IN THE HIGH COURT OF MADHYA PRADESH AT INDORE

BEFORE

HON'BLE SHRI JUSTICE SANDEEP N. BHATT

ON THE 17th OF AUGUST, 2026

WRIT PETITION No. 33717 of 2026

ANAND KUMAR KEDIA

Versus

STATE OF MADHYA PRADESH THROUGH ITS PRINCIPAL SECRETARY DEPARTMENT OF URBAN DEVELOPMENT AND HOUSING AND OTHERS

Appearance:

Shri Kishore Shrivastava - Sr. Advocate with Shri Amit Dubey - Advocate for the petitioner.

Shri Rishi Tiwari - Advocate for the respondent no. 2 and 3.

Shri Tanishq Patel - Panel Lawyer for the respondents/State.

The present petition under Article 226 of the Constitution of India has been filed praying for the following reliefs:

" RELIEF PRAYED FOR:

In view of the elaborate facts and circumstances stated above, and the substantive grounds urged herein, the Petitioner most humbly, respectfully, and earnestly prays that this Hon'ble Court may graciously be pleased to grant the following reliefs:

7.1 Issue a Writ of Certiorari, or any other appropriate writ, order, or direction in the nature thereof, setting aside the Impugned Notice dated 11.08.2026 issued by Respondent No. 3 (Building Officer, Zone 19, Indore Municipal Corporation) being illegal, arbitrary, and violative of the Constitution.

7.2 Issue a Writ of Mandamus, or any other appropriate writ, order, or *direction in the nature thereof directing the Respondents to strictly adhere to the mandatory provisions of the M.P. Nagar Tatha Gram Nivesh Adhiniyam, 1973, and perpetually restraining them from undertaking any road widening on the Petitioner's property situated at Survey No. 163/1/2 and 163/4/3 without the final publication of a Town Planning Scheme under Section 50(7) and without executing formal acquisition under the Right to Fair Compensation Act, 2013.*

7.3 Direct an independent, impartial, and scientific demarcation of the proposed 30-meter road on Government Land Khasra No. 164, utilizing the original 2019 coordinates, to expose and rectify the malafide shifting of the central line.

7.4 Pass any other order(s), direction(s), or relief(s) which this Hon'ble Court may deem fit, just, and proper in the complete facts and circumstances of the case, and in the paramount interest of justice and equity

2. Facts of the case in nutshell are as under:

The petitioner is the lawful owner and in physical possession of the residential house comprising total area of 1.452 hectares, situated at Survey No. 163/1/2 and 163/4/3, Village and Tehsil Bicholi Hapsi Distt. Indore. The said parcel of land was purchased *vide* sale deed dated 04.04.2017. To follow the urban planning regulation prior to initiation of construction, a formal statutory demarcation was executed by the Revenue Officers thereby establishing precise geospatial boundaries separating the petitioner's private property from the adjoining government road land at *Khasra* No. 164. The respondent no.1 had issued the Development Plan 2021 for Indore. The respondent no. 2 i.e. the Commissioner of Indore Municipal Corporation had granted the building permission to the petitioner and the respondent no.3 acting under the guise of executing the Indore Development Plan, 2021 had issued a coercive demolition notice dated 11.08.2026 bearing Notice No.

IMC/Zone-19/Ward-76/2026/3006/6. The impugned notice mandates the demolition of petitioner's lawfully constructed residential premises to an arbitrary and mathematically absurd 'average depth' of 12.782 meters despite the petitioner having applied for all the necessary building permissions from the Indore Municipal Corporation as well as permissions from the revenue authorities.

3. Learned counsel for the petitioner made the following contentions:

i. Learned counsel has argued at length by drawing my attention towards various Sections of M.P. Nagar Tatha Gram Nivesh Adhiniyam, 1973[for brevity, referred to as 'Adhiniyam, 1973' hereinafter], more particularly Section 17, 20, 55, 56, 57, and 38 of the Adhiniyam, 1973. He has also relied on the judgment passed by the Hon'ble Apex Court in the case o f ***Bhavnagar University Vs. Palitana Sugar Mills (P) Ltd. and Others reported in 2003(2) SCC 111, Tata Chemicals Ltd. Vs. Commissioner of Customs(Preventive), Jamnagar*** reported in ***2015(11) SCC 628, Brajendra Singh Yambem Vs. Union of India & Another*** reported in ***2016(9) SCC 20*** to contend that if the law requires that something be done in a particular manner, it must be done in that manner, and if not done in that manner, has no existence in the eye of law at all. The authorities since have acted in a particular manner, cannot act in a different manner, than provided under the statute, as has been done in the case in hand.

ii. It is contended that in view of this background that the petitioner had purchased the land situated at Survey No. 163/1/2 and 163/4/3, Village and Tehsil Bicholi Hapsi Distt. Indore by way of a registered sale deed. Valid and formal demarcation was conducted by the respondent revenue authorities and based on the said demarcation, the Town and Country Planning Department has granted permission to the petitioner in the year 2019. The Indore Municipal Corporation had also granted requisite building permission for the residential premises in the year 2020.

iii. It is contended that the Building Officer had issued a notice on 09.04.2026 requiring the petitioner to submit property documents for property situated at 622-70 meters from Hotel Pride without mentioning the exact survey number . The petitioner has responded to the said notice *vide* letter dated 13.04.2026 and on 16.04.2026, the respondents ignoring the said response filed by the petitioner and without complying with the statutory framework started road construction activity of digging and laying pipelines including towards the private land of petitioner. The petitioner submitted objection dated 16.04.2026 requiring immediate resolution on pending representation. The respondent no.3 had issued notice dated 24.04.2026 claiming that petitioner's premises is obstructing the road by 5.1m/9m/12.85m, based on some demarcations conducted on January 2026. The petitioner has responded by communication dated 04.05.2026 denying the occurrence of any recent new demarcation and requested a complete set of documents to submit proper representation. On 11.05.2026, the petitioner had approached the respondent no.4 i.e. the Collector, Distt. Indore requesting that proper opportunity of hearing be given before any coercive action shall be taken against the petitioner. On 13.05.2026, the respondent no.5 constituted a committee to consider the representations of all the stakeholders regarding road alignment and on 29.06.2026, the Revenue Authorities conducted physical demarcation on the site without verifying the original demarcation of 2019 and *mauka panchnama* was prepared where the petitioner has recorded his objection. On 30.06.2026, the petitioner had filed formal statutory application for fresh demarcation before the respondent no.5, which is still pending. He has further submitted that on 07.07.2026, suppressing the pending demarcation application , the respondent no.3 acted in undue haste and issued demolition notice. On 10.07.2026, petitioner submitted representation to respondent no.3 requesting an opportunity to make submissions based on documents.

