IN THE HIGH COURT OF MADHYA PRADESH AT GWALIOR

BEFORE

HON'BLE SHRI JUSTICE MILIND RAMESH PHADKE

ON THE 2nd OF FEBRUARY, 2024

WRIT PETITION No. 24518 of 2022

BETWEEN:-

1. **DROPADI BAI JAIN W/O SHRI GHANSHYAM DAS JAIN (DECEASED) THROUGH LEGAL REPRESENTATIVES (I) GANESHILAL S/O GHANSHYAM DAS JAIN, AGED-78 YEARS, R/O 0-1 /6 -B POOSA ROAD NEW DELHI (DELHI)**

2. **DROPADI BAI JAIN W/O GHANSHYAM DAS JAIN (DECEASED) THROUGH LEGAL REPRESENTATIVES SURESH CHANDRA S/O GHANSHYAM DAS JAIN, AGED-66 YEARS, 1/6-B POOSA ROAD (DELHI)**

.....PETITIONERS

(BY SHRI SANJEEV JAIN- ADVOCATE)

AND

TEK CHAND S/O LATE SHRI DHARMJEET, AGED-48 YEARS, R/O JHANSI LOOP ROAD BEHIND OLD ELECTRICITY HOUSE BARADARI CHAURAHA MORAR GWALIOR (MADHYA PRADESH)

.....RESPONDENT

(NONE)

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

ORDER

The present petition under Article 226 of the Constitution of India is not directed against any particular order, but is filed being aggrieved by the arbitrary approach of the Court of XIIth Civil Judge Senior Division Gwalior in Executing Case No.33/2016 preferred by the petitioner in the year 1995 for

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receiving the possession of the disputed property in lieu of the judgment and decree passed by this Court in S.A. No.56/1983, whereby while setting aside judgment and decree of the lower courts, the defendants i.e. present respondent herein was directed to hand over the possession of the property to the plaintiffs/petitioners.

Learned counsel for the petitioner has submitted that though the execution proceedings are pending since the year 1995, on one pretext or the other the said execution proceedings are being lingered on by the respondents/judgement debtors and on number of occasions frivolous applications have been moved by them and though those applications are rejected by the Executing Court, but on the next date they approach with another application, which is entertained by learned Executing Court and since more than 27 years had passed the present petitioner/decree holders are waiting to reap the frutis of the decree, therefore, it would be incumbent to issue directions to learned Executing Court to execute the said judgment and decree as expeditiously as possible within a time bound frame.

It was further submitted that earlier also this Court while hearing Civil revision no.80/2016, wherein rejection of certain applications by the Executing Court were challenged, directions were issued to present respondent/judgment debtors to comply with the judgment and decree passed by this Court as expeditiously as possible and hand over the possession to the present petitioners/ decree holders, but even though there were clear directions issued by this court the possession has not been handed over till date. It was, thus, prayed that the present petition be allowed and the Executing Court be directed to decide the Execution as early as possible.

Since it appears to this Court that disposing of the present petition

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directing the executing court to decide the said execution at an early date would not cause any prejudice to the respondents, this Court doesn't deems it necessary to issue notice to the respondents in this regard, but deems it appropriate to direct the learned Executing Court to execute the judgment and decree passed in S.A. No.56/1983 dated 11.12.1993 as expeditiously as possible preferably within a period of six months from today.

It is needless to observe that learned Executing Court shall not grant any undue adjournment to the parties and shall decide the said execution within the aforesaid period.

The petition is, accordingly, **disposed of.**

(MILIND RAMESH PHADKE)
JUDGE

Chandni

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