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

**BEFORE
HON'BLE SHRI JUSTICE VIVEK RUSIA
ON THE 23rd OF NOVEMBER, 2023**

WRIT PETITION No. 4472 of 2021

BETWEEN:-

1. **MANOHAR DECEASED THROUGH LRS. MRS. KALPANA SHARMA W/O LATE MR. SHYAM KUMAR SHARMA, AGED ABOUT 62 YEARS, OCCUPATION: RTD. TEACHER 70/2, MANDI ROAD, WARD NO. 8, DHAMNOD, DIST. DHAR (MADHYA PRADESH)**
2. **MANOHAR DECEASED THROUGH LRS. MRS. BHAWNA DONGRE W/O LATE MR. SANTOSH DONGRE, AGED ABOUT 60 YEARS, OCCUPATION: HOUSEWIFE SAINATH COLONY INDORE (MADHYA PRADESH)**
3. **MANOHAR DECEASED THROUGH LRS. MRS. RANJANA PAGARE W/O NANDKISHORE PAGARE, AGED ABOUT 57 YEARS, OCCUPATION: HOUSEWIFE F-3 NEAR DIST. HOSPITAL DHAR ROAD INDORE (MADHYA PRADESH)**
4. **MANOHAR DECEASED THROUGH LRS. MRS. SEEMA SHUKLA, AGED ABOUT 55 YEARS, OCCUPATION: HOUSEWIFE 176, WARD NO. 41 PARDESHIPURA KHANDWA (MADHYA PRADESH)**
5. **MANOHAR DECEASED THROUGH LRS. AJAY TARE S/O LATE MR. MANCHARLAL TARE, AGED ABOUT 53 YEARS, OCCUPATION: BUSINESS 12, GH. MANDI ROAD WARD NO. 8 DHAMNOD DIST. DHAR (MADHYA PRADESH)**
6. **MANOHAR DECEASED THROUGH LRS. MRS. PRIYANKA TARE W/O LATE MR. SANJAY TARE, AGED ABOUT 47 YEARS, OCCUPATION: HOUSEWIFE 12, GH. MANDI ROAD WARD NO. 8 DHAMNOD DIST. DHAR (MADHYA PRADESH)**

.....PETITIONER

(BY SHRI AJAY JAIN, ADVOCATE)

AND

1. REVENUE DEPARTMENT PRINCIPAL SECRETARY
VALLABH BHAWAN BHOPAL (M.P.) (MADHYA
PRADESH)
2. SUB DIVISIONAL OFFICER MANAWAR DIST
DHAR (MADHYA PRADESH)
3. TEHSILDAR TEHSILDAR TEHSIL DHARAMPURI
DIST DHAR (MADHYA PRADESH)

.....RESPONDENTS***(BY MS. HARSHLATA SONI, PANEL LAWYER)***
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This petition coming on for admission this day, the court passed the following:

ORDER

The petitioner (now dead represented through legal heirs) has filed the present petition under Article 226 of the Constitution of India being aggrieved by the notice (Annexure-P/5) issued by the Naib Tehsildar under Section 147-A of the Madhya Pradesh Land Revenue Code (in short MPLRC), whereby he has been directed to deposit Rs.70,66,561/- as premium amount and land revenue.

02. The petitioner is assailing the impugned notice solely on the ground that before issuing the demand, no proceeding under Section 146 of the MPLRC has been undertaken, therefore, the demand is illegal.

03. The petitioner is the owner of agricultural land bearing Survey No.221 area 0.582 hectare. He submitted an application under Section 172(1) of the MPLRC before the Sub Divisional Officer for diversion for commercial purposes. Vide order dated 01.11.2013, Sub Divisional Officer passed an order for diversion with Rs.58,888/- as diversion fee / premium amount. According to the petitioner, he changed his mind in 2017 and submitted an application for

reverting back the diversion for agricultural purpose, but no order was passed. He is continuously using the land for agricultural purpose. Before filing this petition, the petitioner served a legal notice on 08.02.2021 and filed the present petition.

04. The respondents filed a reply by submitting that after diversion of the land the petitioner has not deposited the diversion fee and premium amount, therefore, recovery order has rightly been issued.

05. Learned counsel for the petitioner submits that after submitting an application for diversion, no order is required to be passed. As per the amendment took place in the year 2018, the land is deemed to diverted for agricultural purpose.

06. The petitioner was aware that there is liability upon him for payment of premium after the order of diversion. Instead of approaching this Court, the petitioner ought to have approached the Tehsildar or Sub Divisional Officer stating that no amount is liable to be recovered.

07. Section 174 (2) of the MPLRC mandates that the defaulter may apply to the Tehsildar that nothing is due on him. Though the form of Section 147 has been sent but it is a notice to the petitioner to deposit the amount of Rs.70,66,561/- which can be treated as notice under Section 146 of the MPLRC.

08. In view of the above, Writ Petition stands disposed of. However, the petitioner shall be at liberty to approach the Tehsildar under Section 146(2) of the MPLRC. The interim relief shall continue for the next 30 days from today.

No order as to costs.

(VIVEK RUSIA)
JUDGE

Ravi

