

**IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR
BEFORE
HON'BLE SHRI JUSTICE SHEEL NAGU
&
HON'BLE SHRI JUSTICE PRAKASH CHANDRA GUPTA
ON THE 27th OF OCTOBER, 2022**

WRIT PETITION No. 257 of 2022

BETWEEN:-

1. **SHRADDA TIWARI D/O SURESH KUMAR
TIWARI OCCUPATION: HOMEMAKER AGE
ADULT R/O H.85, NARMADA ROAD NEAR
BADSHAH HALWAI MANDIR, TAGORE
NAGAR, GWARIGHAT BHATAULI,
GWARIGHAT JABALPUR (MADHYA
PRADESH)**
2. **SURENDRA KUMAR SHUKLA S/O R S
SHUKLA OCCUPATION: RETIRED, AGE-
ADULT R/O H. NO.48/3A, SAKET NAGAR
BHOPAL (MADHYA PRADESH)**
3. **DEVSHREE SHUKLA W/O CHANDESH
SHUKLA OCCUPATION: DOCTOR, AGE
ADULT R/O H.NO. 48/3A, SAKET NAGAR
BHOPAL (MADHYA PRADESH)**
4. **ARCHNA DIXIT W/O SHRI RACHIT DIXIT
OCCUPATION: BUSINESS, AGE ADULT, R/O
659B, STATION ROAD MADAN MAHAL
RANITAL JABALPUR (MADHYA PRADESH)**
5. **DEEPIKA SHUKLA W/O PRAVEEN KUMAR
SHUKLA OCCUPATION: HOMEMAKER,
AGE ADULT, ADDRESS R/O H.NO. 1132,
NEAR HB COLLEGE, VIJAY NAGAR
JABALPUR (MADHYA PRADESH)**

.....PETITIONERS

*(BY SHRI ATUL ANAND AWASTHY, SENIOR ADVOCATE
WITH SHRI AMIT KHATRI & SHRI ABHAY TIWARI,
ADVOCATES)*

AND

1. **BHOPAL DEVELOPMENT AUTHORITY, BHOPAL THR. ITS CHIEF EXECUTIVE OFFICER PRAGATI BHAWAN , PRESS COMPLEX, MP. NAGAR, ZONE I, BHOPAL (MADHYA PRADESH)**
2. **COMMISSIONER, CENTRAL GOODS AND SERVICE TAX (CGST) BHOPAL, THROUGH AUTHORISED OFFICER ADDRESS-ADMINISTRATIVE AREA, PARYAWAS BHAWAN, 35-C, MOTHER TERESA MARG, NEAR ARERA HILLS, BHOPAL (MADHYA PRADESH)-462004.**

.....RESPONDENTS

(BY SHRI HIMANSHU KHEMUKA, ADVOCATE & SHRI GAUTAM PRASAD, ADVOCATE.)

This petition coming on for hearing this day, JUSTICE SHEEL NAGU passed the following:

ORDER

Challenge in this petition filed under Article 226 of the Constitution of India is to the land allotment notices dated 23-11-2021 and 09.12.2021 Annexures P/1, P/2, P/3, P/4 & P/5 by which GST @ 12% has been levied upon the sale consideration for purchase of developed land upon the petitioners who happen to be purchasers of the said land from Bhopal Development Authority.

2. During the pendency of this petition the counsel for respondent No. 1 Bhopal Development Authority and GST brought to the notice of this Court circular dated 03.08.2022 issued by Government of India, Ministry of Finance, Department of Revenue, issuing clarifications regarding applicable GST rates & exemptions on certain services, which inter-alia provide thus:-

"14. Whether sale of land after levelling, laying down of

drainage lines etc., is taxable under GST.

(14.1) Representation has been received requesting for clarification regarding applicability of GST on sale of land after levelling, laying down of drainage lines etc.

(14.2) As per Sl. No. (5) of Schedule III of the Central Goods and Services Tax Act, 2017, sale of land¹ is neither a supply of goods nor a supply of services, therefore, sale of land does not attract GST.

(14.3) Land may be sold either as it is or after some development such as levelling, laying down of drainage lines, water lines, electricity lines, etc. It is clarified that sale of such developed land is also sale of land and is covered by Sr. No. 5 of Schedule III of the Central Goods and Services Tax Act, 2017 and accordingly does not attract GST.

(14.4) However, it may be noted that any service provided for development of land like levelling laying of drainage lines (as may be received by developers) shall attract GST at applicable rate for such services.

3. In view of the aforesaid clarification issued by the Government of India, Ministry of Finance, Department of Revenue, it would be appropriate that the Bhopal Development Authority applies its mind again on the question as to whether GST deserves to be levied in given facts and circumstances or not.

4. Accordingly, this **petition is disposed** of with direction to the Bhopal Development Authority to reconsider the question of levy of GST on the sale of developed plots to the petitioners in the light of aforesaid circular dated 03.08.2022 issued by Government of India, Ministry of Finance, Department of Revenue.

5. It is clarified that while doing so, Bhopal Development Authority shall not be influenced by the impugned orders dated 23-11-2021 and 09.12.2021 Annexures P/1, P/2, P/3, P/4 & P/5 in respect of petitioners.

6. Let the aforesaid exercise be concluded within a period of 60 days from the date of receipt of copy of this order.



(SHEEL NAGU)
JUDGE
MISHRA

(PRAKASH CHANDRA GUPTA)
JUDGE

