



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

BEFORE

HON'BLE SHRI JUSTICE G. S. AHLUWALIA

ON THE 14th OF OCTOBER, 2024

WRIT PETITION No. 20408 of 2024

JAIRAMDAS KUKREJA

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

Appearance:

Shri Himanshu Mishra – Advocate for the petitioner.

Shri Mohan Sausarkar – Government Advocate for the respondent nos.1 to 4/State.

Shri Alabhya Bajpai – Advocate for the respondent no.5 through video conferencing with Bipul Singh Yadav.

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

ORDER

This petition under Article 226 of Constitution of India has been filed seeking the following reliefs :-

“1) Issue a writ in the nature of Certiorari to Set aside the impugned order dated 09.07.2024 passed by the SDO (Respondent No.3).

2) Issue a writ in the nature of Mandamus directing the respondent authorities to amend the land records by reducing the area of the original land that has already been sold, as per the factual situation, in the interest of justice.

3) Call for the entire records from the respondents for kind perusal of the Hon'ble Court.

4) Issue any other writ, order or direction as this Hon'ble Court deems fit and proper in the interest of justice.”



2. It is submitted by counsel for petitioner that petitioner has also filed a civil suit and an order of temporary injunction has been passed. It is submitted that the petitioner filed an application for correction of record and by impugned order dated 9.7.2024 the said application has been rejected. Although the contention to bypass the statutory remedy of appeal is that the petitioner was not granted any opportunity to object to the report submitted by the Tahsildar but there is one more aspect of the matter, which this Court cannot lose sight of. The ordersheets of the Court of SDO (Revenue), Katni have been placed on record, which starts from Page 136. It appears that on 18.8.2023 an application for correction of record was filed by the petitioner. On 18.9.2023 a report from Patwari was sought. It appears that Patwari submitted his report to the Tahsildar, which was considered by Tahsildar on 8.6.2024. The Tahsildar forwarded the report submitted by Patwari and by impugned order dated 9.7.2024 passed in Case No.510/अ(6)अ/2024-25, the SDO (Revenue), Katni accepted the report submitted by Patwari. For accepting the report submitted by Patwari through Tahsildar, Katni, the SDO (Revenue) Katni did not give any reasons and passed two lines order, which reads as under :-

“अतः प्रकरण में संलग्न तहसीलदार कटनी नगर के प्रतिवेदन से सहमत होते हुये मिसल बंदोबस्त के रकवे एवं वर्तमान अभिलेख के रकवे में कोई परिवर्तन नहीं होने से आवेदक द्वारा प्रस्तुत अभिलेख सुधार संबंधी प्रकरण निरस्त किया जाता है। पक्षकार सूचित हो। बाद कार्यवाही प्रकरण दाखिल दफतर हो।”

3. The only question for consideration is as to whether any finding given by the revenue court without any reasons can be upheld or not?



4. Reasons are the backbone of the order and only from the reasons it can be deciphered as to what persuaded the authority to draw a particular conclusion. Merely by mentioning that SDO has agreed with the report submitted by Tahsildar, cannot be said to be an order in accordance with law.

5. The Supreme Court in the case of **Central Board of Trustees v. M/s Indore Composite Pvt. Ltd.** decided in **C.A. No.7240/2018** has held as under:

“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.”

6. The Supreme Court in the case of **Brijmani Devi v. Pappu Kumar**, reported in (2022) 4 SCC 497 has held as under :-

“32. On the aspect of the duty to accord reasons for a decision arrived at by a court, or for that matter, even a quasi-judicial authority, it would be useful to refer to a judgment of this Court in *Kranti Associates (P) Ltd. v. Masood Ahmed Khan* [*Kranti Associates (P) Ltd. v. Masood Ahmed Khan*, (2010) 9 SCC 496 : (2010) 3 SCC (Civ) 852] , wherein after referring to a number of judgments this Court summarised at para 47 the law on the point. The relevant principles for the purpose of this case are extracted as under:

32.1. Insistence on recording of reasons is meant to serve the wider principle of justice that justice must not only be done it must also appear to be done as well.

