IN THE HIGH COURT OF MADHYA PRADESH AT GWALIOR

BEFORE

HON'BLE SHRI JUSTICE MILIND RAMESH PHADKE

ON THE 28th OF JULY, 2026

WRIT PETITION No. 1771 of 2021

THE COMPETENT AUTHORITY-CUM-EXECUTIVE DIRECTOR M.P. INDUSTRIAL DEVELOPMENT CORPORATION LTD.

Versus

M/S SHRI RAMRAJA INDUSTRIES PLTO THR. AND OTHERS

Appearance:

Shri Raghvendra Dixit - Advocate for the petitioner.

Shri Dinesh Kumar Agrawal - Advocate for the respondent [R-1].

ORDER

The petitioner has filed the present writ petition under Article 226 of the Constitution of India challenging the order dated 28.11.2020 passed by the Commissioner, Chambal Division, Morena, whereby the appeal preferred by respondent No.1 was allowed and the eviction order dated 09.09.2020 passed by the Competent Authority under the M.P. Lok Parisar (Bedhakli) Adhiniyam, 1974 was set aside.

In brief, the facts of the case are that the petitioner is a State instrumentality entrusted with the allotment and management of industrial plots in industrial areas in accordance with the statutory framework governing such allotments. The rights and obligations relating to industrial land, including execution and transfer of lease deeds, transfer of assets, and handing over of possession, are governed by the M.P. Rajya Audhyogik Bhumi Evam Bhawan Prabandhan Niyam, 2015. Industrial plots bearing Nos. 110-B and 111 measuring 13,104.08 sq. metres and Plot No. 110-A measuring 4,368.02 sq. metres situated at Malanpur, District

Bhind, were allotted in favour of respondent No.2 in the years 1992 and 1996 respectively. Lease deeds and an amended lease deed were executed in favour of respondent No.2. For establishment of its industrial unit, respondent No.2 obtained financial assistance from the State Bank of India and assigned its leasehold rights in favour of the Bank as security. Upon default in repayment of the loan, the Bank took possession of the assets situated on the leased land and conducted an auction. Respondent No.1 purchased only the industrial assets standing on the land through the auction sale on 11.03.2014. According to the petitioner, the auction did not result in transfer of the leasehold rights over the land, which continued to remain vested in the petitioner until transferred in accordance with the statutory rules. After the auction, the petitioner repeatedly called upon respondent No.1 through communications dated 11.12.2014, 19.02.2015 and 17.04.2015 to complete the formalities for transfer of the lease in accordance with Rules 18, 19 and 23 of the Niyam, 2015. Since respondent No.1 failed to submit the requisite application and documents, a show-cause notice dated 04.08.2015 was issued. As no satisfactory response was received, the lease granted in favour of respondent No.2 was cancelled by order dated 10.05.2016. The cancellation order was challenged before the Managing Director, M.P. TRIFAC Bhopal. By order dated 10.10.2016, the appellate authority directed respondent No.1, being the auction purchaser, to submit an application for transfer of the lease within one month. The petitioner was directed to recalculate the dues and issue a fresh demand notice, while respondent No.1 was required to clear the outstanding dues, upon which the petitioner was to execute a lease deed in its favour. The appellate authority further directed that if respondent No.1 failed to submit the application or clear the dues, the cancellation of the lease would automatically revive and the petitioner would be at liberty to proceed in accordance with law. The petitioner thereafter issued several communications dated 17.10.2016, 03.04.2017, 26.07.2018 and 02.11.2018 calling upon respondent No.1 to initiate the process for transfer of the lease. According to the petitioner, respondent No.1 neither submitted any application nor complied with the conditions stipulated in the appellate order. Consequently, the cancellation of the lease automatically revived. Despite repeated notices requiring respondent No.1 to vacate the premises, possession was not handed over. The Executive Director of the petitioner Corporation, being the Competent Authority notified under Section 3 of the M.P. Lok Parisar (Bedhakli) Adhiniyam, 1974, initiated proceedings under Section 4(1) of the Act on the ground that respondent No.1 was in unauthorized occupation of the land. After issuance of notice and affording opportunity of hearing, the Competent Authority passed an eviction order dated 09.09.2020 directing respondent No.1 to remove its unauthorized occupation. Aggrieved by the eviction order, respondent No.1 preferred an appeal under Section 9 of the Adhiniyam, 1974 before the Commissioner, Chambal Division, Morena. Along with the appeal, respondent No.1 relied upon the sale certificate issued by the State Bank of India, partnership documents, correspondence exchanged with the petitioner and an interim order dated 30.11.2015 passed in W.P. No.2265/2015. The appellate authority granted interim protection on 15.09.2020. The petitioner filed a detailed reply contending that respondent No.1 had purchased only the assets situated on the land, had failed to obtain transfer of the lease in accordance with the statutory rules, had not complied with the order dated 10.10.2016, and consequently had no legal title or authority to continue in possession of the land. By the impugned order dated 28.11.2020, however, the appellate authority allowed the appeal and set aside the eviction order.

