appearance. There was no occasion for Shri Devendra Kumar Singh to draw an inference that the verbal prayer made by Deputy Advocate General may not be accepted. It was submitted by Shri Swapnil Ganguly, Deputy Advocate General that since the Collector had directed him to hand-over the letter to the Court, therefore under misapprehension that in case if the appearance is not exempted, then he may be scolded by the Collector, therefore he tried to give the said letter to the Court. This conduct of Shri Devendra Kumar Singh shows that he is afraid of the Collector but he is not afraid of the Constitutional Court.

50. Be that whatever it may be.

51. Even otherwise, it was expected from Shri Devendra Kumar Singh, Additional Collector that he must be knowing that letter cannot be addressed directly to the Court and that too in pending case.

52. Whether Shri Devendra Kumar Singh, Additional Collector is eligible to hold the field posting on the post of Additional Collector or not, is a matter which is to be considered by Chief Secretary. Accordingly, it is left to the wisdom of Chief Secretary as to whether he would permit the indiscipline and disrespectful conduct of his officers towards the Court and he would like to maintain the Majesty of law as well as respect of Constitutional Court or not?

53. Let the decision in this regard be also taken by Chief Secretary within a period of one month from today and a report in this regard be submitted before Registrar General of this Court latest by **30/08/2024**. However, the conduct of Shri Devendra Kumar Singh, Additional Collector, Narmadapuram is **condemned** and a **warning is issued** to him to remain more vigilant in future in appearing before the Court.

What action should be taken against the Tahsildar, Seoni Malwa and Addl. Collector, Narmadapuram

54. During the course of personal hearing, both the officers submitted that they could not understand the orders passed by the High Court which was upheld by the Supreme Court. In view of their own stand, this Court is of the considered opinion that the State must immediately send Shri Rakesh Khajuria, Tahsildar, Seoni Malwa, District Narmadapuram and Shri Devendra Kumar Singh, Additional Collector, Narmadapuram for training for a period of six months, because by passing quasi judicial orders under the provisions of MP Land Revenue Code as well as under other statutes they are dealing with the rights of the parties and if they are not able to understand the law as well as the

directions given by the Supreme Court as well as the High Court, then rights of the parties cannot be left to the mercy of the officers, who are not in a position to understand the case. Accordingly, it is directed that the State Government shall immediately send Shri Rakesh Khajuria, Tahsildar, Seoni Malwa, District Narmadapuram and Shri Devendra Kumar Singh, Additional Collector, Narmadapuram for training for a period of six months. It is further directed that Shri Rakesh Khajuria, Tahsildar, Seoni Malwa, District Narmadapuram and Shri Devendra Kumar Singh, Additional Collector, Narmadapuram, District Narmadapuram shall not discharge any quasi judicial power and Magisterial power for a period of one year from today. It is further directed that after completing the training, both the officers shall work under the supervision of a senior officer, who would test the ability of these officers to deal with the quasi judicial and Magisterial matters and after testing their ability for a period of six months after completion of their training, if the senior officer comes to a conclusion that the officers have attained efficiency to decide the quasi judicial matters and Magisterial matters in an effective manner, then quasi judicial power and Magisterial power shall be restored or else the period of supervision shall be extended by a further period of six months, without conferring extra-judicial and Magisterial powers to them. The Collector, Narmadapuram is directed to immediately withdraw all quasi-judicial and Magisterial powers from ADM and Tahsildar, Seoni Malwa.

55. The Chief Secretary is also directed to keep the certified copy of this order in the service record of Shri Rakesh Khajuria, Tehsildar, Seoni Malwa, District Narmadapuram, Shri Devendra Kumar Singh, Additional Collector, Narmadapuram and the Collector, Narmadapuram

and submit its report in that regard within a period of one month from today i.e. **30/08/2024** before the Registrar General of this Court.

(G.S. AHLUWALIA)
JUDGE

Arun*