

IN THE HIGH COURT OF MADHYA PRADESH
AT GWALIOR
BEFORE

HON'BLE SHRI JUSTICE ANAND PATHAK

&

HON'BLE SHRI JUSTICE HIRDESH

WRIT PETITION No. 8155 OF 2025

KAMLESH CHATURVEDI

Versus

***SAKSHAM ADHIKARI DWITIYA VYAVHAR NYAYADHEESH AND
OTHERS.***

Appearance :

Petitioner in person.

Shri Ankur Mody – Additional Advocate General for the State.

ORDER

(Passed on 16th Day of June 2025)

Per: Justice Anand Pathak

Present petition has been filed by the petitioner under Article 227 of the Constitution of India seeking following reliefs :-

1. माननीय न्यायालय से विनम्र याचना है कि याचिकाकर्ता की याचिका स्वीकार की जाकर रेस्पोडेन्टगण क्रमांक 1 लगायत 4 द्वारा षडयंत्र पूर्वक भ्रष्टाचार कर यह जानते हुये कि ऐसे आदेश से याचिकाकर्ता को उसके स्वामित्व व आधिपत्य की कृषि भूमि से प्रतिवादी क्रमांक 1 बलपूर्वक बेदखल कर उस पर कब्जा करे जिस पर वादी को आर्थिक क्षति पहुंचाई जा सके ऐसी स्थिति में याचिकाकर्ता की हत्या हो सकती है। रेस्पोडेन्ट क्रमांक 1 लगायत 4 के विरुद्ध अपराध पंजीबद्ध किये जाने के आदेश पारित किया जाना उचित व न्यायसंगत है।
2. यह कि रेस्पोडेन्ट क्रमांक 2 व 3 द्वारा याचिकाकर्ता/वादी की अनुपस्थिति में हस्तलेख विशेषज्ञ से अपने पद एवं शक्तियों का उपयोग

करके उसका प्रभाव लेकर प्रकरण में याचिकाकर्ता के विरुद्ध मिथ्या साक्ष्य उत्पन्न कराया गया अपराध घटित हुआ है ऐसी स्थिति में रेस्पोडेन्ट क्रमांक 1 लगायत 4 के विरुद्ध अपराध पंजीबद्ध किये जाने के आदेश प्रदान करने के आदेश पारित किया जाना न्यायोचित है।

3. यह कि, रेस्पोडेन्ट क्रमांक 3 के विरुद्ध वार काउंसिलिंग जबलपुर को यह आदेशित किया जावे कि उसके वकालत का रजिस्ट्रेशन निरस्त किया जावे तथा रेस्पोडेन्ट क्रमांक 4 का भी रजिस्ट्रेशन निरस्त किया जावे।

4. यह कि, रेस्पोडेन्ट क्रमांक 1 व 2 द्वारा अपने पद एवं शक्तियों का दुरुपयोग यह जानते हुये किया है कि जिससे याचिकाकर्ता को आर्थिक क्षति पहुंचाई जा सके मिथ्या साक्ष्य उत्पन्न करके प्रकरण के रिकार्ड पर आई साक्ष्य के विपरीत जानबूझकर के निर्णय एवं डिक्री दिनांक 06.07.2024 पारित किया गया है ऐसे सक्षम न्यायालयीन अधिकारी को अपने पद पर बने रहने का कोई कानूनी अधिकार नहीं है, पद मुक्त करने की कार्यवाही की जावे क्यों कि उनके द्वारा विधि एवं प्रक्रिया का पालन नहीं किया गया है।

5. यह कि, प्रकरण में षडयंत्र एवं भ्रष्टाचार पूर्वक मिथ्या साक्ष्य उत्पन्न किया है तथा निर्णय व डिक्री दिनांक 06.07.2024 पारित की गई है ऐसी स्थिति में रेस्पोडेन्ट क्रमांक 1 लगायत 4 के विरुद्ध अपराध पंजीबद्ध करने का आदेश पारित किया जाने की कृपा की जावे।

2. Brief facts of the case are that petitioner had instituted a civil suit seeking declaration and permanent injunction against defendant no.1 therein, asserting title and possession over certain agricultural land situate at village and Halka Bandholi, Tahsil Gwalior on the basis of a Will dated 06.08.1983 executed by late Smt. Tulsadevi in favour of the petitioner. Said Tulsadevi died in 2005 and on the basis of the Will, petitioner became owner and in possession of the suit land, on the basis of which he is entitled to get his name mutated in the revenue record. It has been mentioned in the plaint that defendant No.1, in the absence of petitioner, taking the benefit of old age of Tulsadevi took her to Registrar office and created a forged Will dt.07.08.1998, whereas there was no occasion for Tulsadevi to execute Will in favour of

defendant No.2. On the basis of the aforesaid Will, defendant No.2 submitted application for mutation of his name in the revenue record.

