

RAJ HOMES PVT. LTD. & ANOTHER

v.

STATE OF MADHYA PRADESH & OTHERS

(Civil Appeal Nos. 7732-7733 of 2004)

AUGUST 26, 2008

[DALVEER BHANDARI AND LOKESHWAR SINGH
PANTA, JJ.]

Madhya Pradesh Land Revenue Code, 1959 – ss. 59 (5) and 258 (iii) – Rule imposing premium – For diversion of Land for non-agricultural use – Challenged as being in excess of the power granted for such imposition and in violation of Article 14 of the Constitution – Held: Imposition of premium was not in excess of the power – It is in consonance with the spirit and objects of the Code – Rule imposing the premium or the Schedule thereof, is not violative of Article 14 of the Constitution since it is based on reasonable differntia – Constitution of India, 1950 – Article 14.

Appellants filed writ petitions contending that Rule 14 regarding Imposition of premium u/s 59 (5) of Madhya Pradesh Land Revenue Code, 1959 imposing flat rate of premium was in excess and violative of ss. 59 (5) and 258 (iii) of the Code; and that it is violative of Article 14 of the Constitution. High Court dismissed the writ petitions. Hence the present appeals.

Dismissing the appeals, the Court

HELD: 1.1 The premium is one time charge for diversion of land for better land use under rule 14 of Madhya Pradesh Land Revenue Code, 1959. The scheme of the Act clearly reveals that the premium is charged only when land use is converted for betterment. In this view of the matter, the State is fully justified in charging the premium and the same is in consonance with the spirit, objects and reasons of the Code. [Para 27] [842 A-B]

A 1.2 The State Government enjoys ample powers of not only to fix land revenue rates or to re-fix them upon conversion/diversion of the land for another use but also charges premium upon diversion of land for another use. [Para 27] [841 G-H]

B 2. In view of the entire scheme of the Act and the provisions of the Code, it cannot be said that Rule 14 is violative of Article 14 of the Constitution. The classification of various cities in the State is determined as per the values of land in different cities, the extent of population of those cities and the character of those cities. The important cities of the State are classified differently from smaller cities and towns as also according to their population. Similarly, villages are also classified differently and rate of levying premium for conversion is accordingly prescribed. The Schedule is based on reasonable differentia taking into account 31 relevant factors for the purpose, and it cannot be called arbitrary or discriminatory. [Para 27] [842 C-F]

E CIVIL APPELLATE JURISDICTION : Civil Appeal Nos. 7732-7733 of 2004

From the final Judgment and Order dated 26.08.2003 of the High Court of Judicature at Jabalpur (M.P.) in Writ Petition No. 27171 & 6269 of 2003

F A.K. Sanghi for the Appellants.

Vibha Datta Makhija for the Respondents.

The Judgment of the Court was delivered by

G **DALVEER BHANDARI, J.** 1. The appellants aggrieved by the order of the High Court of Judicature at Jabalpur dated 26.8.2003 in Writ Petition Nos.6269 and 27171 of 2003 have preferred this appeal with the prayer that the respondent State of Madhya Pradesh be restrained from imposing and collecting any premium under the impugned rule 14 of the Notification dated 24.1.2002.

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2. Brief facts giving rise to the present appeal are recapitulated as under: A

The respondent State of Madhya Pradesh has imposed premium at flat rate irrespective of use and purpose of the diverted land or any relation whatsoever with the land revenue imposed on the land. According to the appellants, the impugned rule 14 of the Madhya Pradesh Land Revenue Code, 1959 (for short "the Code") is arbitrary, unreasonable and as such violative of Article 14 of the Constitution of India. The imposition of premium under rule 14 has been assailed, therefore, it would be imperative to refer to the relevant provisions regarding imposition of premium as under: B
C

"IMPOSITION OF PREMIUM

13. When the land assessed for any non-agricultural purpose is diverted to any agricultural purpose no premium shall be imposed under Sub-section (5) of Section 59 of the Code. D

14. (1) For the purpose of levy of premium on agricultural land other than the land specified in the proviso to Sub-section (5) of Section 59 of the Code diverted to non-agricultural purposes, in any towns and villages in the State of Madhya Pradesh shall be divided into the following classes as specified in Column (1) of the Schedule appended to these rules and the premium shall be imposed according to the rates specified in Column (2) and (3) of the said Schedule as the case may be: E
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Provided that with the sanction of the State Government the Sub-Divisional Officer may include any particular village in higher or lower class than that prescribed in this rule: G

Provided further that no premium shall be payable on agricultural land diverted into residential purposes if the area of diverted land is not exceeding one hundred square H

A metre and "Kachha" construction is built on such land.

