

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

BEFORE

HON'BLE SHRI JUSTICE VIJAY KUMAR SHUKLA

ON THE 19th OF DECEMBER, 2023

WRIT PETITION No. 7871 of 2013

BETWEEN:-

**CHIEF EXECUTIVE OFFICER INDORE VIKAS
PRADHIKARAN 7 RACE COURSE ROAD INDORE
(MADHYA PRADESH)**

.....PETITIONER

(SHRI VIKAS JAISWAL- ADVOCATE)

AND

- 1. DIRECTOR STATE OF M.P. GOVT. TOWN AND
COUNTRY PLANNING DEPT.BHOPAL (MADHYA
PRADESH)**
- 2. SMT. PUSHPABAI W/O AMBARAM KOTHARI,
AGED ABOUT 80 YEARS, 18/1, PARDESHIPURA,
INDORE (MADHYA PRADESH)**

.....RESPONDENTS

**(SHRI SUHAS PURNIK - GOVERNMENT ADVOCATE AND SHRI VIJAY
KUMAR ASUDANI - ADVOCATE FOR RESPONDENT NO.2)**

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

ORDER

Heard on IA No.8798/2023, which is an application for disposal of the writ petition.

2. The present petition is filed being aggrieved by the order dated 30.08.2011 passed by Director of Town and Country Planning in Revision

No.03/2011. By the said order, the Director had released the land owned by the respondent no.2 from the purview of petitioner's scheme no.169-A essentially on the ground that the lay out sanction was granted in favour of the respondent no.2 vide lay out sanction dated 26.09.2005 qua land in question i.e. land admeasuring 1.356 hectare situated in Survey No.36/1 village Kumerdi, Tehsil Sanver District Indore. Consequently the land could not have been taken in said scheme.

3. According to the petitioner, since there was a dispute between the Director of Town and Country Planning and Indore Development Authority, in order to resolve the dispute, he made a representation to the Principal Secretary Department of Housing and Environment under section 52 of MP Nagar Tatha Gram Nivesh Adhiniyam, 1973 (hereinafter referred as "Adhiniyam, 1973") for appropriate orders. Since the representation was not being decided, the petitioner filed a writ petition WP No.18970/2020. The said petition was disposed off by order dated 17.12.2020 directing the respondents to decide the petitioner's application dated 10.11.2020 in accordance with the law as early as possible preferably within the period of three months from the date of filling of certified copy of the order.

4. In view of the said order, the Principal Secretary of the State Government passed the order dated 01.09.2023 and clarified the position and stated that the land should be released from the concerned scheme. It was further directed to the petitioner IDA that the concerned petition be reconsidered and appropriate action should be taken in the pending writ petition. The petitioner has also filed IA No.7329/2023 for early hearing of the petition alongwith the said application they have filed copy of the order passed

by the State Government dated 01.09.2023 as Annexure E/2.

5. Learned counsel for the respondent no.2 submits that as per the provision of section 73 and 52 of the Adhiniyam, 1973, the State Government has been conferred power to give directions and under section 74 of the Adhiniyam, 1973, the power is conferred to the Government to review, plan etc for ensuring conformity. It is argued that as per the aforesaid provisions of Adhiniyam, 1973, the order passed by the State Government dated 01.09.2023 is binding on the petitioners-Indore Development Authority.

6. Learned counsel for the petitioner submits that the petitioner was not party in the said writ petition, which was decided by this court. However, he could not dispute the legal provisions and the order passed by the State Government which is binding on the petitioner.

8. In the light of the order passed by the State Government dated 01.09.2023, the order passed by the Director, Town and Country Planning stands affirmed and therefore nothing remains in the petition to examine the validity of the order of the Director. The present petition is dismissed by directing the petitioner to release the land of the respondent no.2 and declaring it free from all kinds of encumbrances of the said scheme no.169-A.

With the aforesaid, the present petition is disposed off.

(VIJAY KUMAR SHUKLA)
JUDGE