iv. It is the contention of learned counsel for petitioner that being aggrieved by the illegal and arbitrary action by serving the petitioner with a demolition notice, the petitioner was left with no option, but to approach this Court by filing a writ petition bearing No. 27726/2026. This Court *vide* order dated 21.07.2026 had disposed off the petition while issuing specific direction for joint inspection, preparation of report, opportunity to object the said report, hearing of objection, passing of speaking order by the respondents. On 30.07.2026, the respondent department alongwith the Indore Municipal Corporation and Town and Country Planning Department Officials has conducted inspection limited to certain *khasra* lands and issued *panchnama* on 30.07.2026. The representative of petitioner has recorded objection in *panchnama* and letter dated 30.07.2026 addressing the Building Officer in respect of the site inspection was also issued.

v. It is also contended that on 31.07.2026, formal representation addressed to the Building Officer by asking copy of report amongst other jurisdiction objection is given to the Building Officer. On 01.08.2026, hearing on notice dated 01.08.2026, was issued by the Indore Municipal Counsel intimating hearing scheduled on 04.08.2026. On 04.08.2026, the petitioner formally again objected for non-service of report in raising jurisdiction issue and petitioner contended that these proceedings are legally vitiated as respondents have failed to provide the inspection report and deprived the petitioner to file objection, which is clear non-compliance of the order dated 21.07.2026 passed by this Court and respondent no.3 on 11.08.2026, issued demolition order immediately requiring demolition of petitioner's lawfully constructed residential premises to an arbitrary and mathematically absurd 'average depth' of 12.782 meters., resulting into filing of the present petition.

vi. Learned counsel further pointing out towards the grounds that the actions of respondents are only without jurisdiction due to the absolute over-riding effect of the Special Legislation of the Adhiniyam, 1973 which was enacted subsequently to the provisions of the M.P. Municipal Corporation Act, 1956[referred to as the Act of 1956' hereinafter] and, therefore, the Corporation fundamentally lacks the *locus standi* and statutory authority to directly execute the Master Plan by forcibly overriding the provision of the Adhiniyam, 1973.

vii. It is also contended that no statutory 'Town Planning Scheme' has been published as prescribed u/S 17 of the Adhiniyam, 1973, which clearly indicates broad conceptual land use in a development plan and for the actual physical laying out, remodeling or widening of roads, Sections 49 and 50 of the Adhiniyam, 1973 mandate the strict preparation, finalization and publication of a 'Town Development Scheme" and under Section 50, sub-section 7, the scheme must be formally published in the official gazette. He further submitted that in absence of a gazetted scheme, no consequential vesting of acquired land can legally occur under Section 57 of the Adhiniyam, 1973.

viii. It is also pointed out that the impugned order is a blatant violation of Article 300A of the Constitution and the Right to Fair Compensation Act, 2013.

ix. It is further pointed out that Section 305 of the Act, 1956 has been *malafidely* misapplied to circumvent acquisition laws.

x. It is contended that shifting of the central line to protect illegal encroachers is malice in law, violative of Article 14 of the Constitution.

xi. It is also contended that the methodology adopted during demarcation is mathematically absurd thereby rendering the impugned notice void.

xii. It is further contended that respondents have violated the binding directives issued by this Court while disposing off W.P. No. 27726/2026 by not following the principle of '*Audi Alteram Partem*"

xiii. Learned counsel has further relied on the maxim ' *generalisa specialibus non derogant*[special provisions override general ones] to submit that the specific provisions of the Adhiniyam 1973 regarding Town and Country Planning override general municipal maintenance and street regulation provisions as contained in the Act, 1956. It is the contention of counsel for petitioner that respondent has not disputed the ownership of the petitioner over the subject property by referring to para 7 of the reply and, therefore, the powers exercised by the respondents authority is unjust and improper.

xiv. He has lastly submitted that the petitioner has already complied with 15 meter setback requirement in accordance with the 2019 Town and Country Planning approval by leaving 15 meter setback required for the establishment of central line. In absence of Master Plan which is a macro level visionary document, the respondent is required to follow the necessary provisions available under the law and therefore, the action taken by the respondent/authority is wholly against the provisions of law requiring interference by this Court by exercising power under Article 226 of the Constitution by granting the reliefs as sought for by the petitioner by way of the present petition.

4 . On the other hand, learned counsel for the respondents have vehemently opposed the petition and prayed for dismissal.

5. Learned counsel for the respondent no. 2 and 3 has drawn the attention of this Court towards various aspects of the matter and has made

the following submissions:

i. It is pointed out that the averments made in the petition, more particularly, by referring to the judgment rendered by the Hon'ble Apex Court in the case of ***S.J.S. Business Enterprises (P) Ltd. Vs. State of Bihar & Others*** reported in ***(2004) 7 SCC 166*** , para 30 in particular the petitioner has not approached this Court with clean hands and had concealed the material fact that after performing the inspection and marking, the data was collated, calculations were done and it was found that the petitioner has encroached upon the Government land. He has drawn my attention towards the said material which as informed is a report, which is supplied to the representative of the petitioner. The said report specifically mentions receiving of the representative of petitioner given on the overleaf of the report and, therefore, the material which is relevant for consideration of this petition is not deliberately produced by the petitioner on record.

ii. Learned counsel for the respondent apart from the preliminary objection about the suppression of fact has further pointed out that the joint inspection was carried out and the same is required to be carried out for various part of the land.The process of joint inspection was started on 28.07.2026 as directed by this Court and on 30.07.2026, the survey has again commenced whereby measurements were taken by the joint team. Therefore, it cannot be said that the direction given by this Court in earlier round of litigation was not complied with.

iii. He has further submitted that the road widening of the existing road is being done from Hotel Pride to City Forest as per the Indore Development plan 2021. Proposed width of the subject road as per the development plan is 30 meter and accordingly road is being constructed. The subject road is about 2.4 kms in length which connects the Bypass road to the Light House Project and the Pradhan mantri Awas Yojna via city forest and thousands of residents of several colonies will have access to Bypass through this road. By referring to the map of the master plan, he has submitted that this should be taken into consideration.