Explanation I.- When the 'abadi' of two or more villages adjoins, the population shall be taken as the population of the combined villages.

B Explanation II.- 'Kachha' construction means such construction in which only clay and wood (excluding timber wood) are used.

The Schedule framed under rule 14 reads as under:

C

SCHEDULE

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Classes	For residential and other purpose (excluding Commercial and Industrial Purpose)			For Commercial and Industrial Purpose		
(1)	(2)			(3)		
Class-I	In Municipal Corporation Area	Upto 4 kms. From Municipal Corporation Area	From 4 Kms. To 8 Kms. From the area of Municipal Corporation	In Municipal Corporation Area	Upto 4 Kms. From Municipal Corporation Area	From 4 Kms. To 8 Kms. From the area of Municipal Corporation
	1	2	3	1	2	3
Entire Municipal Corporation area of Gwalior, Indore, Ujjain, Bhopal, Jabalpur, Raipur and Durg and upto 8 Kms. from the outer limits of Municipal Corporation	Rs. 10 per Square Metre	Rs. 7.50 per Square Metre	Rs. 5 per Square Metre	Rs. 20 per Square Metre	Rs. 15 per Square Metre	Rs. 10 per Square Metre

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Classes	For residential and other purpose (excluding Commercial and Industrial Purpose)			For Commercial and Industrial Purpose		
(1)	(2)			(3)		
Class-II	In Municipal Corporation Area	Upto 4 kms. From Municipal Corporation Area	From 4 Kms. To 8 Kms. From the area of Municipal Corporation	In Municipal Corporation Area	Upto 4 Kms. From Municipal Corporation Area	From 4 Kms. To 8 Kms. From the area of Municipal Corporation
	1	2	3	1	2	3
Entire Municipal Corporation area excluding the abovementioned Municipal Corporations shown in Class I and upto 8 Kms. from the outer limits of Municipal Corporation	Rs. 7.50 per Square Metre	Rs. 5.00 per Square Metre	Rs. 3.75 per Square Metre	Rs. 15 per Square Metre	Rs. 10 per Square Metre	Rs. 7.50 per Square Metre

Classes	For residential and other purpose (excluding Commercial and Industrial Purpose)		For Commercial and Industrial Purpose	
(1)	(2)		(3)	
Class-III	In Municipal Council	Upto 5 Kms. From Municipal Council	In Municipal Council Area	Upto 5 Kms. From Municipal Council area
	1	2	1	2
Entire area of Municipal Council more than 50 thousand Population and upto 5 Kms. from the outer limits of Municipal Council.	Rs. 5.00 per Square Metre	Rs. 3.75 per Square Metre	Rs. 10 per Square Metre	Rs. 7.50 per Square Metre

A	Classes	For residential and other purpose (excluding Commercial and Industrial Purpose)		For Commercial and Industrial Purpose	
	(1)	(2)		(3)	
	B	Class-IV	In Municipal Council	Upto 3 Kms. From Municipal Council area	In Municipal Council Area
C		1	2	1	2
	Entire area of Municipal Council of 20 to 50 thousand population and upto 3 Kms. from the outer limits of Municipal Council.	Rs. 3.00 per Square Metre	Rs. 1.50 per Square Metre	Rs. 6.00 per Square Metre	Rs. 3.00 per Square Metre

