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

**BEFORE  
HON'BLE SHRI JUSTICE VIVEK RUSIA  
ON THE 19<sup>th</sup> OF APRIL, 2024**

**WRIT PETITION No. 8333 of 2023**

**BETWEEN:-**

**SMT. KANCHAN MOTIANI W/O SHRI SATISH MOTIANI,  
AGED ABOUT 66 YEARS, OCCUPATION: BUSINESS R/O 6  
GULMOHAR COLONY TILAK NAGAR INDORE  
(MADHYA PRADESH)**

**.....PETITIONER**

***(BY SHRI AMOL SHRIVASTAVA, ADVOCATE.)***

**AND**

- 1. THE STATE OF MADHYA PRADESH PRINCIPAL  
SECRETARY VALLABH BHAWAN, BHOPAL  
(MADHYA PRADESH)**
- 2. TEHSILDAR JUNI INDORE (MADHYA PRADESH)**
- 3. SUB DIVISIONAL OFFICER JUNI INDORE  
(MADHYA PRADESH)**
- 4. NILESH S/O RAMBHROSE OCCUPATION:  
AGRICULTURE GRAM PIPLIYARAO, TEHSIL AND  
DISTRICT INDORE (MADHYA PRADESH)**
- 5. VINOD S/O RAMBHAROSE OCCUPATION:  
AGRICULTURE GRAM PIPLIYARAO, TEHSIL AND  
DISTRICT INDORE (MADHYA PRADESH)**
- 6. JAYANT S/O RAMBHAROSE GRAM PIPLIYARAO,  
TEHSIL AND DISTRICT INDORE (MADHYA  
PRADESH)**
- 7. KEWALCHAND S/O BRIALAL HARDIA  
OCCUPATION: AGRICULTURE GRAM  
PIPLIYARAO, TEHSIL AND DISTRICT INDORE  
(MADHYA PRADESH)**
- 8. MOOLCHAND S/O BRILAL HARDIA GRAM**

**PIPLIYARAO, TEHSIL AND DISTRICT INDORE  
(MADHYA PRADESH)**

9. **PHOOLCHAND S/O BRIJALAL HARDIA GRAM  
PIPLIYARAO, TEHSIL AND DISTRICT INDORE  
(MADHYA PRADESH)**
10. **CHOTELAL S/O BRIJLAL HARDIA OCCUPATION:  
AGRICULTURE GRAM PIPLIYARAO, TEHSIL AND  
DISTRICT INDORE (MADHYA PRADESH)**

**.....RESPONDENTS**

**(RESPONDENT / STATE SUDHANSHU VYAS, GOVERNMENT ADVOCATE.  
RESPONDENT NOS.8, 9 & 10 BY MS. NEERAJ GAUR, ADVOCATE.  
RESPONDENT NOS.4 & 5 BY SHRI HARISH KUMAR SHARMA, ADVOCATE.)**  
.....

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

**ORDER**

01. The petitioner has filed the present petition being aggrieved by order dated 02.06.2022 whereby Naib Tehsildar has rejected an application under Section 129 of Madhya Pradesh Land Revenue Code, 1959 (hereinafter referred as "MPLRC") relying on provisions of Order VII Rule 11 of CPC r/w Section 32 of MPLRC solely on the ground that the petitioner is not in possession and the private respondent Nos.4 to 10 are having objection.

Facts of the case in short are as under:

02. Vide registered sale-deed dated 21.08.2012 (Annexure P/3), the petitioner purchased a part of survey No.262/3 from the owners of the land thereafter, she applied for mutation and her name was mutated. Thereafter, at the time of division of plots the objections were raised by the respondents however, the same has been done and now the new survey No.262/3/994 has been allotted to the petitioner for the land in question.

03. The petitioner approached the Naib Tehsildar by way of application under Section 129 of the MPLRC, before the order could be passed under

Section 129(1) & (2) of MPLRC the private respondents *suo motu* appeared and filed an objection under Order VII Rule 11 of CPC r/w Section 32 of MPLRC disputing the sale-deed as well as possession of the petitioner. The Naib Tehsildar considered the aforesaid objection and closed the proceeding under Section 129 of MPLRC. Hence, this petition before this Court.

*I have heard the learned counsel for the parties.*

04. Section 129 of MPLRC is reproduced below:

**129. Demarcation of boundaries of survey number or sub-division or plot number.**— (1) The Tahsildar or any other Revenue Officer empowered to act may, on the application of a party interested, demarcate the boundaries of a survey number or of a sub-division or of a plot number and construct boundary marks thereon

(2) The State Government may make rules for regulating the procedure to be followed by the Tahsildar or any other Revenue Officer empowered to act in demarcating the boundaries of survey number or of a sub-division or of a plot number prescribing the nature of the boundary marks to be used, and authorising the levy of fees from the holders of land in a demarcated survey number or subdivision or plot number:

05. Section 129 of MPLRC nowhere mandates that an application shall be entertained by a land owner who is in possession, it says that the Tehsildar may on an application of a party depute a Revenue Inspector to demarcate the boundaries of the survey number. After obtaining the report submitted by the Revenue Inspector, the Tehsildar may after giving an opportunity of hearing to the parties interested including the neighbour land owners may confirm the demarcation under sub-Section (4) of Section 129 of MPLRC.

06. Any party aggrieved by the order of the confirmation of demarcation may apply to the SDO under Section 129(5) of MPLRC. Therefore, before

taking all these above procedures contemplated in sub-Section (1) to (4) of Section 129, the Naib Tehsildar has wrongly closed the proceedings on an objection raised by the respondents. The respondents have only right to remain present during the demarcation proceedings and may submit objection at the stage of Section 129(4) and 129(5) of MPLRC. At the stage of Section 129(1) & (2) of MPLRC they have no right to object before the Naib Tehsildar. If the private respondents have any objection in respect of the sale-deed executed through power of attorney, they could have approached the civil Court challenging the sale-deed but in demarcation proceedings, such objections are not liable to be entertained by Naib Tehsildar.

07. In view of the above, this Writ Petition is **allowed**. The order dated 02.06.2022 is unsustainable and is quashed. The proceedings of Section 129 of MPLRC are hereby restored, parties are directed to appear before the Naib Tehsildar. The Naib Tehsildar is directed to initiate and complete the proceedings under Section 129 of MPLRC. The respondents are free to raise objection under Section 129(4) of MPLRC.

08. Shri Harish Kumar Sharma, learned counsel for the respondent Nos.4 & 5 submits that no one can enter in agricultural field of respondent for the purpose of demarcation.

09. The respondent has no right to object the demarcation proceeding as it is a statutory requirement under the law. They have right to remain present during demarcation. There is no likelihood to any danger to the land or crops during the demarcation, it is a procedure prescribed under the law and no one can resist the Government Officer in discharging statutory duty. Hence, contention of Shri Sharma is rejected. Despite this observation if respondent Nos.4 to 10 create any hindrance in demarcation proceeding then the R.I. may

seek police protection.

10. With the aforesaid, Writ Petition stands **disposed of**.

**(VIVEK RUSIA)**  
**JUDGE**

Divyansh