iv. By drawing the attention of this Court to the chronology of events, it is submitted that the petitioner was given proper opportunity of hearing and accordingly, the decision was taken after following necessary procedure prescribed under the law. Therefore, it cannot be said that such decision is not in compliance with the order passed by this Court or in violation of principle of natural justice.

v. It is further contended that the Development Plan was prepared under the provisions of Adhiniyam, 1973 after inviting objections and suggestions and was subsequently, finalized and published under Section 19(4) of the Adhiniyam and it is trite law that the development plan once prepared is binding upon the respondent Corporation.

vi. Learned counsel for the respondent no. 2 and 3 submitted that so far as the ground raised by the petitioner regarding action of respondents being wholly without jurisdiction is concerned, the same is misconceived, misleading and denied by him. In this regard, learned counsel for the respondents no.2 and 3 has pressed into service the judgment passed by Hon'ble Supreme Court rendered in the case of ***Ravindra Ramchandra Waghmare Vs. Indore Municipal Corporation and Others*** reported in ***(2017) 1 SCC 667*** which has observed that the development plan is binding and has to be implemented by the Corporation and, therefore, the impugned notice issued under Section 305 and 306 of the Act, of 1956 does not suffer from any illegality and was not issued without jurisdiction. He has referred to para 66 of the judgment, in particular to submit that there is no overriding effect of the special legislation and respondents/corporation is merely performing its duties as an implementing authority.

vii. Learned counsel as regards the ground raised by petitioner of violation of Article 300-A of the Constitution submits that the same is misconstrued.It is contended that the Corporation has initiated the process of widening of the subject road as per the Indore Development Plan, 2021 by referring to the order passed by the Division Bench of this Court in W.A. 873/2014 wherein it has been held that '....... in view of clear provision contained in Section 305 of the Act vesting of land being automatic and so long the said section is in the statute book, the appellant's contention based upon Article 300-A of the Constitution cannot be accepted."

viii. Learned counsel further referred to para 56 of the judgment passed in the case of **Ramchandra Waghmare(supra)** and disputed the ground raised by the petitioner that impugned order has been passed in blatant violation of the provision of Right to Fair Compensation and Transparency in

Land Acquisition Act 2013.

ix. He has further submitted that the petitioner has wrongly averred that Section 305 of the Act of 1956 was malafidely applied to circumvent the acquisition laws. By referring to Section 305 of the Act, 1956, he has submitted that the respondents are not redrawing central line or shifting the alignment of the existing road , but are merely widening the road as per the alignment already delineated in the Indore Development Plan, 2021 and marking was done by joint team of three departments. Indore Development Plan, 2021 is binding on the respondents and respondents cannot deviate from the alignment delineated in the plan.

x. It is also contended that the petitioner has wrongly raised the ground regarding violation of Article 14 of the Constitution and referred to para 72 of the judgment passed in the case of **Ramchandra Waghmare(supra)** to submit that based on the classification made for the purpose of Section 305 of the Act, 1956, as to public street cannot be said to be suffering from vice or discrimination and violative of Article 14.

xi. It is also contended that the petitioner has wrongly raised the ground regarding demarcation methodology is mathematically absurd and renders the notice void for vagueness, in as much as the said work was carried out by the team of three departments. Therefore such contention is not liable to be entertained.

xii. Respondents have complied with the directions issued by this Court while passing the order dated 21.07.2026 in W.P. No. 27726/2026 and all the procedure i.e. the joint inspection, marking, preparation of *panchnama*, submission of objection and opportunity of personal hearing and issuance of impugned notice are required to be read conjointly and in view of this, all the directions issued by this Court stand complied with. He has further submitted that the alignment of the road has already been delineated and the present respondent is merely an implementing authority and as such the aforesaid development plan is binding upon the respondent Corporation.

xiii. It is also submitted that so far as the ground of ownership and title of the subject property is concerned, the same is misconstrued. The answering respondents are not disputing the ownership of the petitioner over subject property and are merely implementing the development plan. However, it is imperative to mention that ownership of property does not create a bar for proceeding under Section 305 of the Act, 1973. It is also submitted that the ownership needs to be ascertained for grant of compensation in form of FAR and TDR. In support of this contention, he has pressed into service para 56 of the judgment passed in the case o f **Ramchandra Waghmare(supra)** to contend that various rights of ownership which ordinarily vest in an owner, are restricted by the regional plan, development plan or the town development scheme, as the case may be. User of the owner's land, property cannot be in derogation to any of them. Development plan is binding upon the Corporation and local authorities and all concerned including the owners.

xiv. It is also submitted that the ground regarding absence of Town

Planning Scheme is misconstrued in view of para 71 of the judgment passed in the case of **Ramchandra Waghmare(supra)** wherein it has been held that there is no dispute with the law laid down by this Court and town planning scheme has to be subservient to development plan/zonal plan. Development plan which does not require micro planning is binding and can be implemented.

xv. Moreso, the allegations regarding protecting illegal encroachers is denied by the respondents as the respondents are widening the road as delineated under the Development Plan, 2021 and are not protecting anyone or targeting the petitioner. Therefore, there is no *malafide* on the part of respondents against the petitioner. He has further submitted that in fact the petitioner has encroached upon the subject land, as indicated in the documents which are produced alongwith the reply filed by the respondents no.2 and 3. On that count also, the petitioner before this Court cannot be granted the reliefs as sought for and the petition deserves to be dismissed on all these grounds.

6. I have considered the rival submissions made by the petitioner and also considered the judgments referred to be the counsel for petitioner.

7. So far as the judgment passed in the cases of ***Bhavnagar University Vs. Palitana Sugar Mills (P) Ltd. and Others reported in 2003(2) SCC 111, Tata Chemicals Ltd. Vs. Commissioner of Customs(Preventive), Jamnagar*** reported in ***2015(11) SCC 628, Brajendra Singh Yambem Vs. Union of India & Another*** reported in ***2016(9) SCC 20*** are concerned, there

is no quarrel regarding the ratio of said judgments which are referred by the petitioner which says that if the authority is required to act in a particular manner and, it has to act in that particular manner.