D	Classes	For residential and other purpose (excluding Commercial and Industrial Purpose)		For Commercial and Industrial Purpose	
	(1)	(2)		(3)	
	E	Class-V	In the area of Nagar Panchayat	Upto 3 Kms. From Nagar Panchayat area	In the area of nagar Panchayat
F		1	2	1	2
	Entire area of Nagar Panchayat and upto 3 Kms. from the outer limits of Nagar Panchayats	Rs. 1.50 per Square Metre	Rs. 1.00 per Square Metre	Rs. 3.00 per Square Metre	Rs. 1.50 per Square Metre

G	Class-VI	Within limits of village area	Outside the limits of village area	Within village area	Out of village area
		1	2	1	2
	H	Village whose population is more than 2 thousand	Rs. 0.75 per Square Metre	Nil	Rs. 1.50 per Square Metre

3. The appellants submitted that reading of section 59 A
with rules 1 to 12 and sections 77, 78, 79, 81, 82 and 98 of the
Code shows that the land revenue is imposed on the land on
the basis of use, purpose, location, area, size of plot, rental
value, assessment rates, advantages and disadvantages etc.
In this view of the matter, it would be appropriate to set out B
section 59 of the Code as under:

*"Section 59. Variation of land revenue according to
purpose for which land is used.- (1) The assessment of
land revenue on any land shall be made with reference to
the use of land—*

- (a) for the purpose of agriculture or such farm house,
which is situated on holding of one acre or more;
- (b) as sites for dwelling houses;
- (c) for purposes other than those specified in items (a),
(b), (d) or (e);
- (d) for industrial or commercial purpose;
- (e) for the purpose of mining under a mining lease within
the meaning of Mines and Minerals (Regulation and
Development) Act, 1957 (No.67 of 1959);

Provided that the assessment of land revenue on any land
situated in the areas which are constituted as reserved or
protected forests under the Indian Forest Act, 1927 (16 of
1927), with reference to use of land for any of the purposes F
aforesaid shall not be proceeded with or any procedure
relating to the assessment to be followed under the relevant
provisions of the Code shall not be commenced except
on a certificate permitting the use of land issued by an
officer of the Forest Department duly authorised by the
State Government in this behalf; G

Explanation: For the purpose of clause (a) "Farm House"
means such building or construction which is any
improvement as defined in clause (j) of sub-section (1) of H

A Section 2, the plinth area of which shall not exceed one hundred square meter and the built up area shall not exceed one hundred fifty square meter.

B (2) Where land assessed for use for any one purpose is diverted to any other purpose, the land revenue payable upon such land shall, notwithstanding that the term for which the assessment may have been fixed has not expired, be liable to be altered and assessed in accordance with the purpose to which it has been diverted.

C (2-a) The alteration or assessment referred to in sub-section (2) shall be carried out by the Sub-Divisional Officer.

D (3) Where the land held free from the payment of land revenue on condition of being used for any purpose is diverted to any other purpose it shall become liable to the payment of land revenue and assessed in accordance with the purpose to which it has been diverted.

E (4) The assessment made under sub-section (2) and (3) shall be in accordance with the rules made by State Government in this behalf and such rules shall be in accordance with the principles contained in Chapter VII or VIII, as the case may be.

F (5) Where land for use for any one purpose is diverted to any other purpose, and land revenue is assessed thereon under the provisions of this section, the Sub-Divisional Officer shall also have power to impose a premium on the diversion in accordance with rules made under this Code:

G Provided that no premium shall be imposed for the diversion of any land for charitable purpose.

H (6) Notwithstanding any usage or grant or anything contained in any law, the right of all persons holding land, which immediately before the coming into force of the Madhya Pradesh Land Revenue Code, 1954 (II of 1955),

was held in malik makbuza right, to exemption from payment of premium on diversion of such land is hereby abolished; but every such person shall, on diversion of such land, be entitled in lieu of such right to a rebate equal to the land revenue for one year payable for such land from the amount of premium determined under sub-section (5).”

