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WP-8169-2026

IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE VISHAL MISHRA

ON THE 30th OF OCTOBER, 2026WRIT PETITION No. 8169 of 2026

CNR No.: MPHC010160812026

*HINDUSTAN ABHIKARAN A REGISTERED PARTNERSHIP FIRM
AND ANR*

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

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Appearance:

Shri Avinash Zargar - Advocate for petitioners.

Shri Jubin Prasad - Panel Lawyer for respondent No.1/State.

*Shri Prakash Kumar Gupta - Advocate for respondents No.2, 3 and
4/Corporation.*

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ORDER

This petition is filed seeking the following reliefs :

- (i) That this Hon'ble Court may kindly be pleased to issue a writ in the nature of certiorari and set aside the impugned demand notice dated 18.02.2026 (Annexure P-1) issued by respondent 4 in so far it contains direction of attachment of the shops of petitioners.
- (ii) That any other relief as may deem fit in the interest of justice, may also kindly be granted.

2. Challenge is made to the notice dated 18.02.2026 issued to the owner of the premises in question. The petitioner No. 1 is in possession of 4 shops and petitioner No.2 is in possession of 2 shops situated at Pandhana Road Khandwa, District Khandwa (M.P.). The said shops are owned by respondent No.5 and the petitioners are tenants of the premises in question for past 35



years.

3. The impugned notice (Annexure P/1) reads as under :

आपके भवन पर नगर पालिक निगम के संपत्तिकर की राशि मार्च 2025 तक 265330/-राशि का मध्यप्रदेश नगर पालिक निगम अधिनियम 1956 की धारा 174 के अंतर्गत आपको मांग का सूचना-पत्र तामिल किया गया था। परंतु आपके द्वारा समयावधि के पश्चात भी उक्त बकाया राशि का भुगतान नहीं किया गया।

वर्तमान में आपके भवन पर वर्ष 2025-26 संपत्तिकर की राशि 39282/- देय है। इस प्रकार 304612/- बकाया है।

अतः आपको सूचित किया जाता है कि सूचना प्राप्ति के 24 घंटे में उक्त बकाया करों की राशि नगर पालिक निगम कोष में जमा कर रसीद प्राप्त करें, अन्यथा समयावधि पश्चात आपके भवन पर मध्यप्रदेश नगर पालिक निगम अधिनियम 1956 की धारा 175 के अधीन एवं अधिनियम की धारा 177 के उपबंधों के अधीन चल अचल संपत्ति कुर्क कर वसूली कार्यवाही की जावेगी।

4. Counsel appearing for the petitioners submits that the petitioners are on rent in the premises in question. No such notice has been issued to the petitioners. In absence of any notice to the petitioners, no action can be taken against them. It is pointed out that for purpose of recovery of property tax, notice of auctioning the property should not have been issued by the authorities. He has placed reliance upon the order passed by this Court in the M/s Parkson Decor Galleria Private Limited vs Indore Municipal Corporation and others : WP No. 17290 of 2024 (Indore Bench) decided on 05.07.2024 wherein it is held as under :

5. Heard. On due consideration, and on perusal of the documents filed on record, this Court finds that the issue raised in the petition has already been decided by the co-ordinate Bench of this Court in the case of Soheli Ansari (supra), which read as under:-

“ By this writ petition, the petitioner has challenged the action of respondent no. 1 in putting lock on the rented shop of petitioner. The petitioner's case is that he had taken the shop at 159 MG Road Paliwal Tower Indore on rent from respondent no. 2 and respondent no. 2 had committed default in payment of property tax, therefore, the shop of petitioner has been illegally locked by respondent no.1. Respondent no. 1 has filed reply and taken the stand that the impugned action has been taken by respondent no. 1 to recover the property tax which was due and payable by respondent no.2. Having heard the learned counsel for the parties and on perusal of the record it is noticed that issue of jurisdiction of respondent no. 1 Municipal corporation to seal or lock the rented premises for recovery of property tax is already settled by



this court wherein it has been held that Municipal corporation has power to attach the rent but it does not have the power to seal the rented premises for recovery of property tax. In this regard in the matter of Saleem Mansoori and others Vs. Municipal Corporation and others reported in 2009(3) MPLJ 519 it has been held as under:

(6) A close perusal of the aforesaid provisions reveals that, it is within the power of the municipal corporation, to recover the property tax charged and levied on the owner even from the occupier of said premises in the manner and to the extent as is provided in the act. Whereas, section 134 (6) stipulates that in case of property tax, by the attachment of rent due in respect of the property. A conjoint reading of section 141 (2) and section 134 (6) reveals that the recovery of property tax, if it is to be effected on an occupier who happens to be tenant which can only be by attachment rent due in respect of the said property. Learned counsel for the respondent - corporation has failed to show any provision which empowers the municipal corporation to effect recovery by putting a lock over the property in occupation of a tenant to effect recovery of property tax.

The Coordinate Bench of this court also in the matter of Kewalram Jaswani Vs. Indore Municipal corporation and another in WP no. 7260/18 vide order dated 4/4/2018 taking note of the provision of Municipal Corporation Act has held that the law does not provide for placing a lock over the premises which is being used by the tenant. Considering the legal position this court vide interim order dated 20th July 2018 had directed the respondents to open the lock put-up in the shop of petitioner.

Counsel for petitioner has informed that lock has now been opened. Learned counsel for respondent no. 1 submits that premises in question was locked because respondent no. 1 was not aware of the fact that it was a tenanted premises. Having regard to the aforesaid factual and legal position and also taking into account of the fact that respondent no. 1 municipal corporation has no right to seal or lock the rented premises for recovery of property tax, the present writ petition is disposed off by restraining the respondent no. 1 from putting the lock in the premises in question for the recovery of property tax. However, the respondent no. 1 would be at liberty to attach the rent and take other action as has been provided under the Act.”

6. A bare perusal of the aforesaid order reveals that this Court has already relied upon the earlier decision in the case of Saleem Mansoori and others vs. Municipal Corporation and others reported as 2009(3) MPLJ 519, and has held that the Municipal Corporation has no right to seal or lock the rented premises for recovery of property tax.

5. Counsel appearing for the respondents No.2 to 4-Corporation has filed reply in the matter wherein it is stated thus :

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C. The answering respondents are conscious of the order dated 05.07.2024 passed by the Hon'ble High Court in W.P. No. 17290 / 2024 as well as the legal principles discussed therein concerning



recovery of property tax from rented premises. The answering respondents shall act in conformity with the binding directions applicable to the present case.

D. That the answering respondents submit that the Corporation is entitled to pursue such modes of recovery as are specifically permissible under the Act, including attachment of rent payable in respect of the property, wherever the statutory conditions for such action are satisfied.

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3. It is further submitted that by order dated 18.02.2026 (Annexure P/1), the Commissioner, Municipal Corporation Khandwa has not committed any error of law and provision. Hence, the order dated 18.02.2026 issued by the answering respondent is just and proper."

6. After going through the reply, a specific query was put to the counsel for the respondents No.2 to 4-Corporation that whether for recovery of property tax, the notice for auctioning of the property can be issued. He fairly submits before this Court that they are aware of the law laid down by this Court in WP No. 17290 of 2024 (supra) and will take proceedings in accordance with law for recovery of property tax. He was asked to justify that how such notice was issued. He submits before this Court that it is only the notice and further proceedings will be taken in accordance with law.

7. Once the notice has been issued for auctioning the property of the owner for recovery of the property tax, then how subsequent proceedings for recovery apart from what has been mentioned in the notice can be initiated by the respondents-Corporation, is not explained by the counsel appearing for the respondents No.2 to 4-Corporation.

8. Under these circumstances, the stand taken by the counsel for respondents-Corporation is unjustified. They have admitted in the reply that they are aware of the legal provisions and the law laid down in WP No. 17290 of 2024 but despite the same the notice for auctioning of the property



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of the owner has been issued which could not have been done by the respondents-Corporation. Therefore, the impugned notice becomes unsustainable. No auction of the property could be done for recovery of the property tax. Accordingly, the impugned notice dated 18.02.2026 is hereby quashed.

9. In above terms, the petition stands allowed and disposed of finally.

(VISHAL MISHRA)
JUDGE

VV