

M A No. 312 / 2016

29/07/2016

Mr. Ayushman Choudhary,, learned counsel for the appellant.

None for the respondent even after service of notice.

The appellant before this Court – Indore Development Authority has filed this present appeal being aggrieved by the order dated 29/10/2015 passed by 16<sup>th</sup> Additional District Judge, Indore in Civil Suit No. 10A/2015.

Facts of the case reveal that a Civil Suit was preferred by the respondent – plaintiff before the trial Court and it was stated that on account of a letter dated 20/8/1992, a plot in Scheme No. 78 was allotted to the plaintiff on 16/11/1992. It was stated that the resolution was passed on No profit No Loss basis to construct an auditorium and possession of the suit property was delivered to the plaintiff. An agreement was also executed between the parties on 21/5/1993. The suit property mentioned in the agreement was 10075 sqm, but later on, on actual measurement it was found to be 11065.794 sqm., It has been argued by the learned counsel for the appellant that on account of non deposit of lease rent and premium amount in respect of the allotted plot, a Show Cause Notice was issued on 11/6/2014 and the plaintiff was directed to file a reply. The plaintiff submitted a reply and at the same time filed Civil Suit. It has been further stated that the trial Court has stayed

all further proceedings in respect of the letter dated 11/6/2014 and has also held that the respondent will not evict the plaintiff from the suit premises.

Learned counsel for the appellant – Indore Development Authority has vehemently argued before this Court that as lease rent was not paid, there was a breach of conditions and as per the lease agreement they have rightly issued Show Cause Notice and proper course of action would have been to permit the Indore Development Authority to take final decision in the matter. However, he has conceded before this Court that the Indore Development Authority cannot forcibly evict the respondent without following the prescribed procedure.

In spite of service of notice, there is no appearance on behalf of the respondent.

This Court has carefully considered the order passed by the Court below and is of the opinion that the Indore Development Authority is certainly free to proceed ahead in the matter on the basis of notice dt. 11/6/2014, however, the Indore Development Authority in case arrives at a conclusion that eviction of the plaintiff has become inevitable, shall follow the due procedure prescribed under the law.

It has been brought to the notice of this Court that Indore Development Authority, in case has to evict a person from any land under the ownership of the Indore Development

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Authority, has to follow the procedure prescribed under the M.P. Lok Parisar (Bedakhali) Adhiniyam, 1974.

Resultantly, the appeal stands allowed. Impugned order is hereby quashed. Appellant – Indore Development Authority shall be free to proceed ahead in the matter by following prescribed procedure in respect of cancellation of lease and for the eviction purpose the Indore Development Authority shall be free to take appropriate action in accordance with law, as provided under the M.P. Lok Parisar (Bedakhali) Adhiniyam, 1974.

(S. C. SHARMA)  
J U D G E

**KR**