4. It would be appropriate to recapitulate rules pertaining to imposition of premium.

“RULES REGARDING ALTERATION OF
ASSESSMENT AND IMPOSITION OF PREMIUM

[Notifications No.175-6477-VII-N (Rules); dated the 6th January 1960 and as amended by No.1400-VII-N-1, dated 21st May 1971, published in M.P. Raj. Pt. 4G, dated 11.6.1971, p. 270 and by No.F.11-7-VII-S-8-89 dated 24.1.2000]

1. In these rules “Code” means the Madhya Pradesh Land Revenue Code, 1959 (No.20 of 1959).

A. ALTERATION OF ASSESSMENT

(i) *Diversion from a non-agricultural purpose to an agricultural purpose in non-urban and urban areas.*

2. When land already diverted to a non-agricultural purpose and re-assessed on that basis is re-diverted to an agricultural purpose the assessment as re-fixed shall be equal to the agricultural assessment on the land as fixed at the last settlement.

3. When land already diverted to a non-agricultural purpose and assessed on that basis is re-diverted to an agricultural purpose and there is no agricultural assessment to fall back upon, the assessment on re-diversion shall be fixed at the rate adopted for similar soil in the same village or in a neighbouring village at the last settlement.

A 4. The assessment fixed under rules 2 and 3 shall remain in force till the next succeeding settlement of the village.

(ii) diversion from an agricultural purpose to a non-agricultural purpose.

B (a) Non-Urban areas

5. If any land assessed at agricultural rates is diverted to a non-agricultural purpose, the assessment thereon shall be revised in accordance with any of the methods specified below according to the circumstances of the case, Viz.:—

C (a) If the area in which the land is situate has an assessment rate as approved by the State Government under Sub-section (2) of Section 77 of the Code, then in accordance with the assessment rate so prevailing.

D (b) If there be no assessment rate in force as aforesaid, then the Sub-Divisional Officer shall calculate the estimated rental value of the land to be assessed in accordance with rules 33, 34, 35 and 36 of the rules framed under Clauses (viii), (ix), (x) & (xii) of Sub-section (2) of section 258 of the Code, as far as they may apply and fix the assessment of the land up to the maximum of 33 percent of the estimated rental value of the land, taking into account the advantages or disadvantages and other circumstances peculiar to the survey number to be assessed.

F 6. In fixing the actual assessment, the area of a survey number of Sub-division measuring less than 5 sq. metres shall be taken to be 5 sq. metres. In other cases areas up to 5 sq. metres shall be ignored, and areas exceeding 5 sq. metres but below 10 sq. metres shall be taken as 10 square metres. The assessment shall be correct to the nearest naye Paise.

G 7. The assessment fixed under rule 5 shall remain in force till the next succeeding settlement of the village.

H (b) Urban Areas

8. If any land in an urban area assessed at agricultural rate is diverted to an non-agricultural purpose, its assessment shall be altered by fixing the actual assessment on the basis of the standard rate prevailing for the area in which the land is situated, if, in such area, a standard rate as approved by the State Government under rule 30 of the rules framed under clauses (xvi), (xvii) and (xviii) of Sub-section (2) of Section 258 of the Code, is in force.

A

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9. If no such standard rate is in force, the average letting value of the land shall be calculated, as far as may be, in accordance with rules 25, 26, 27 and 28 of the rules made under the clauses specified in rule 8 above and a standard rate determined in accordance with the provisions of rule 30 of the said rules.

C

10. On such standard rate being calculated, the Sub-Divisional Officer shall fix the actual assessment on the land diverted to a non-agricultural purpose up to one-third of the estimated annual rental value of the land, if the land is held for the purposes mentioned in clause (b) or (c) of Sub-section (1) of Section 59 of the code and up to one-half of the estimated annual rental value, if the land is held for purposes mentioned in clause (d) of the said Sub-section.

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11. In fixing the actual assessment, the area of a plot measuring less than 5 sq. metres shall be taken to be 5 sq. metres. In other cases areas up to 5 sq. metres shall be ignored, and areas exceeding 5 sq. metres but below 10 sq. metres shall be taken as 10 sq. metres. The assessment shall be correct to the nearest naye paise.

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12. The assessment fixed under rule 10 shall remain in force till the next succeeding settlement of the village.

x x x x "

5. Sections 77, 78, 79, 81, 82 and 98 are also set out.

H

A *Section 77. Fixation of assessment rates.*- (1) On
completing the necessary inquiries, as may be prescribed,
the Settlement Officer shall forward to the State Government
his proposals for assessment rates for different classes
B of land in such form and along with such other particulars
as may be prescribed.