3. Mentioning the aforesaid facts, petitioner sought relief of declaration that he is owner and in possession of the suit land on the basis of Will dt.06.08.1983 and is entitled to get his name mutated in the revenue record. It be also declared that no rights of the petitioner are affected due to the forged Will dt.07.08.1998 executed by defendant No.1 and the same be declared null and void. It be also declared that defendant No.1 not entitled to get any benefit on the basis of aforesaid forged Will dt.7.8.1998 nor is entitled to get his name mutated in revenue record. A permanent injunction was also sought that petitioner shall not be dispossessed from suit land by defendant or through any other person. Defendant No.1 denied the averments of the suit mentioning the fact that earlier Will stood revoked by the later Will dated 07.08.1998 executed by the same testator, Tulsadevi, in his favour. Defendant No.1 further alleged that after death of Tulsadevi, defendant No.1 became the owner and in possession of all the movable and immovable property of Tulsadevi. Based on the said Will, the defendant moved application for mutation before the competent authority under the M.P. Land Revenue Code. The civil suit filed by the petitioner came to be dismissed vide judgment and decree dated 06.07.2024 by the competent civil court.

4. It is the submission of the petitioner that respondent No.2 (Judicial Officer) misusing her post and power, in collusion with respondent No.3

Advocate and Handwriting Expert Sanjay Yadav – respondent No.4 created false evidence, just to pass judgment and decree against the petitioner, as revealed by respondent No.4 himself during his cross examination. Respondent No.1 (Judicial Officer) exhibited the documents produced by the petitioner. The petitioner also filed written arguments. The judgment was passed without proper appreciation of evidence so also without considering written argument submitted by petitioner. Orders dt.04.01.2022, on application under Section 45 of the Evidence Act and dt.24.02.2022, on application under Order 26 Rule 10 of CPC have also not been complied with. While passing the judgment and decree, testimony of respondent no.4 Handwriting Expert Sanjay Yadav, has also been ignored.

5. Learned court also ignored the material facts and evidence produced by the petitioner and intentionally passed the judgment and decree against the petitioner so that he may suffer financial loss.

6. Learned court acted in a biased and pre-determined manner, resulting in miscarriage of justice. Petitioner submits that his rights were deliberately suppressed through a conspiracy and respondents No.1 and 2 failed to exercise impartially. Hence, he filed the instant petition.

7. Learned counsel for the State strongly opposed the petition on the ground of maintainability and submitted that the allegations made by the petitioner are bald, unsubstantiated, and motivated, and amount to casting aspersions on the judiciary without any cogent material. It is submitted that

the present petition appears to be continuation of the petitioner's grievance arising from the dismissal of his civil suit and does not disclose any cause for interference under Article 226 of the Constitution.

8. It is further submitted that if the petitioner is aggrieved by the outcome of the civil suit, he has appropriate remedies available under the civil appellate procedure. It is further submitted that the judicial officers against whom action is sought were discharging their official duties in a judicial capacity. The nature of allegations particularly against judicial officers falls beyond the scope of writ jurisdiction, especially in absence of any cogent material.

9. It is also submitted that the handwriting expert and the advocate were performing their professional duties, and there is no evidence on record to show forgery, collusion, or fraud warranting criminal investigation or professional misconduct proceedings. On such grounds, learned counsel prays for dismissal of writ petition.

10. Heard the petitioner as well as counsel for the State.

11. Upon perusal of the writ petition and considering the submissions of the petitioner, this Court is of the considered opinion that the reliefs sought by the petitioner pertain to serious allegations against judicial officers, practicing advocate and handwriting expert, who have performed their official and professional duties in judicial proceedings.

12. It is necessary to reiterate that judicial officers while acting in their judicial capacity, are protected under law and cannot be subjected to prosecution or personal allegations in collateral proceedings. Hon'le Apex Court in the case of **K. Veeraswami v. Union of India (1991) 3 SCC 655**, has laid down guidelines on how judicial officers may be proceeded against in exceptional circumstances. Such steps require prior sanction from competent authority as provided under Section 197 of the Cr.P.C. Even then, the bar under Articles 226/227 of the Constitution remains against interference in judicial decision-making unless there is malafide apparent on record or cogent evidence available on record.

13. So far as the allegations made by the petitioner against respondent No.3 Advocate is concerned, it is well settled that grievances relating to professional misconduct or unethical behaviour of the advocate are to be addressed before the State Bar Council or the Bar Council of India under the Advocates Act, 1961. The petitioner is at liberty to approach the Bar Council for appropriate redressal, if so advised, With regard to the allegations against respondent No.4 (Handwriting Expert) acceptance/rejection of the expert evidence is the judicial discretion of the trial court and such assessment cannot be interfered with in writ jurisdiction.

14. In the present case, the entire grievance of the petitioner seems from the adverse findings recorded by the civil court in the judgment and decree dt.06.07.2024. Furthermore, if the petitioner is aggrieved by the judgment and

decree passed by the trial court, he has a remedy of filing an appeal or review before the competent forum. Instead of availing such remedy, petitioner filed the present petition seeking criminal prosecution against the respondents. Such demand is wholly untenable and therefore, present writ petition is not maintainable.

15. In view of the aforesaid discussion and looking to the reliefs sought by the petitioner, this court finds that present writ petition is misconceived and accordingly the same is **dismissed**. However, liberty is granted to the petitioner to avail appropriate remedies, if any available to him under the law.

(ANAND PATHAK)
JUDGE

(HIRDESH)
JUDGE

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