8. It is also required to be noted that there is no quarrel about the fact that '*generalisa specialibus non derogant*[special provisions override general ones] are required to be complied in proper manner. One of the contention of petitioner that the specific provisions of the Adhiniyam 1973 regarding Town and Country Planning override general municipal maintenance and street regulation provisions as contained in the Act, 1956, the petitioner is trying to make out the case that on record, the proposed Government land is heavily burdened with illegal encroachment on the southern side and instead of initiating lawful proceeding of eviction against the actual encroacher, Administration is executing extreme *malafide* by shifting the Government land towards north into petitioner's legitimately own property. It is also found misconceived in view of the actual site of inspection. On perusal of the report which is produced alongwith the reply of the respondents, the *mauka panchanama* dated 30.07.2026 clearly indicates that the petitioner herein has put up the construction of the wall by including the Government land into his own land. Moreover, the other *mauka panchnama* dated 28.07.2026 and 30.07.2026 also indicate that the said *panchnamas* are prepared in the presence of representative of petitioner. The photograph of which are available alongwith the affidavit in reply which indicates that all the necessary procedure is carried out pursuant to the earlier direction given in W.P. No. 27726/2026 and considering the fact that respondents authorities

have *prima-facie* pointed out the case of suppression of this material fact by the petitioner which has direct bearing on the outcome of the present petition, which are not produced by the petitioner. On the contrary, the petitioner has argued that such documents have never supplied to the petitioner. The relevant paras of judgment passed in the case of ***S.J.S. Business Enterprises (P) Ltd(supra)*** which is cited by the counsel for respondent regarding suppression of facts are required to be referred and reproduced for ready reference:

> *13. As a a general rule, suppression of a material fact by a litigant disqualifies such litigant from obtaining any relief. This rule has been evolved out of the need of the courts to deter a litigant from abusing the process of court by deceiving it. But the suppressed fact must be a material one in the sense that had it not been suppressed it would have had an effect on the merits of the case. It must be a matter which was material for the consideration of the court, whatever view the court may have taken[1]. Thus when the liability to income tax was questioned by an applicant on the ground of her non-residence, the fact that she had purchased and was maintaining a house in the country was held to be a material fact, the suppression of which disentitled her to the relief claimed[2]. Again when in earlier proceedings before this Court, the appellant had undertaken that it would not carry on the manufacture of liquor at its distillery and the proceedings before this Court were concluded on that basis, a subsequent writ petition for renewal of the licence to manufacture liquor at the same distillery before the High Court was held to have been initiated for oblique and ulterior purposes and the interim order passed by the High Court in such subsequent application was set aside by this Court[3]. Similarly, a challenge to an order fixing the price was rejected because the petitioners had suppressed the fact that an agreement had been entered into between the petitioners and the Government relating to the fixation of price and that the impugned order had been replaced by another order.*
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> *14. Assuming that the explanation given by the appellant that the suit had a been filed by one of the Directors of the Company without the knowledge of the Director who almost simultaneously approached the High Court under Article 226 is unbelievable (sic), the question still remains whether the filing. of the suit can be said to be a fact material to the disposal of the writ petition on merits. We think not. The existence of an adequate or suitable alternative remedy available to a litigant is merely a factor which a court entertaining an b application under Article 226 will consider for exercising the discretion to issue a writ under Article 2265. But the existence of such remedy does not impinge upon the jurisdiction of the High Court to deal with the matter itself if*

it is in a position to do so on the basis of the affidavits filed. If, however, a party has already availed of the alternative remedy while invoking the jurisdiction under Article 226, it would not be appropriate for the court to entertain the writ petition. The rule is based on public policy but the motivating factor is the existence of a parallel jurisdiction in another court. But this Court has also held in Chandra Bhan Gosain v. State of Orissa that even when an alternative remedy has been availed of by a party but not pursued that the party could prosecute proceedings under Article 226 for the same relief. This Court has also held that when a party has already moved the d High Court under Article 226 and failed to obtain relief and then moved an application under Article 32 before this Court for the same relief, normally the Court will not entertain the application under Article 32. But where in the parallel jurisdiction, the order is not a speaking one or the matter has been disposed of on some other ground, this Court has, in a suitable case, entertained the application under Article 327. Instead of dismissing the writ petition on the ground that the alternative remedy had been availed of, the Court may call upon the party to elect whether it will proceed with the alternative remedy or with the application under Article 2268. Therefore, the fact that a suit had already been filed by the appellant was not such a fact the suppression of which could have affected the final disposal of the writ petition on merits.

15. In this case, admittedly, the appellant has withdrawn the suit two weeks after the suit had been filed. In other words, the appellant elected to pursue its remedies only under Article 226. The pleadings were also complete before the High Court. No doubt, the interim order which was passed by the High Court was obtained when the suit was pending. But by the time the writ petition was heard the suit had already been withdrawn a year earlier. Although the appellant could not, on the High Court's reasoning, take 9 advantage of the interim order, it was not correct in rejecting the writ petition itself when the suit had admittedly been withdrawn, especially when the matter was ripe for hearing and all the facts necessary for determining the writ petition on merits were before the Court, and when the Court was not of the view that the writ petition was otherwise not maintainable.

16. As the issue of suppression was the only ground on which the High Court has rejected the appellant's plea for relief, we would ordinarily have set aside the order of the High Court in view of our finding and remanded back to the High Court for decision of the matter on merits. But the matter has b been argued on merits before us and we are in a position to dispose of the matter which we accordingly proceed to do.

9. The Hon'ble Supreme Court in the case of *Government of NCT of Delhi & Anr. Vs. M/s BSK Realtors LLP & Anr* passed in *SLP Civil No. 6604/2026* has held as under:

"F.2 Suppression of material facts by appellants

26. Counsel on behalf of the landowners have contended that the conduct of the appellants disqualifies them from seeking any relief. They assert that the appellants filed the present appeals, specifically under Group B.1, without disclosing that civil appeals filed by another appellant/authority against the same impugned order has already been dismissed. Furthermore, this action is deemed as providing an inaccurate declaration under Order XXI Rule 3(2) of the Supreme Court Rules, 2013.

27. Before addressing the aforesaid contention, we may refer to the law laid down in this regard.

28. A Bench of two Hon'ble Judges of this Court in S.J.S. Business Enterprises (P) Ltd v. State of Bihar and others17 held that a fact suppressed must be material; that is, if it had not been suppressed, it would have influenced the merits of the case. It was held thus:

"13. As a general rule, suppression of a material fact by a litigant disqualifies such litigant from obtaining any relief. This rule has been evolved out of the need of the courts to deter a litigant from abusing the process of court by deceiving it. But the suppressed fact must be a material one in the sense that had it not been suppressed it would have had an effect on the merits of the case. It must be a matter which was material for the consideration of the court, whatever view the court may have taken […]

14. Assuming that the explanation given by the appellant that the suit had been filed by one of the Directors of the Company without the knowledge of the Director who almost simultaneously approached the High Court under Article 226 is unbelievable (sic), the question still remains whether the filing of the suit can be said to be a fact material to the disposal of the writ petition on merits. We think not. […] the fact that a suit had already been filed by the appellant was not such a fact the suppression of which could have affected the final disposal of the writ petition on merits."