32.2. Recording of reasons also operates as a valid restraint on any possible arbitrary exercise of judicial and quasi-judicial or even administrative power.

32.3. Reasons reassure that discretion has been exercised by the decision-maker on relevant grounds and by disregarding extraneous considerations.



32.4. Reasons have virtually become as indispensable a component of a decision-making process as observing principles of natural justice by judicial, quasi-judicial and even by administrative bodies.

32.5. The ongoing judicial trend in all countries committed to rule of law and constitutional governance is in favour of reasoned decisions based on relevant facts. This is virtually the lifeblood of judicial decision-making justifying the principle that reason is the soul of justice.

32.6. Judicial or even quasi-judicial opinions these days can be as different as the Judges and authorities who deliver them. All these decisions serve one common purpose which is to demonstrate by reason that the relevant factors have been objectively considered. This is important for sustaining the litigants' faith in the justice delivery system.

32.7. Insistence on reason is a requirement for both judicial accountability and transparency.

32.8. If a Judge or a quasi-judicial authority is not candid enough about his/her decision-making process then it is impossible to know whether the person deciding is faithful to the doctrine of precedent or to principles of incrementalism.

32.9. Reasons in support of decisions must be cogent, clear and succinct. A pretence of reasons or “rubber-stamp reasons” is not to be equated with a valid decision-making process.

32.10. It cannot be doubted that transparency is the sine qua non of restraint on abuse of judicial powers. Transparency in decision-making not only makes the Judges and decision-makers less prone to errors but also makes them subject to



broader scrutiny. (*See David Shapiro in Defence of Judicial Candor* [(1987) 100 Harvard Law Review 731-37])

32.11. In all common law jurisdictions judgments play a vital role in setting up precedents for the future. Therefore, for development of law, requirement of giving reasons for the decision is of the essence and is virtually a part of “due process”.

7. Under these circumstances, this Court is of considered opinion that in the absence of any reasons to support the findings, the order dated 9.7.2024 passed by SDO (Revenue), Katni cannot be upheld. Once the petitioner is not aware of the reasons for accepting the report submitted by Patwari through Tahsildar, Katni, then this Court can ignore the availability of alternative remedy because in absence of reasons, the petitioner is not in a position to meet out the grounds on which his application was rejected.

8. Accordingly, alternative remedy of filing an appeal is hereby ignored. Since the order under challenge is an unreasoned order, therefore, order dated 9.7.2024 passed in Case No.510/अ(6)अ/2024-25 by the SDO (Revenue), Katni is **set aside**.

9. The matter is remanded back to SDO (Revenue), Katni to decide the same after giving full opportunity of hearing to the parties to meet out the report submitted by Patwari through Tahsildar, Katni. In case if the authority, who has passed the impugned order, is still posted as SDO (Revenue), Katni, then the Collector, Katni is directed to assign this case to some other SDO or if the authority, who has passed the impugned order, has already been transferred,



then the SDO (Revenue), Katni posted in place of the authority, who has passed the impugned order, shall take up the matter.

10. The parties are directed to appear before the SDO, Katni on **5.11.2024**. No new notice would be required to be given to any of the parties. If any of the contesting party has any objection to the report submitted by Patwari through Tahsildar, Katni, then the same shall be filed on the very same day. The SDO (Revenue), Katni shall decide the application after considering the submissions raised by the parties.

11. Let the entire exercise be completed within a period of 2 months from the date of appearance of parties.

12. Needless to mention that this Court has not considered the merits/demerits of the case and this matter has been remanded back purely on a technical issue of unreasoned order and, therefore, SDO (Revenue), Katni shall decide the matter without getting influenced or prejudiced by remand of his order.

13. The petition succeeds and is hereby **allowed**.

(G.S.AHLUWALIA)
JUDGE

TG/-