Learned counsel for the petitioner submitted that the impugned order is wholly unsustainable as it has been passed without considering the detailed reply and counter affidavit filed by the petitioner before the appellate authority. It is contended that the order merely records the submissions advanced on behalf of respondent No.1 and neither reflects the appearance of the petitioner's counsel nor deals with any of the factual or legal objections specifically raised by the petitioner. The appellate authority, according to the petitioner, disposed of the appeal in a cursory manner through a two-page order solely on the basis of the interim order dated 30.11.2015 passed by this Court in W.P. No.2265/2015, without examining the statutory provisions governing transfer of leasehold rights or the legality of the eviction proceedings.

It is further submitted that respondent No.1 never acquired any right, title or interest in the land merely because it purchased the industrial assets in the auction conducted by the secured creditor. The auction sale was confined to the movable and immovable assets standing on the land and did not operate as a transfer of the leasehold rights, which could only be transferred in accordance with the provisions of Rules 18, 19 and 23 of the Niyam, 2015.

Learned counsel contended that the lease granted in favour of respondent No.2 stood cancelled on 10.05.2016. Although the appellate authority, by order dated 10.10.2016, granted respondent No.1 an opportunity to regularize its occupation by applying for transfer of the lease and clearing all outstanding dues, respondent No.1 failed to comply with those mandatory conditions. In view of such non-compliance, the cancellation of the lease automatically revived in terms of the appellate order itself. Consequently, respondent No.1 had no subsisting title or lawful authority to retain possession of the land.

It is argued that once the lease stood cancelled and respondent No.1 failed to obtain transfer of the lease, its possession became unauthorized, thereby justifying initiation of proceedings under the M.P. Lok Parisar (Bedhakli) Adhiniyam, 1974. The Competent Authority followed the prescribed procedure, afforded adequate opportunity to respondent No.1 and thereafter rightly passed the eviction order dated 09.09.2020.

Learned counsel further submitted that the appellate authority committed a serious error in relying upon the interim order dated 30.11.2015 passed in W.P. No.2265/2015. The said writ petition pertained to recovery proceedings initiated by the Commercial Tax Department and had no connection whatsoever with the title or possession of the industrial land. The petitioner Corporation was not even a party to those proceedings. Therefore, the interim protection granted therein could not have been treated as a bar against proceedings initiated under the M.P. Lok Parisar (Bedhakli) Adhiniyam, 1974.

It is lastly contended that had the appellate authority examined the petitioner's detailed reply, the relevant statutory rules, the terms of the lease deed and the effect of the order dated 10.10.2016, it could not have interfered with the eviction order. The impugned order suffers from complete non-consideration of relevant material, ignores the statutory scheme governing transfer of leasehold rights, proceeds on irrelevant considerations, and is therefore arbitrary and unsustainable in law. It is accordingly prayed that the impugned order dated 28.11.2020 be quashed and the eviction order dated 09.09.2020 be restored.

