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**IN THE HIGH COURT OF MADHYA PRADESH
AT GWALIOR
BEFORE**

HON'BLE SHRI JUSTICE RAJENDRA KUMAR-IV

ON THE 11th OF JANUARY, 2024

MISC. PETITION No. 3330 of 2018

BETWEEN:-

1. **KALYANI BAI D/O SHRI DHANPAL W/O SHRI BHURALAL, AGED 39 YEARS, R/O VILLAGE SHANKARPUR (KOTHRA), TAHSIL AND DISTRICT SHEOPUR (MADHYA PRADESH)**
2. **REKHABAI D/O SHRI DHANPAL W/O SHRI RAMMUKESH, AGED 33 YEARS, R/O VILLAGE GANDAWAR, TEHSIL KHANDAR, DISTRICT SAVAI MADHOPUR (RAJASTHAN)**
3. **SHEELABAI D/O SHRI DHANPAL W/O SHRI NAROTTAM, AGED 25 YEARS, R/O VILLAGE DHANKHEDA, TEHSIL BARODA, DISTRICT SHEOPUR (MADHYA PRADESH)**
4. **BHARTIBAI D/O SHRI DHANPAL W/O SHRI MAHAVIR, AGED 23 YEARS, VILLAGE UTANWAD, TAHSIL BARODA, DISTRICT SHEOPUR (MADHYA PRADESH)**

.....PETITIONERS

(BY SHRI KEHER SINGH KAURAV - ADVOCATE)

AND

1. **LAKHHA SINGH S/O SHRI MOHAN SINGH, AGED 62 YEARS, R/O VILLAGE PEETHNA KHEDLI, TAHSIL AND DISTRICT SHEOPUR (MADHYA PRADESH)**
2. **SANTOSH SINGH S/O SHRI BABUSINGH, AGED 56 YEARS, R/O VILLAGE PREMSAR, TAHSIL AND DISTRICT SHEOPUR (MADHYA PRADESH)**
3. **JAGNATHI WD/O SHRI DHANPAL, AGED 65 YEARS, R/O VILLAGE PREMSAR, PARGANA AND DISTRICT SHEOPUR (MADHYA PRADESH)**

4. KADU S/O DHANPAL, AGED 42 YEARS, R/O VILLAGE PREMSAR, PARGANA AND DISTRICT SHEOPUR (MADHYA PRADESH)
5. KAMLESH S/O SHRI DHANPAL, AGED 31 YEARS, R/O VILLAGE PREMSAR, PARGANA AND DISTRICT SHEOPUR (MADHYA PRADESH)
6. BANWARI S/O SHRI DHANPAL, AGED 25 YEARS, R/O VILLAGE PREMSAR, PARGANA AND DISTRICT SHEOPUR (MADHYA PRADESH)

....RESPONDENTS

(BY SHRI PAVAN KUMAR VIJAYWARGIYA - ADVOCATE FOR RESPONDENTS NO.1 AND 2).

This petition coming on for admission this day, the court passed the following:

ORDER

By this petition under Article 227 of the Constitution of India, challenge is made to order dated 26.10.2016 passed by 2nd Additional District Judge, Sheopur in MCC No.unregistered/2015 whereby learned Lower Court dismissed the application of applicant/petitioner under Order 21 Rule 90 of CPC which was filed by delay of 7 years 2 months as indicated in the impugned order

2. Heard learned counsel for the parties.

3. The Supreme Court in the case of **M.P. Ram Mohan Raja Vs. State of T.N.** reported in (2007) 9 SCC 78 has held as under :

11. So far as the question of delay is concerned, no hard-and-fast rule can be laid down and it will depend on the facts of each case. In the present case, the facts stare at the face of it that on 8-10-1996 an order was passed by the Collector in pursuance of the order passed by the High Court, rejecting the application of the writ petitioner for consideration of the grant of mining lease. The writ petitioner sat tight over the matter and did not challenge the same up to 2003. This on the face of it appears to be very serious. A person who can sit tight for

such a long time for no justifiable reason, cannot be given any benefit.

4. The Supreme Court in the case of **Jagdish Lal Vs. State of Haryana** reported in **(1997) 6 SCC 538** has held as under :

18. That apart, as this Court has repeatedly held, the delay disentitles the party to the discretionary relief under Article 226 or Article 32 of the Constitution.

5. Admittedly, this petition has also been filed on 2.7.2018 about more than one year and nine months without any sufficient and proper explanation.

6. I do not see any good ground in the petition, petition is **dismissed on the ground of delay and laches.**

(alok)

**(RAJENDRA KUMAR-IV)
JUDGE**



ALOK KUMAR
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