

HIGH COURT OF MADHYA PRADESH : BENCH AT INDORE.

SINGLE BENCH : HON'BLE SHRI N.K. Mody, J.

WP. No.5094/2011

Narendra Rathore S/o Ballu Rathore

Vs.

State of Madhya Pradesh, through Principal Secretary & others

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Petitioner by Mr.SS. Chouhan, advocate.

Respondent Nos. 1 & 2 by Mr. Pramod Mitha, GA.

Respondent Nos. 3 & 4 by Mr. CB. Patne, advocate.

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O R D E R

(Passed on 30th day of March, 2012)

The prayer in the petition is to quash the advertisement dated 25/05/2011 Annexure P/3 and also quash the auction proceeding conducted by the respondent No.4.

Learned counsel for the petitioner argued at length and submits that vide resolution dated 05/03/03 a room was allotted to the petitioner on rent @ Rs.351/- per month by the respondent Nos. 3 & 4, for which rent note was executed on 24/06/04. It is submitted that since then the petitioner is in occupation of the room. It is submitted that an advertisement has been published by respondent No.4 on 25/05/2011, wherein it is stated that as per resolution dated 20/05/11 six shops of respondent Nos. 3 & 4 shall be auctioned on 08/06/11, for which interested persons can participate. It is submitted that the respondent No.4 issued a notice on 01/06/2011, which was received by the petitioner on 07/06/2011, wherein petitioner was asked to vacate the accommodation, which is in his possession. It is submitted that the notice itself is illegal. It is submitted that the advertisement dated 25/05/2011 is also illegal as it is not in accordance with the Rule

8 of M.P.Panchayat (Transfer of Immovable Property) Rules, 1994. It is submitted that in the facts and circumstances of the case, petition filed by the petitioner be allowed and the notice Annexure P/4 be quashed.

Reply has been filed by the respondent Nos. 3 & 4 wherein it is alleged that the shops which are six in numbers were rented out temporarily, therefore, the notice were issued to vacate the shop on or before 15/06/2011. It is submitted that the shop which is in occupation of the petitioner has been auctioned for a sum of Rs.3,61,000/- to one Kamal S/o Nathulal, who has deposited a sum of Rs.2,10,800/-. It is submitted that since the petitioner did not vacate the shop and handed over the possession to Kamal, therefore, representation was submitted by the auction purchaser, but the petitioner has deliberately not impleaded Kamal as party. It is submitted that entire amount of Rs.3,61,000/- has been deposited by the Kamal. It is submitted that in the circumstances notice was issued. It is submitted that the petition be dismissed.

From perusal of the record it is evident that vide notice Annexure P/4 petitioner has been informed to vacate the shop, failing which legal action shall be taken against the petitioner. Undisputedly the petitioner is in occupation of the shop and as per the notice respondent Nos. 3 & 4 have informed that in case the accommodation is not vacated, legal action shall be taken against the petitioner. In the facts and circumstances of the case, petition filed by the petitioner is disposed of with a short direction that the respondent Nos. 3 & 4 shall do the needful as per law and shall not take law in their hands.

With the aforesaid observations, petition stands disposed of.

(N.K. MODY)
JUDGE

Anurag*