29. Further, a Bench of two Hon'ble Judges of this Court in Arunima Baruah v. Union of India and others18 following the aforesaid dictum, held thus:

"12. It is trite law that so as to enable the court to refuse to exercise its discretionary jurisdiction suppression must be of material fact. What would be a material fact, suppression whereof would disentitle the appellant to obtain a discretionary relief, would depend upon the facts and circumstances of each case. Material fact would mean material for the purpose of determination of the lis, the logical corollary whereof would be that whether the same was material for grant or denial of the relief. If the fact suppressed is not material for determination of the lis between the parties, the court may not refuse to exercise its discretionary jurisdiction. It is also trite that a person invoking the discretionary jurisdiction of the court cannot be allowed to approach it with a pair of dirty hands. But even if the said dirt is removed and the hands become clean, whether the relief would still be denied is the question."

30. Law is well settled that the fact suppressed must be material in the *sense that it would have an effect on the merits of the case. The concept of suppression or non-disclosure of facts transcends mere concealment; it necessitates the deliberate withholding of material facts—those of such critical import that their absence would render any decision unjust. Material facts, in this context, refer to those facts that possess the potential to significantly influence the decision-making process or alter its trajectory. This principle is not intended to arm one party with a weapon of technicality over its adversary but rather serves as a crucial safeguard against the abuse of the judicial process."*

10. In view of the above, this Court is of the opinion that the petitioner has not properly disclosed all the relevant facts which are very material for the decision of the petition and therefore, it can be considered as abuse of process of law by such suppression of material fact. Resultantly, the general rule of denial of relief is required to be applied.

11. Moreover, the judgment which is relied on by the counsel for the respondent rendered in the case of **Ramchandra Waghmare(supra) is also worthy of reference. Para 21,22,23,27, 28, 39, 55 , 56 and 71 of the judgment are as under:**

"21. It is apparent that the development plan once prepared is binding upon the development authorities in the planning area as well as on the Municipal Corporation and other local authorities as the case may be. They cannot modify and permit the user in contravention thereof. In other words, restriction is imposed upon the owners on enjoyment of the property in violation of the development plan/regional plan, as the case may be.

22. Section 49 of the 1973 Act deals with the town development schemes. Same has to be prepared under the umbrella of the regional plan and development plan. The town development scheme is prepared by the Town and Country Development Authority established under the provisions of Section 38. The same shall be a body corporate under the provisions of Section 39 and its constitution is provided in Section 40. Section 49 of the 1973 Act is extracted hereunder:

"49. Town development schemes.—A town development scheme may make provision for any of the following matters-
(i) acquisition, development and sale or leasing of land for the purpose of town

expansion;

(ii) acquisition, relaying out of, rebuilding, or relocating areas which have been badly laid out or which has developed or degenerated into a slum;

(iii) acquisition and development of land for public purposes such as housing development, development of shopping centres, cultural centres, administrative centres;

(iv) acquisition and development of areas for commercial and industrial purposes;

(v) undertaking of such building or construction work as may be necessary to provide housing, shopping, commercial or other facilities;

vi) acquisition of land and its development for the purpose of laying out or remodelling of road and street patterns;

(vii) acquisition and development of land for playgrounds, parks, recreation centres and stadia;

(viii) reconstruction of plots for the purpose of buildings, roads, drains, sewage lines and other similar amenities;

(ix) any other work of a nature such as would bring about environmental improvements which may be taken up by the authority with the prior approval of the State Government."

23. Section 50 of the 1973 Act provides for method of preparation of town development schemes. The town development scheme may deal with the town expansion, badly laid-out areas or slums, acquisition and development of land for housing, shopping centres, cultural centres, administrative centres, commercial and industrial purposes, remodelling of road and street patterns, reconstruction of lands for building roads, drains, etc. Under Section 50 draft plan has to be published, objections have to be invited, heard and decided. Thereafter scheme is finalised, same has to be published in the Gazette. Section 55 provides that the land needed for town development scheme shall be deemed to be a land required for public purpose within the meaning of the Land Acquisition Act. Section 56 deals with acquisition of land for the Town and Country Development Authority. Within 3 years of preparation of town development scheme under Section 50, the authority may acquire the land by agreement and in case that is not possible the State Government at the request of the authority may proceed to acquire the land under the provisions of the Land Acquisition Act. The town development scheme has to be executed by the authority within 3 years by acquiring the land in case it is necessary as per the provisions contained in Section 56.

27. The 1960 Act provided for various improvement schemes under Section 30. Section 31 of the 1960 Act dealt with types of improvement schemes such as general improvement schemes, re-building, re-housing, street, deferred street schemes and development scheme. Ten types of schemes were provided under Section 31. When scheme was proposed, consideration of b representation was also provided. The State Government had the power to sanction, reject or return the improvement scheme as provided in Section 51. In case the State Government sanctioned the scheme it was required to be notified *under Section 52 of the 1960 Act. The 1960 Act has ceased to be operative in the areas, once the 1973 Act has been made applicable by establishing the authorities under the provisions of Sections 38 to 40. In our considered view, the expression "scheme" in Section 292 has to be taken to mean the regional plan, development plan and also to any scheme under Section 49 framed under the 1973 Act. The provision is not confined to a scheme prepared under Sections 49 and 50 of the 1973 Act. There cannot be two schemes for the same area.*

In re: Scope of power of the Corporation under Section 305

28. Before taking the question of vires of the provisions contained in Sections 305 and 306 of the 1956 Act, we consider it appropriate to deal with the submissions raised on behalf of the appellants with respect to its interpretation and ken of powers conferred upon the Municipal Corporation. Section 305 of the 1956 Act is extracted hereunder:

> *"305. Power to regulate line of buildings. (1) If any part of a building projects beyond the regular line of a public street, either as existing or as determined for the future or beyond the front of immediately adjoining buildings the Corporation may-*
>
> > *(a) if the projecting part is a verandah, step or some other structure external to the main building, then at any time, or*
> >
> > *(b) if the projecting part is not such external structure as aforesaid, then whenever the greater portion of such building or whenever any material portion of such projecting part has been taken down or burned down or has fallen down,*

require by notice either that the part of some portion of the part projecting beyond the regular line or beyond the front of the immediate adjoining building, shall be removed, or that such building when being rebuilt shall be set back to or towards the said line or front; and the portion of land added to the street by such setting back or removal shall henceforth be deemed to be part of the public street and shall vest in the Corporation:

Provided that the Corporation shall make reasonable compensation to the owner for any damage or loss he may sustain in consequence of his building or any part thereof being set back.
(2) The Corporation may, on such terms as it thinks fit, allow any building to be set forward for the improvement of the line of the street."

