



IN THE HIGH COURT OF MADHYA PRADESH  
AT GWALIOR

BEFORE

HON'BLE SHRI JUSTICE G. S. AHLUWALIA

&

HON'BLE SHRI JUSTICE DEEPAK KHOT

ON THE 10<sup>th</sup> OF JUNE, 2026

WRIT PETITION No. 19938 of 2026

*SHYAM SUNDAR ALIAS BHOLARAM*

*Versus*

*THE STATE OF MADHYA PRADESH AND OTHERS*

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Appearance:

*Shri Vineet Saxena and Shri Satendra Singh Rajawat - Advocates for petitioner.*

*Shri Rajendra Jain - Government Advocate for the State.*

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ORDER

*Per. Justice Gurpal Singh Ahluwalia*

1. This writ petition under Article 226 of the Constitution of India has been filed seeking the following reliefs:

"i) Issue a writ in the nature of Mandamus or any other appropriate writ, order, or direction, commanding the Respondents No. 2 to 5 to take immediate and effective steps to completely stop all illegal sand mining activities at and around Mehda Ghat, Village Mehda, Tehsil Raun, District Bhind, and specifically to ensure that no illegal mining takes place on the Petitioner's agricultural land bearing Survey No. 523, and to protect it from any further damage.

(ii) Issue a writ in the nature of Mandamus or any other appropriate writ, order, or direction, commanding the Respondents No. 2 to 5 to initiate appropriate legal and penal proceedings against the persons found to be involved in the illegal mining and issuance of threats.



(iii) Any other writ, order or direction as this Hon'ble. court may deem fit doing justice in the matter of the investors /petitioners may kindly be issued."

2. It is submitted by counsel for petitioner that some private persons have encroached upon the land belonging to petitioner and are carrying out the mining work.

3. However, petitioner has not impleaded the private persons who have allegedly encroached upon the private land of petitioner.

4. Further more, a writ petition against a private person is not maintainable. It appears that petitioner is alleging violation of his civil rights by some private persons, and thus, he has an efficacious remedy of filing a civil suit.

5. At this stage, it is submitted by counsel for petitioner that he is ready to file a civil suit but in the meanwhile, his possession may be protected.

6. Heard learned counsel for petitioner.

7. The Supreme Court, in the case of *Kalabharati Advertising Vs. Hemant Vimalnath Narichania and Others*, reported in (2010) 9 SCC 437 has held as under:

"22. It is a settled legal proposition that the forum of the writ court cannot be used for the purpose of giving interim relief as the only and the final relief to any litigant. If the court comes to the conclusion that the matter requires adjudication by some other appropriate forum and relegates the said party to that forum, it should not grant any interim relief in favour of such a litigant for an interregnum period till the said party approaches the alternative forum and obtains interim relief. (Vide *State of Orissa v. Madan Gopal Rungta*



[1951 SCC 1024 : AIR 1952 SC 12] , Amarsarjit Singh v. State of Punjab [AIR 1962 SC 1305] , State of Orissa v. Ram Chandra Dev [AIR 1964 SC 685] , State of Bihar v. Rambalak Singh “Balak” [AIR 1966 SC 1441 : 1966 Cri LJ 1076] and Premier Automobiles Ltd. v. Kamlekar Shantaram Wadke [(1976) 1 SCC 496 : 1976 SCC (L&S) 70 : AIR 1975 SC 2238] .)"

8. Thus, it is clear that where the Writ Court has refused to entertain the writ petition and has relegated the petitioner to avail the statutory remedy before any other different forum, then writ jurisdiction cannot be exercised to pass an interim order.

9. Under these circumstances, the prayer for grant of temporary injunction till filing of the suit, cannot be accepted.

10. Accordingly, with liberty to the petitioner to file a civil suit, this petition is **dismissed**.

11. It is made clear that, in case if a civil suit is filed, then the civil Court shall decide the civil suit strictly in accordance with evidence which would come on record and should not get influenced or prejudiced by the non-entertainment of this writ petition by this Court.

(G. S. AHLUWALIA)  
V. JUDGE

(DEEPAK KHOT)  
V. JUDGE