(2) The State Government may approve the assessment
rates with such modifications as it may deem fit.

C *Section 78. Maximum and minimum limits for the rate of
assessment.*- The maximum and minimum limits for the
assessment rate shall respectively be one and quarter
times and three-fourth of the assessment rate in force for
the time being:

D Provided that in the event it is considered desirable to
alter the minimum or maximum limits, aforesaid, a proposal
to that effect shall be laid on the table of the Legislative
Assembly for its approval and the limits of assessment
rate shall thereafter be altered in accordance with the
proposals as approved.

E *Section 79. Fixation of fair assessment.*- The Settlement
Officer shall fix the assessment on each holding in
accordance with the assessment rates approved under
section 77 and the provisions of the section 81 and such
assessment shall be the fair assessment of such holding.

F *Section 81. Principles of assessment.*- (1) The fair
assessment of all lands shall be calculated in accordance
with the principles and restrictions set forth in the section.

G (2) No regard shall be had to any claim to hold land on
privileged terms.

H (3) Regard shall be had in the case of agricultural land to
the profits of agriculture, to the consideration paid for
leases' to the sale prices of land and to the principal
moneys on mortgages, and in the case of non-agricultural

land, to the values of the land for the purpose for which it is held. A

(4) The fair assessment on land used for non-agricultural purposes shall not exceed thirty-three per centum of the estimated rental value of the land. B

(5) Where an improvement has been effected at any time in any holding held for the purpose of agriculture by or at the expense of the holder thereof, the fair assessment of such holding shall be fixed as if the improvement had not been made. C

(6) Except for special reasons to be approved in each case by the State Government, no increase in the fair assessment of a holding for the purpose of agriculture shall exceed fifty per centum of the existing assessment. D

Section 82. Announcement of settlement.- (1) When the assessment of any land has been fixed in accordance with section 79, notice thereof shall be given in accordance with rules made under this Code, and such notice shall be called the announcement of the settlement. E

(2) The assessment of any land, as announced under this section, shall be the land revenue payable annually on such land during the term of the settlement unless it is modified in accordance with the provisions of this Code, or any other law. F

Section 98. Fixation of standard rates of assessment.- The Collector shall keep a record in accordance with the rules made under this Code of all registered sales and leases of lands in the different blocks in urban areas in respect of land held for each of the purpose mentioned in sub-section (1) of section 59. G

(2) The average annual letting value of lands in each block in respect of land held for purposes mentioned in sub-section (1) of section 59 shall be determined separately H

A in the prescribed manner on the basis of transactions of
sales and leases in respect of the land held for each of the
aforesaid purposes in such block during the period of five
years immediately preceding the year in which the letting
value is being determined, so far as the information about
B such transactions is available:

Provided that if the transactions which have taken place
in any block in respect of any land held for any of the
aforesaid purpose are not sufficiently representative
C transactions in respect of the land held for the
corresponding purpose during the same period in adjacent
block may be taken as basis for determining the letting
value.

(3) The standard rate of assessment for lands held for
D purposes mentioned in clause (b) or (c) of sub-section (1)
of section 59 shall be equal to one-third of the average
annual letting value determined or the block in respect of
such land under sub-section (2) and for purposes
mentioned in clause (b) of sub-section (1) of section 59
E shall be one half of the average annual letting value
determined for the block in respect of such land.

(4) The standard rates for lands held for agricultural
F purposes shall be fixed with due regard to soil and position
of land and to the profits of agriculture to the consideration
paid for leases and to the sale prices of such lands.

6. Mr. A.K. Sanghi, the learned counsel for the appellants
submitted that there are restrictions for not exceeding the rental
value and assessment rates under sections 81(4) & 81(6) and
rule 5 (b) of section 59, which are quoted above. Mr. Sanghi
G also submitted that the imposition of land revenue is guided by
number of factors, principles, restraints which are not to be
found while imposing premium under section 59(5) or the
impugned rule 14. There are no guidelines or nexus either with
section 59 or the Code itself.