Per contra, learned counsel for the respondent No.1 submits that the present writ petition filed by "the Competent Authority Cum Executive Director" challenging the order dated 28.11.2020 passed by the Appellate Authority, the Commissioner of Chambal Division, Morena, is fundamentally not maintainable. The lower quasi-judicial adjudicating authority, whose original order dated

09.09.2020 was set aside on appeal, cannot be considered an aggrieved party under the law and is completely disentitled from challenging the reverse decision of the higher Appellate Authority. In accordance with the binding principles laid down by the Hon'ble Supreme Court in **Mohd. Shahabuddin v. State of Bihar and Mohtesham Mohd. Ismail v. Special Director, Enforcement Directorate and Another [(2007) 8 SCC 254]**, a lower quasi-judicial officer who adjudicated a dispute cannot institute a petition challenging the corrective order of the superior appellate forum. Furthermore, the Madhya Pradesh Industrial Development Corporation Limited, formerly known as Madhya Pradesh Infrastructure Development Corporation, is an independent body corporate. If the corporate entity itself intended to challenge the appellate order, it could only express such will and intention through an explicit resolution passed by its Board of Directors. The Petitioner, acting merely in the capacity of an Executive Director or Competent Authority, cannot be equated with the corporate body itself, a principle well-established by the Constitution Bench of the Hon'ble Supreme Court in **Narayan Das Indurkhiya v. State of M.P. [AIR 1974 SC 1232]** . Without an authorization resolution from the Board of Directors, the petition as framed and filed by the individual authority is incompetent.

It is further submitted that the subject property comprising industrial land admeasuring approximately 1,88,000 square feet, designated as Plot No. 110-111, Industrial Area Malanpur, Tehsil Gohad, District Bhind, was originally leased on 16.07.1992 to M/s. Super Sack, a division of Midland Plastic Limited, for a period of 92 years. The lessee subsequently assigned its leasehold rights to the State Bank of India to secure financial advances with the consent of the Corporation. Following default by the original lessee, the State Bank of India, acting as a secured creditor, initiated recovery proceedings and auctioned the property under

Section 13 of the SARFAESI Act, 2002, read with the Security Interest (Enforcement) Rules, 2002. Respondent No. 1 participated in the public auction, paid the full consideration of Rs. 80,00,000/-, and was issued a formal Sale Certificate on 11.03.2014, thereby taking lawful possession of the property. The Sale Certificate explicitly records that the sale of the scheduled property was made free from all encumbrances known to the secured creditor. Statutory mandates under Sub-Rule (7) and Sub-Rule (10) of Rule 9 of the Security Interest (Enforcement) Rules, 2002, dictate that an auction purchaser who buys property sold free from encumbrances cannot be saddled with past liabilities incurred by the predecessor-in-interest prior to the date of the Sale Certificate. Promptly after acquiring the property, Respondent No. 1 applied on 07.11.2014 for the formal transfer of leasehold rights. Instead of completing the administrative transfer, the authorities illegally raised a demand of Rs. 18,51,907/-, later inflated to Rs. 27,62,897/-, seeking to recover past dues left unpaid by the defaulting prior entity, M/s. Super Sack. Respondent No. 1 resisted this uncalled-for demand, asserting that an auction purchaser in a "free from encumbrance" SARFAESI sale cannot be made liable for past arrears of the original borrower, a principle affirmed in decisions such as W.P. No. 5812/2013 (M/s Virendra Builders & Developers Pvt. Ltd. v. State of M.P.).The subsequent actions of cancelling the lease on 10.05.2016 and initiating eviction proceedings were wholly arbitrary. The summary order of eviction dated 09.09.2020 passed under Section 4 of the M.P. Lok Parisar (Bedakhali) Adhiniyam, 1974, was issued in gross violation of statutory procedure and the principles of natural justice. The underlying notice dated 20.03.2020 was issued immediately prior to the nationwide COVID-19 lockdown, scheduling a hearing date of 24.03.2020 when no meaningful appearance was possible. Mandatory steps regarding notice publication under Section 4(3) and mandatory procedure prescribed under Section 5 of the Adhiniyam were skipped, running directly counter to the provisions of law as highlighted in **New India Assurance Company Ltd. v. Nusli Neville Wadia and Another [(2008) 3 SCC 279].**The Appellate Authority properly appreciated these procedural defects, statutory violations, and jurisdictional errors, rightly setting aside the eviction order by its order dated 28.11.2020. Respondent No. 1 has consistently maintained its willingness to pay all legitimate statutory transfer fees and lease charges accrued from the date of taking possession, i.e., 11.03.2014 onwards, however, the Respondent No. 1 can not be compelled to pay alleged dues pertaining to M/s. Super Sack. In light of these facts and settled legal principles, Respondent No. 1 prays that this Hon'ble Court may be pleased to dismiss present petition.

