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

**BEFORE
HON'BLE SHRI JUSTICE ANAND PATHAK
ON THE 17th OF JANUARY, 2024
WRIT PETITION No. 718 of 2024**

BETWEEN:-

**PRAMOD KUMAR SONI S/O LATE SHRI CHOTE LAL,
AGED 47 YEARS, OCCUPATION: TEA STALL R/O
VILLAGE VEERPUR DISTRICT SHEOPUR (MADHYA
PRADESH)**

.....PETITIONER

(BY SHRI ANKUR MODI- ADVOCATE)

AND

- 1. UNION OF INDIA THROUGH PRINCIPAL
SECRETARY INDIAN RAILWAYS (NEW DELHI)**
- 2. ASSISTANT DIVISION ENGINEER NORTH
CENTRAL RAILWAY GWALIOR (MADHYA
PRADESH)**

.....RESPONDENTS

**(BY SHRI PRAVEEN KUMAR NEWASKAR- DY. ASSISTANT SOLICITOR
GENERAL OF INDIA FOR RESPONDENT NO.1/UNION OF INDIA)**

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

ORDER

1. The present petition under Article 226 of the Constitution of India has
been preferred seeking following reliefs:-

*In the light of foregoing facts and circumstances, it
is prayed that the quit notice annexure P/1 be
quashed and the respondent be restrained from
evicting the petitioner without following the due
process of law.*

2. At the outset, learned counsel for petitioner informed this Court that petitions of similarly placed encompassing subject matter have been decided by this Court. One such petition is **W.P. No.703/2024** in the case of **Harishankar Bansal Vs. Union of India and other** decided vide order dated 11.01.2024. Learned counsel for petitioner seeks parity to the same.

3. In the present case, petition has been preferred by petitioner challenging the notice dated 05.12.2023 (Annexure P/1), whereby respondent No.2 had issued a notice for eviction of present petitioner from the land/tea stall in question within a period of 15 days and hand over the vacant possession to the office of Senior Section Engineer, Gwalior, else they would initiate appropriate legal proceedings. The expenses of the same would be borne by the present petitioner.

4. Learned counsel for the petitioner submitted that the present land/stall in question was granted on lease to his father, who had expired and after his death he is in possession of said land/stall and as per the terms of lease he is also included as one of the lessee and since without adjudicating as to whether the present petitioner is an encroacher or in illegal possession of the land/stall in question, said notice has been issued and he had been held to be an encroacher and in illegal possession of the said land/stall. He made a limited prayer that he is not objecting to the action which is proposed to be taken against him by the respondents but is only aggrieved by the observation made in the said notice with regard to the fact that he being in illegal possession and if that observation made in the notice is expunged, grievance of the petitioner would be redressed.

5. *Per contra*, Shri Praveen Newaskar, learned counsel appearing on behalf of respondents submitted that Annexure P/1 is just a notice and petitioner

is free to reply to the said notice and counter the allegations which have been leveled against him narrating the entire facts, which he is advancing before this Court. He further submits that the license, which was issued in favour of the father of the petitioner would be deemed to be elapsed since it had expired five years ago and as corollary present petitioner is in illegal possession.

6. From the averments made by the counsel for the parties, this Court is of the considered view that the Annexure P/1 is just not an eviction notice, rather its in the shape of an order calling upon the petitioner to vacate the land/stall, wherein the respondents had informed to the petitioner that in case same is not vacated within 15 days, then appropriate legal action shall be taken against him. So far as the question of petitioner being an encroacher or in illegal possession of the land in question is concerned, it is yet to be adjudicated in appropriate proceedings for eviction. Mere mentioning of the fact that the petitioner is in illegal possession of the land/stall in question would not entail the petitioner to be encroacher. This fact would be adjudicated in appropriate proceedings.

7. Just to avoid any anomalous situation, it is directed that the observation made in the notice (Annexure P/1) with regard to illegal possession over the land/stall in question would not come in way while deciding the said question in the appropriate proceedings.

8. With the aforesaid observations, this petition is **disposed of**.

(ANAND PATHAK)
JUDGE

Vishal