In re: Possession/Deemed to be part of public street and vesting under Section 305 of the 1956 Act

39. Coming to question as to when vesting takes place. As soon as the building or the projecting part has been removed or when the Corporation has issued a notice when such re-building shall be set back or to the front line, the line *added by such action by setting back or removal, shall henceforth without any further formalities, be deemed to be a part of public street and shall vest in the Corporation. Vesting does not depend upon the volition of the owner. Otherwise no public street can ever be brought in regular line. The Corporation has the power to remove, as discussed hereinabove. As deemed vesting is provided under Section 305, as such there is no requirement of separate provision for taking possession. For removal there is specific provision and adequate safeguards have been provided for fixing the regular line of a public street while preparing the development plan or the town development scheme, as the case may be.*

55. Even assuming that public street is also a street, considering the special provisions contained in Section 305, recourse can be had to the provision without having adverting to the procedure prescribed under Sections 78 and 79 of the Act and the compensation in the case of action taken under Section 305 gis provided under the proviso to Section 305 and Section 306 read with Section 387 to which the provisions of the Land Acquisition Act, 1894 have been made applicable for determination. Section 387 provides for procedure in case compensation determined under Section 306 is not acceptable, dissatisfied claimants can have resort to Section 387 which require determination of dispute by Panchayat/arbitration, and in case arbitration fails, parties can approach the District Court which shall follow the procedure provided in the Land Acquisition Act, 1894. The provision of Section 387 is very wide and covers all the cases in which an agreement is not arrived at with respect to compensation or damages which are under the Act directed to be paid. Section 387 would b cover the provisions of compensation payable under Sections 305 and 306 of the 1956 Act. Sections 305 and 306 use the expression "reasonable compensation has to be paid" which would mean, reasonable on the principle acceptable in accordance with law. It cannot be fanciful or arbitrary one as suggested by the appellants.

56. The submission raised by the appellants that for acquisition of land, Sections 78 and 79 should be resorted to for the purposes mentioned in Section 305 cannot be accepted for yet another reason, if the provision as to public street is made dependent upon the acquisition of land, the very purpose behind the provisions of Section 305 would be frustrated as well as the public interest, there is already a regular line of public street fixed under the development plan and is binding under Section 19(5) and Section 25 of d the 1973 Act. Various rights of ownership which ordinarily vest in an owner, are restricted by the regional plan, development plan or the town development scheme, as the case may be. User of the owner's land, property cannot be in derogation to any of them. Development plan is binding upon the Corporation and local authorities and all concerned including the owners. Though they can transfer the property but subject to such restrictions which the property will carry with it. If the land falls in a regular line of public street, no construction can be raised, no projection can be made by owner whereas it can be removed or set back, as the case may be. In case acquisition is resorted to under Sections 78 and 79, public street can never be widened and the entire purpose of preparation of the development plan shall stand defeated.

57. What can be achieved by procedural safeguards in case the property is acquired under the provisions of the Land Acquisition Act, 1894 or the 2013 Act by way of holding inquiry, such exercise has already been taken care of while preparing regional plan, development plan or the town improvement scheme. The widening of the public street cannot brook any delay. The provisions contained in Section 387(5) which empower the Corporation to take possession after determination of compensation by arbitration or by the District g Court, would be applicable only to the acquisition resorted to under Sections 78 and 79, particularly under the provisions of Section 79 and not to a case which is covered by the special provisions contained in Section 305 where the vesting is deemed to be by operation of law as soon as there is deemed vesting, the area shall vest in the Corporation and it shall be deemed to be a part of public street. Thus the provision of Section 387(5) is not attracted when it is deemed to be part of the public street on vesting in the Corporation. The process under Section for acquisition by the Town and Country Development Authority for the purpose of any development scheme has to be laid down in the zonal plan.

71. The appellants have also placed reliance on Rajendra Shankar Shukla v. State of Chhattisgarh 48 to contend that the 1973 Act provides for arrangement, the development plan is an umbrella which encompasses within its fold a zonal plan which is implemented through Town Development Scheme. This Court has laid down thus: (SCC pp. 440-42, paras 65-70 & 74-75

> *"65. As per the factual averments of this case, Respondent 2 RDA, without any resolution of the Board, on its own motion, addressed a Letter dated 31-7-2006 and approached the State Government for change of land use because it had to propose the township in Tikrapara, Devpuri and Boriakhurd Villages. Thereafter, KVTDS was also proposed, published, finalised and approved before the land use was changed by the State g Government. Under the provisions of the 1973 Act, the development plan/ Raipur Master Plan (Revised) 2021 that is prevailing, Respondent 2 RDA as well as the State Government gave primacy to KVTDS and sought changes in the master plan to suit KVTDS. This is impermissible in law. The finding recorded by the High Court of Chhattisgarh, Bilaspur, in its judgment in this regard that no finality can be attached to the master plan is an erroneous finding. Accordingly, we are of the opinion that the town development scheme which is KVTDS in the present case, was not prepared in accordance with Section 50 of the 1973 Act and we hold that KVTDS is ultra vires the 1973 Act.*

Answer to Point (iii)

> *66. Though we have answered Point (ii) in favour of the appellant, we intend to mention other grounds too, which render KVTDS as illegal. The learned Senior Counsel on behalf of the appellants contended that in the absence of a zonal plan, a town development scheme cannot be framed by Respondent 2 RDA, and therefore, the acquisition proceedings of the land of the appellants cannot be allowed to sustain.*

67. The town development scheme is always subservient to the master plan as well as the zonal plan, as provided under Section 17 of the 1973 Act, which reads as under:

17. Contents of development plan. A development plan shall take into account any draft five year and annual development plan of the district prepared under the Madhya Pradesh Zila Yojana Samiti Adhiniyam, 1995 (19 of 1995) in which the planning area is situated.....