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7. Mr. Sanghi further submitted that the impugned Rule 14 which imposed a flat rate of premium irrespective of the factors or considerations which go in imposing land revenue is in excess and violative of section 59(5) and section 258(2)(iii) of the Code. The premium which is sought to be levied cannot exceed the land revenue itself. The land revenue is the main object and purpose of the M.P. Land Revenue Code, 1959.

8. Mr. Sanghi contended that the preamble of the Code says that it is an Act to consolidate and amend the law relating to land revenue, the powers of the Revenue Officers, rights and liabilities of the holders of land from the State Government, agriculture tenures and other matters relating to land and the liabilities incidental thereto in Madhya Pradesh. As such, the premium under sub-section (5) to section 59 which has been charged for diverting the land use from agricultural to non-agriculture is only a part of the land revenue and is being charged by way of additional revenue.

9. According to Mr. Sanghi, the premium has to be less than the land revenue imposed on the diverted land. It cannot exceed the land revenue itself. According to him, in the present case, the premium sought to be imposed is about 100 times than the existing one and is admittedly more than the land revenue in most of the cases.

10. Ms. Vibha Datta Makhija, learned counsel appearing for the respondent State of Madhya Pradesh submitted that the appellants own 10.48 acres of agricultural land situated in village Narela Shankari, Bhopal, Madhya Pradesh. After obtaining permission for diversion of the land being sought from agricultural purpose to residential purpose, a demand of Rs.4,05,000/- was made on account of premium and the modified land revenue of Rs.52,756. In the case of Indraprastha Grah Nirman Sahakari Sanstha Ltd., a demand for Rs.1,72,054/- was made on account of premium under the impugned Rule 14 and a sum of Rs.2,42,400/- towards land revenue.

11. Ms. Makhija, learned counsel for the State submitted

A that the appellant herein made the following two submissions before the High Court:

- B
- i) The State did not have the power to impose premium since the power prescribed under section 258 which is the source of rule making power in the Code is limited to "regulation" of land revenue; and
- C
- ii) Rule 14 and the Schedule appended thereto was *ultra vires* the constitutional provisions since it violated the mandate of Article 14, inasmuch as, it was arbitrary, and the categories of land therein did not take into account any intelligible differentia while prescribing different slabs of flat rates for imposing premium upon diversion of the use of land."

D 12. Other grounds which were though challenged in the High Court were not pressed by the appellants before this court. Learned counsel for the appellants has also conceded that there is no lack of power on behalf of the State to impose the premium but has argued that the classification of the rates is illegal and arbitrary since it does not take into account various

E factors that are statutorily required to be taken into account for the purpose of assessment of land revenue. It has been argued that there is a cap on the quantum of land revenue that can be imposed under section 81(4) and rule 5(b) regarding alteration of assessment and imposition of premium, the premium could

F also be imposed only within the limits of such a cap.

G 13. Ms. Makhija, learned counsel for the respondent submitted that the objects and reasons of the Revenue Code state that the Code has been enacted to consolidate the different set of laws regarding land revenue, agricultural tenures and other matters relating thereto in force in different regions of the State of Madhya Pradesh with the purpose of having uniform legislation in the whole of the State.

H 14. Section 258 is the source of the rule making power of the State which reads as under:

“258. *General rule making power.*- (1) The State Government may make rules generally for the purpose of carrying into effect the provisions of this Code.

(2) In particular and without prejudice to the generality of the foregoing powers such rules may provide for—

(i)

(ii)

(iii) regulation of assessment of land revenue on diversion of land to other purposes and imposition of premium under section 59.

..... ”

15. Learned counsel for the State also submitted that the Revenue Code is comprehensive Code encompassing all aspects pertaining to land. Under the scheme of the Code, ownership of all lands of the State is vested in the Government except for legally vested private rights in lands. Section 58 of the Revenue Code empowers the State Government to levy land revenue on all land except the land that has been exempted from such liability by special grant or contract with the State Government. Learned counsel for the State also contended that section 58(2) states that such revenue is “land revenue”, and that the term includes all moneys payable to the State Government for land, notwithstanding that such moneys may be described as premium, rent lease money, quit-rent or in any other manner, in any enactment, rule, contract, or deed. As such, the State Government has been empowered to levy “land revenue” on all land, under different heads which would not only include the yearly assessment of revenue on the land, but also other heads like premium, quit-money etc.