At this juncture, learned counsel for the petitioner prays for time to amend the cause title.

The prayer is not opposed by the learned counsel appearing for the respondent No.1.

This Court, without entering into this technicality, deems it appropriate to decide the matter.

Heard counsel for the parties and perused the record.

The jurisdiction exercised by the Competent Authority under the provisions of the M.P. Lok Parisar (Bedakhali) Adhiniyam, 1974 is confined to eviction of persons who are in "unauthorised occupation" of public premises. Section 2(g) of the Adhiniyam defines "unauthorised occupation" to mean occupation of public premises without authority or continuance in occupation after the authority under which such occupation was permitted has expired or has been duly determined.

In the facts of the present case, respondent No.1 entered into possession pursuant to a public auction conducted by the secured creditor under the SARFAESI Act and was issued a sale certificate. Its possession, therefore, cannot be equated with that of a rank trespasser or a person who has clandestinely occupied the premises. The very foundation of respondent No.1's possession is traceable to a statutory auction conducted by the secured creditor. Merely because disputes subsequently arose regarding transfer of leasehold rights or liability to pay earlier dues, respondent No.1 cannot be brought within the ambit of "unauthorised occupation" as defined under Section 2(g) of the M.P. Lok Parisar (Bedakhali) Adhiniyam, 1974.

The controversy between the parties substantially relates to transfer of leasehold rights and determination of financial liabilities arising out of the auction sale. Such issues cannot, by themselves, furnish a basis for invoking the summary eviction mechanism contemplated under the Adhiniyam. The Competent Authority proceeded on the assumption that non-transfer of lease automatically rendered respondent No.1 an unauthorized occupant, without appreciating the legal effect of the auction sale and the nature of possession acquired by respondent No.1 through the secured creditor.

This Court also finds substance in the submission advanced on behalf of respondent No.1 that the dispute regarding recovery of outstanding dues of the previous lessee cannot be resolved by resorting to eviction proceedings under the Adhiniyam. If the petitioner is entitled to recover any amount representing arrears or liabilities attributable to the previous lessee, it shall be at liberty to recover the same from the person legally liable therefor, including the secured creditor, if permissible in law, or from any other person against whom such liability is legally enforceable. However, respondent No.1, being an auction purchaser, cannot be subjected to eviction proceedings solely on account of disputes relating to such previous outstanding dues.

The Appellate Authority has rightly interfered with the order passed by the Competent Authority. This Court does not find any perversity, jurisdictional error or patent illegality in the impugned order warranting interference in exercise of powers under Article 226 of the Constitution of India.

Accordingly, the writ petition, being devoid of merit, deserves to be and is hereby **dismissed**. It is, however, observed that dismissal of the present petition shall not preclude the petitioner from adopting such remedies as may be available in law for recovery of any outstanding dues from the person or authority legally liable to discharge the same.

No order as to costs.

(MILIND RAMESH PHADKE)
JUDGE

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