68. Master plan falls within the category of broad development plans and is prepared only after taking into account the Annual Development Reports prepared by constitutionally elected bodies of local panchayats and municipalities, etc. A zonal plan is mandated to be prepared only after the publication of the development plan. Section 20 of the Act reads thus:

20. Preparation of zonal plans. The local authority may on its own motion at any time after the publication of the development plan, or thereafter if so required by the State Government shall, within the next six months of such requisition, prepare a zoning plan.'

Further, Section 21 of the Act reads thus:

21. Contents of zoning plan. The zoning plan shall enlarge the details of the land use "as indicated in the development plan"....'

Thus, it is evident from the language of Sections 20 and 21 of the Act, that a zonal plan can be prepared only in adherence to the development plan which in the present case is the Raipur Master Plan of 2021.

69. Next, Section 49 of the Act which provides for the provisions for which a town development scheme can be prepared, has to be read along with Section 21 of the Act, which clearly mentions that the land required

70. Therefore, a combined reading of Sections 17, 21 and 49 lays down that the development plan is the umbrella under which a zonal plan is made for the city. The zonal plan in turn allocates the land which could be acquired for town development schemes.

74. In the case in hand, KVTDS has been prepared in the absence of a zonal plan. It is not possible to define the utilisation of land under the town development scheme unless the zonal plan formulated by the local authority describes with sufficient particularity the details for which the broadly indicated use of land in the development plan may be put. Respondent 2 RDA is not permitted to either usurp or bypass the power vested with the local authorities for preparing town development scheme in the absence of zoning plan merely on the ground that the local authority did not exercise its constitutional power in preparing the zonal plan following the direction of Respondent 1 State Government under

Section 20 of the 1973 Act. A mere glance at the master plan would clearly go to show that it does not set out the detailed land use with sufficient particulars. Therefore, the framing of a zonal plan by local authority in laying out a detailed plan of land use with sufficient particulars is a sine qua non under the provisions of the Act.

75. The legal contention urged on behalf of the respondents that a town development scheme can be framed pursuant to the development plan without there being a zonal plan, is not sustainable. The learned Senior Counsel, Ms Pinky Anand and Mr Prashant Desai on behalf of the respondents relied upon the Act pari materia for the State of Gujarat where the Town Planning Act does not contemplate a zonal plan, and which contemplates "DP-TP"." (emphasis supplied)

There is no dispute with the law laid down by this Court and town planning scheme has to be subservient to development plan/zonal plan. Development plan which does not require micro planning is binding and can be implemented."

12. Considering the facts and circumstances of the case and the settled position of law, considering the submission made at the Bar , but without repeating all the contentions which are recorded in detail in earlier portion, I am of the view that that this is a fit case where Court should not entertain petition under Article 226 of the Constitution as respondent authority has acted by exercising power u/S 305 of the Act of 1956, which reads as under:

305. Power to regulate line of buildings.

(1)If any part of a building projects beyond the regular line of a public street, either as existing or as determined for the future or beyond the front of immediately adjoining buildings the Corporation may-

(a)if the projecting part is a verandah, step or some other structure external to the main building, then at any time; or

(b)if the projecting part is not such external structure as aforesaid, then whenever the greater portion of such building or whenever any material portion of such projecting part has been taken down or burned down or has fallen down, require by notice either that the part or some portion of the part projecting beyond the regular line or beyond the front of the immediate adjoining building, shall be removed, or that such building when being rebuilt

shall be set back to or towards the said line or front; and the portion of land added to the street by such selling back or removal shall henceforth be deemed to be part of the public street and shall vest in the Corporation :

Provided that the Corporation shall make reasonable compensation to the owner for any damage or loss he may sustain in consequence of his building or any part thereof being setback.

(2)The Corporation may, on such term as it thinks lit, allow any building to be set forward for the improvement of the line of the street.

13. Also considering the provisions of Section 17, 49, 50(7), 54 of the Adhiniyam, 1973, which reads as under:

17 - [A development plan shall take into account any draft five-year and Annual Development plan of the district prepared under the Madhya Pradesh Zila Yojana Samiti Adhiniyam, 1995 (No. 19 of 1995) in which the planning area is situated and shall.] [Substituted by M.P. Act No. 8 of 1996 (w.e.f. 17-4-1996).](a)indicate broadly the land use proposed in the planning area;(b) [allocate broadly areas or zones of land, keeping in view the regulations for natural hazard prone areas, for-] [Substituted for 'allocate broadly areas or zones of land for-' by M.P. Act No. 22 of 2005.](i)residential, industrial, commercial or agricultural, purpose;(ii)open spaces, parks and gardens, green-belts, zoological gardens and playgrounds;(iii)public institutions and offices; (iv)such
special purposes as the Director may deem fit;(c)lay down the pattern of National and State Highways connecting the planning area with the rest of the region, ring roads, arterial roads and the major roads within the planning area; (d)provide for the location of air-ports, railway stations, but terminus and indicate the proposed extension and development of railways and canals; (e)make proposals for general landscaping and preservation of natural areas; (f)project the requirement of the planning area of such amenities and utilities as water, drainage, electricity and suggest their fulfilment;(g)propose broad based regulations for zoning, by way of guide lines, within each zone or sector of the location, height, size of buildings and structures, open spaces, court yards and the use to which such buildings and structures and land may be put;(h)lay down the broad-based traffic circulation patterns in a city;(i)suggest architectural control features; elevation and frontages of buildings and structures;(j)indicate measures for flood control, prevention of air and water pollution, disposal of garbage and general environmental control.

In view of the above discussion and considering the material available on record, more particularly, the procedure carried out by way of joint inspection, by way of panchnama which clearly indicates that there is encroachment made by the petitioner on the Government land on his site which is marked by putting up construction on his land, neither there is violation of Article 14 nor Article 300A of the Constitution. The provisions of Section 305 of the Act, 1956 mandates the Corporation to take action pursuant to the Indore Master

Plan, 2021.

49. Town Development Schemes.
- A town development scheme may make provision for any of the following matters,-(i)acquisition, development and sale or leasing of land for the purpose of town expansion;(ii)acquisition, relaying out of, rebuilding, or relocating areas which have been badly laid out or which has developed or degenerated into a slum;(iii)acquisition and development of land for public purposes such as housing development, development of shopping centres, cultural centres, administrative centres;(iv)acquisition and development of areas for commercial and industrial purposes;(v)undertaking of such building or construction work as may be necessary to provide housing, shopping, commercial or other facilities; (vi)acquisition of land and its development for the purpose of laying out or remodeling of road and street patterns;(vii)acquisition and development of land for playgrounds, parks, recreation centres and stadia; (viii)reconstruction of plots for the purpose of buildings, roads, drains, sewage lines and other similar amenities;(xi)any other work of a nature such as would bring about environmental improvements which may be taken up by the authority with the prior approval of the State Government.

