IN THE HIGH COURT OF MADHYA PRADESH AT INDORE

BEFORE

HON'BLE SHRI JUSTICE ANIL VERMA

ON THE 2nd OF FEBRUARY, 2024

MISC. PETITION No. 461 of 2024

BETWEEN:-

1. **THAWALI S/O JAMSINGH BHILALA, AGED ABOUT 72 YEARS, OCCUPATION: AGRICULTURE R/O GRAM GHONGHSA TESHSIL AND DISTT. ALIRAJPUR (MADHYA PRADESH)**

2. **NAWALSINGH S/O MOTALA BHILALA, AGED ABOUT 57 YEARS, OCCUPATION: AGRICULTURE R/O GRAM GHONGHSA TEH. AND DIST. ALIRAJPUR (MADHYA PRADESH)**

3. **BHURLI S/O GULSINGH BHILALA, AGED ABOUT 67 YEARS, OCCUPATION: AGRICULTURE R/O GRAM GHONGHSA TESHSIL AND DISTT. ALIRAJPUR (MADHYA PRADESH)**

4. **IDU S/O GUTHSINGH BHILALA, AGED ABOUT 37 YEARS, OCCUPATION: AGRICULTURE R/O GRAM GHONGHSA TEH. AND DIST. ALIRAJPUR (MADHYA PRADESH)**

.....PETITIONERS

(BY SHRI VISHAL PATIDAR - ADVOCATE)

AND

1. **SMT. KASHTURIBAI W/O DUNGARSINGH DODAWE CASTE BHILALA OCCUPATION: AGRICULTURE R/O GRAM ASADPURA AJIRAJPUR, TEHSIL AND DIST ALIRAJPUR (MADHYA PRADESH)**

2. **STATE OF MADHYA PRADESH THROUGH COLLECTOR, ALIRAJPUR, DISTRICT ALIRAJPUR (MADHYA PRADESH)**

.....RESPONDENTS

(SHRI AMIT RAVAL - GOVERNMENT ADVOCATE FOR RESPONDENT NO.2/STATE)

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

ORDER

Counsel for the petitioner heard on admission at motion stage.

1. Petitioner has filed this miscellaneous petition under Article 227 of the Constitution of India being aggrieved by the impugned order dated 26.9.2023 passed by the 2nd Civil Judge, Junior Divisiion, Alirajpur in Civil Suit No.29/2020, whereby the petitioner's application for obtaining opinion of the finger print expert has been dismissed.

2. Brief facts of the case are that the petitioner/plaintiff has filed a civil suit for declaration of title and confirmation of his possession, partition and declaring the sale deed null and void. Respondent No.1/defendant has filed his written statement and respondent No.2 did not file any written statement and the matter has been proceeded ex parte against the respondent No.2. During the pendency of the trial, petitioners have filed an application (Annexure P/4) for obtaining opinion of finger print expert regarding the fingerprint of plaintiff Thavli Bai and witness Umar Singh. Respondent opposed the same by filing written reply. The court below after hearing both the parties, vide order dated 26.9.2023 dismissed the application filed by the petitioners. Therefore, being aggrieved by the impugned order, petitioners have preferred this miscellaneous petition.

3. Learned counsel for the petitioners submits that the impugned order passed by the trial Court is against the law and procedure. Petitioners are illiterate villagers and belongs to the tribal community. Sale deed has been executed with their forged fingerprints, therefore, opinion of the fingerprint expert is quite necessary for examining the genuineness of the alleged sale deed.

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The trial Court has wrongly dismissed the petitioners' application. Hence, he prays that the impugned order be set aside.

4. Learned GA for respondent No.2/State submits that the impugned order passed by the trial Court is just and proper and not deserves for any interference.

5. From perusal of the impugned order dated 26.9.2023 it appears that the trial Court has given sufficient opportunity to the petitioners to call the fingerprint expert before the trial court and the matter has been adjourned for 21 times before the trial court. Definitely the trial court has provided 21 opportunities to the petitioners and that can be considered sufficient opportunity, but not a single time petitioners have remain present the fingerprint expert before the trial court, without showing any sufficient reason for it. Therefore, it appears that the petitioners want to adjourn the proceeding of the trial court without any sufficient ground. In view of the above, the impugned order passed by the trial court appears to be just and proper and not deserve for any interference.

6. Hence, this miscellaneous petition is dismissed at motion stage.

C.C. as per rules.

(ANIL VERMA)
JUDGE

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