16. Section 59 mandates the variation of land revenue according to the purpose for which land is used. Thus, in the event of diversion of land from a particular land use to another land use, a reassessment of the land revenue is prescribed. In

A addition, the Government has also been empowered to impose a premium for such a purpose.

B 17. Section 59(2) empowers the State Government to re-assess and re-fix the land revenue leviable on such a parcel of land the use of which is required to be converted/diverted. In addition to the levy of the land revenue, section 59(5) prescribes a one time levy of premium on such conversion/diversion in accordance with the Rules made under the Revenue Code.

C 18. Learned counsel for the State further submitted that in exercise of powers under section 258 and section 59, the State Government framed the Rules regarding alteration of assessment and imposition of premium vide notification No. 175-6477-VII-N (Rules); dated the 6th January 1960 and as amended by Notification No.1400-VII-N-1, dated 21st May 1971, published in M.P. Raj. Pt. 4G, dated 11.6.1971, p. 270 and by D Notification No.F.11-7-VII-S-8-89 dated 24.1.2000. As per the amendment made in the year 2000, the Schedule prescribes the premium leviable on the conversion of the use of land increased manifold keeping in account the steep escalation in land values.

E 19. Learned counsel for the State also argued that it is clear that the Government has full power to not only fix land revenue rates, re-fix them upon conversion/diversion of land for another use, but also charge premium upon the diversion of land for another use. Thus, the levy of premium on conversion of the use of land by the Government is unequivocal, legal and F valid and cannot be questioned.

G 20. In reply to the argument of learned counsel for the appellants with regard to arbitrary imposition of rates of revenue, the learned counsel for the State submitted that the imposition of the land revenue is guided by number of factors and principles. According to various provisions of the Code, they are not imposed in an arbitrary fashion.

H 21. Learned counsel for the State further submitted that

bare perusal of the scheme of Revenue Code clearly empowers the State Government to impose a premium in addition to the land revenue. The Statement of Objects and Reasons of the Revenue Code as well as the explanation of the term "land revenue" in section 58(2) clearly establishes that land revenue includes a recurrent periodic levy and other levies on the land as prescribed under the Code. According to the learned counsel for the State, reliance of the appellants on sections 75 to 98 is of no relevance in the present case since they pertain to the initial fixation of the land revenue. The factors as prescribed in these provisions mandate that the land revenue should be directly proportionate to the use and value of land and must be arrived at after determining all the factors that would govern the value of a particular parcel of land.

22. Learned counsel for the State further submitted that the factors that determine the land revenue of a particular parcel of land cannot be the determining factors for fixing the rates of premium to be imposed on conversion/diversion of the land for a different use. Learned State counsel submitted that the factors governing the imposition of premium are inherently different from those governing the assessment/determination of land revenue. This is so since the purpose and object of both the levies are inherently different in character. While the land revenue is a levy closely identifiable with the benefits arising out of occupation of land, premium is a charge on the benefit arising out of betterment of ones holding. The land revenue is of a recurrent nature which is required to determine in relation to a particular parcel of land and its actual value whereas premium is a one time charge, the basis of determination of which is the estimated value of benefit that is estimated to accrue by virtue of a change in better land use. This basis is fortified by the existence of rule 13 which prescribes that when any land assessed for any non-agricultural purpose is diverted to any agricultural purpose no premium shall be imposed under section 59(5). Similarly, rule 15 prescribes that upon re-diversion of land from other uses to agricultural, although the premium shall

- A not be refunded, no further premium shall be charged for re-
diversion. Thus, upon amalgamation of agricultural lands in urban
areas, the value of such lands inherently undergo a betterment in
value and thus the premium is validly charged a condition for
granting permission to better the usage of land. Thus, the charge
B i.e. the premium which has a direct nexus to the opportunity of
betterment of a parcel of land shall be valid and legal.