50. Preparation of Town Development Schemes.
(1)The Town and Country Development Authority may, at any time, declare its intention to prepare a town development scheme.(2)Not later than thirty days from the date of such declaration of intention to make a scheme, the Town and Country Development Authority shall publish the declaration in the Gazette and in such other manner as may be prescribed.(3)Not later than two years from the date of publication of the declaration under sub-section (2) the Town and Country Development Authority shall prepare a town development scheme in draft form and publish it in such form and manner as may be prescribed together with a notice inviting objections and suggestions from any person with respect to the said draft development scheme before such date as may be specified therein, such date being not earlier than thirty days from the date of publication of such notice.(4)The Town and Country Development Authority shall consider all the objections and suggestions as may be received within the period specified in the notice under sub-section (3) and shall, after giving a reasonable opportunity to such persons affected thereby as are desirous of being heard, or after considering the report of the committee constituted under sub-section (5) approve the draft scheme as published or make such modifications therein as it may deed fit:[Provided that the final publication of such draft scheme shall be notified not later than one year from the date of publication of the draft scheme failing which the draft scheme shall be deemed to have lapsed.] [Inserted by M.P. Act No. 21 of 2004 (w.e.f. 24-12-2004).] (5)Where the town development scheme relates to reconstitution of plots, the Town and Country Development Authority shall, notwithstanding anything contained in sub-section (4), constitute a committee consisting of the Chief Executive Officer of the said authority and two other members of whom one shall be representative of the Madhya Pradesh Housing Board and the other shall be an officer of the Public Works Department not below the rank of an Executive Engineer nominated by the Chief Engineer, Public Works Department for the purpose of hearing objections and suggestions received under sub-section (3).(6)The committee constituted under sub-section (5) shall

consider the objections and suggestions and give hearing to such persons as are desirous of being heard and shall submit its report to the Town and Country Development Authority within such time as it may fix along with proposals to,- (i)define and demarcate the areas allotted to or reserved for public purpose; (ii)demarcate the reconstituted plots;(iii)evaluate the value of the original and the reconstituted plots;(iv)determine whether the areas reserved for public purpose are wholly or partially beneficial to the residents within the area of the scheme;(v)estimate and apportion the compensation to or contribution from the beneficiaries of the scheme on account of the reconstitution of the plot and reservation of portions for public purpose;(vi)evaluate the increment in value of each reconstituted plot and assess the development contribution leviable on the plot holder :Provided that the contribution shall not exceed half the accrued increment in value;(vii)evaluate the reduction in value of any reconstituted plot and assess the compensation payable therefor.(7)Immediately after the town development scheme is approved under sub-section (4) with or without modifications the Town and Country Development Authority shall publish in the Gazette and in such other manner as may be prescribed a final town development scheme and specify the date on which it shall come into operation.

54. [Lapse of scheme. [Substituted by M.P. Act No. 8 of 1996 (w.e.f.17-4-1996).] - If the Town and Country Development Authority fails to commence implementation of the town development scheme within a period of two years or complete its implementation within a period of five years from the date of notification of the final scheme under Section 50, it shall, on expiration of the said period of two years or five years, as the case may be, lapse :Provided that, if a dispute between the authority and parties, if any, aggrieved by such scheme, is brought before a Court or Tribunal of competent jurisdiction, for consideration, the period for which such dispute pending before such Court or Tribunal shall not be reckoned for determination of the lapse of the scheme.]

14. Considering all these aspects and the fact that the larger public interest is involved in the matter and there is no apparent illegality or arbitrariness found in the action of respondent authority which is otherwise found to be in accordance with law, I find that all the contentions raised in the present petition by the petitioner though sounds to be attractive, but lacks in merits in the facts and circumstances of the present petition and in view of various judgments.

15. The counsel for the petitioner has raised objection by clarifying that the petitioner is ready to file affidavit to the effect of suppression of

material documents. But on perusal of the documents which are produced by the respondent no.2 and 3, it is clear that the document is served to the petitioner and receiving of the representative of petitioner is also available on the overleaf. *Prima facie*, it transpired that the contention raised by the petitioner that such document has not been provided to the petitioner and therefore, it was not produced alongwith the petition cannot be found in accordance with the record available in the present petition and, therefore, it is clear that the petitioner has suppressed the said fact.

16. It is pertinent to note that the petitioner has not come before this Court with clean hands , in as much as that the petitioner has suppressed the material documents, which has direct bearing on the outcome of the present petition. Though, the counsel for petitioner has tried to contend that none of the documents which are now sought to be relied by the respondents are provided to the petitioner, but record speaks otherwise as the representative of petitioner was present at the time of joint inspection and has signed the proceedings at that relevant point of time . Therefore, the latin maxim '*falsus in uno, falsus in omnibus*' which means "false in one thing, false in everything" is applicable to the case of present petitioner.

17. Considering that maxim, petitioner is not entitled to get any relief as prayed in the petition. I find no arbitrariness, illegality or found any action taken by the respondent authority in unjust manner warranting interference by this Court by exercising power under Article 226 of the Constitution of India.

18. Though, in view of the fact that petitioner has suppressed material fact, this Court is of the opinion to dismiss the petition by imposing heavy exemplary cost, keeping in mind about the conduct of the petitioner who has filed the petition by suppressing the material fact, which means to abuse the process of law. However, considering the contention of petitioner that petitioner is not aware of the said fact, the Court deems fit to impose cost to the tune of **Rs. 20,000/- (Rupees Twenty Thousand only),** which shall be deposited in the account of M.P. Legal Aid Services Authority, Indore by the petitioner within seven days from today and a receipt thereof be submitted in the Registry of this Bench.

19. All the contentions raised by the counsel for petitioner are dealt in above mentioned discussion, more particularly by considering the applicability of the judgment of Hon'ble Apex Court in the case of **Ramchandra Waghmare(supra)** and therefore all the contentions of petitioner are not required to be accepted and rejected accordingly.

20. Petition fails on various grounds and even lacks on merits for grant of any relief under Article 226 of the Constitution of India and, therefore, deserves to be and is hereby dismissed.

(SANDEEP N. BHATT)
JUDGE

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