

ITEM NO.20

COURT NO.4

SECTION IV-C

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (C) No(s). 21106-21107/2023

[Arising out of impugned final judgment and order dated 01-07-2022 in RP No. 534/2022 27-01-2022 in WA No. 69/2020 passed by the High Court of Madhya Pradesh at Gwalior]

EKKISVI SADI GRIH NIRMAN SAHAKARI SAMITI

Petitioner(s)

VERSUS

THE STATE OF MADHYA PRADESH & ORS.

Respondent(s)

IA No. 80537/2024 - EXEMPTION FROM FILING O.T.

IA No. 174247/2023 - EXEMPTION FROM FILING O.T.

IA No. 80536/2024 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/
 ANNEXURES

Date : 21-07-2026 This matter was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE PAMIDIGHANTAM SRI NARASIMHA
 HON'BLE MR. JUSTICE ALOK ARADHE

For Petitioner(s) : Mr. Ravindra Shrivastava, Sr. Adv.
 Mr. Divyakant Lahoti, AOR
 Ms. Vindhya Mehra, Adv.
 Ms. Shruti Verma, Adv.
 Mr. Atharv Joshi, Adv.
 Ms. Kavya Verma, Adv.
 Mr. Anand Soni, Adv.

For Respondent(s) : Ms. Manisha T. Karia, A.A.G.
 Mr. Arkaj Kumar Ga, Adv.
 Mr. Harmeet Singh Ruprah, AOR
 Mr. Shashank Shekhar, Adv.

Mr. N K Mody, Sr. Adv.
 Mr. Arjun Garg, AOR
 Ms. Amruta Arjun Garg, Adv.
 Ms. Ishita Puranik, Adv.
 Mr. Saaranish Shukla, Adv.

Ms. Liz Mathew, Sr. Adv.
 Ms. Mallika Agarwal, Adv.
 Ms. Omber Hemanth, Adv.
 Mr. Bhushan Mahendra Oza, AOR

UPON hearing the counsel the Court made the following
O R D E R

1. These Special Leave Petitions are directed against the Judgment and order dated 27.01.2022 passed by the Division Bench of High Court of Madhya Pradesh, Bench at Gwalior, in Writ Appeal No. 69 of 2020, by which the order dated 13.12.2019 passed by the learned Single Judge in Writ Petition No. 19912 of 2019 has been modified and the writ appeal has been disposed of on the following terms :-

“(i) For the reasons recorded in paragraph 17 (above), the tripartite agreement dt. 28.12.1997 is held to be illegal, affirming the finding of the learned Single Judge in that behalf.

(ii) The agreement dated 07.06.2019 between Kamal Singh and G.D.A. is valid and binding upon the parties.

(iii) The impugned order dated 03.09.2019 is upheld.

(iv) The direction to the S.P.E. (Lokayukt) to initiate proceedings and also register FIR is hereby quashed. However, the respondent/State Government is directed to hold a detailed enquiry to ascertain the role of officers involved in the matter of execution of agreement dated 28.12.1997 and erring officer/s be dealt with in accordance with law.

(v) The Registrar, M.P.Cooperative Societies shall look into the affairs of the housing society and under section 59 of the Abhiniyam of 1973 as directed in para 24 of the order dt. 13.12.2019 passed in W.P.No. 19912/2019.”

2. We have heard learned senior counsel(s) appearing for the parties at length. In Para 17 of the impugned order, the Division Bench has recorded the following *prima facie* findings with regard to the Agreement dated 28.12.1997 :-

"17. Now, the second question that arises for consideration is that of legality, validity and enforceability of the agreement entered between the petitioner society, GDA and owner of the disputed land, Kamal Singh and other owners of different parcels of the land described in agreement dt.28.12.1997. The agreement is in relation to 47 bigha and 3 biswa.

This Court has perused the agreement and prima facie has found that ;

(i) the agreement is not a registered agreement,

(ii) there is no resolution of the GDA authorising signatory i.e. CEO on behalf of the GDA for execution of the agreement dt.28.12.1997.

(iii) There is no verification of the alleged agreement by the owners/farmers of different parcels of the land.

(iv) There is no document of ownership of different parcels of the land either are mentioned or made part of the agreement.

(v) There is no disclosure of payment of consideration to owners/farmers against handing over of land to GDA.

(vi) No description of proportionate allotment of plot to each of the farmers or owners under the formula of handing over 25% of the developed plots acquired through the agreement.

(vii) The society is not the owner or in possession of any parcels of the land described in the agreement, still it assured the right and authority to negotiate with GDA in respect of land described in the agreement.

As such, the agreement prima facie is vulnerable on many counts and therefore can not be said to be a lawful agreement. Chapter II of the Indian Contract Act 1872 deals with the contracts, voidable contracts and void contracts. Section 10 provides that all agreements are contracts if they are made by the free consent of the parties competent to contract, for a lawful consideration with a lawful object, and are not hereby expressly declared to be void.

As such, the agreement dt.28.12.1997, prima facie does not fulfill the requirement of the lawful agreement, as provided for under Section 10 of the Indian Contract Act. It is therefore, illegal contract within the meaning of Section 23 of the Indian Contract Act. Hence, not enforceable in law. "

3. It is pertinent to note that the appellant had challenged the order dated 28.08.2019 passed by the Gwalior Development Authority, whereby the appellant was asked to pay an amount of Rs.1,68,24,000/- to the authority on account of the excess plot area of 21030 Sq.Ft. The appellant had also challenged the validity of the order dated 03.09.2019, whereby the Gwalior Development Authority had allotted the plots to respondent no.4 in compliance with the registered agreement dated 07.06.2019. Thus, the issue with regard to validity of the agreement dated 28.12.1997

was not directly in issue before the High Court. Even otherwise, it is trite law that the writ jurisdiction of the High Court under Article 226 of the Constitution of India is summary in nature wherein a detailed inquiry with regard to facts cannot be undertaken. Presumably, for this reason, the High Court has recorded the *prima facie* findings with regard to the agreement dated 28.12.1997.

4. We, therefore, grant liberty to the petitioner to take recourse to such remedy as may be available to it in law with regard to its grievance in relation to agreement dated 28.12.1997 with incidental prayers.

5. To the aforesaid extent impugned judgment and order dated 27.01.2022 passed by the Division Bench of the High Court is modified. Accordingly, Special Leave Petitions are disposed of.

6. Pending interlocutory application(s), if any, is/are disposed of.

(JAYANT KUMAR ARORA)
ASTT. REGISTRAR-cum-PS

(NIDHI WASON)
ASSISTANT REGISTRAR