23. Learned counsel for the State further submitted that
the classes prescribed in Schedule under rule 14 are based on
an intelligible differentia taking into account the location of land.
C Since the location of land is determinative of the value of the
potential use of the land, the criteria of classifying the categories
according to the area in which the property falls has a direct
nexus to the potential value of the land. The Schedule prescribes
D different classes according to the municipal area or the rural
area that the parcel of land is situated. Within the categories of
various municipal areas/village areas, the distance of the
property from the center of municipal area is also taken into
account. Different rates for different areas are prescribed. As
such, the estimated appreciation of value is assessed on the
E basis of the location of the property which is the determinative
factor for this purpose. The said criteria are clearly directly
related to the development policies of the government to
amalgamate rural holdings falling within and/or outside the
municipal areas of various cities. The classification of various
F cities is again determined as per the values of land in these
cities, the extent of population of these cities, and the character
of cities. Thus, the important cities of the State are classified
differently from the smaller cities and towns, as also according
to their population. Further, the villages are also classified
G differently, and the rate for levying premium for conversion is
accordingly prescribed. As such, the schedule is based on a
reasonable differentia after taking into account relevant factors
for this purpose, and is thus non-arbitrary and non-discriminatory.
As such, neither the rule 14 nor the Schedule prescribed therein
is *ultra vires* Article 14 of the Constitution of India.

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24. Learned counsel for the State also submitted that the requirement of classifying various cities, towns and villages according to rational criteria is also based on the requirement of having uniformity of levies in the whole of the State, which is the very primary object of the Revenue Code. Learned counsel for the State submitted that in the instant case, the legislature has not exceeded its jurisdiction in legislating the impugned rule 14 and the scheduled thereto. Rule 14 and schedule thereto are not arbitrary and have a direct nexus with the objective still to be achieved.

25. Learned counsel for the State submitted that in the impugned judgment, the Division Bench of the High Court was justified in arriving at the conclusion that the rule which has been assailed on the ground that the rule making authority has gone beyond the statute is totally without any basis or foundation. Learned counsel further submitted that the High Court was justified in coming to the conclusion that the classification made therein neither suffers from absence of intelligible differentia nor does it invite the wrath of equality clause as engrafted under Article 14 of the Constitution. According to the learned counsel for the respondent, the Division Bench was justified in concluding that the respondent was fully empowered to the premium on conversion of land. Learned counsel for the respondent also submitted that the impugned judgment has correctly analysed and interpreted the various provisions of the Revenue Code and hence no interference is warranted by this court.

26. We have carefully perused the pleadings, impugned judgment and the submissions made on behalf of the appellants and respondent State of Madhya Pradesh.

27. Careful analysis of the facts and reasons of the Revenue Code lead to the following conclusions:-

- (i) The State Government enjoys ample powers of not only to fix land revenue rates or to re-fix them upon conversion/diversion of the land for another use but also charges premium upon diversion of land for another use.

- A (ii) The premium is one time charge for diversion of
land for better land use under rule 14 of the Code.
Rule 13 prescribes when land is assessed for any
non-agricultural purpose is diverted to any agriculture
purpose, no premium shall be imposed under section
B 59(5). The scheme of the Act clearly reveals that the
premium is charged only when land use is converted
for betterment. In this view of the matter, the State is
fully justified in charging the premium and the same
is in consonance with the spirit, objects and reasons
C of the M.P. Land Revenue Code.

On careful analysis of the entire scheme of the Act and the provisions of the Code it cannot be said that rule 14 is violative of Article 14 of the Constitution.

- D (iii) The classification of various cities in the State is
determined as per the values of land in different cities,
the extent of population of those cities and the
character of those cities. The important cities of the
State are classified differently from smaller cities and
towns as also according to their population. Similarly,
E villages are also classified differently and rate of
levying premium for conversion is accordingly
prescribed. The Schedule is based on reasonable
differentia taking into account relevant factors for the
purpose and it cannot be called arbitrary or
F discriminatory.

28. In view of our aforesaid findings these appeals filed by
the appellants being devoid of any merit are accordingly
dismissed. In the facts and circumstances of the case, the parties
G are directed to bear their own costs.

K.K.T.

Appeals dismissed.