



IN THE HIGH COURT OF MADHYA PRADESH  
AT GWALIOR

BEFORE

HON'BLE SHRI JUSTICE MILIND RAMESH PHADKE

ON THE 20<sup>th</sup> OF DECEMBER, 2024

WRIT PETITION No. 40852 of 2024

*KISHORE SINGH AND OTHERS*

*Versus*

*THE STATE OF MADHYA PRADESH AND OTHERS*

.....  
Appearance:

*Shri Prashant Sharma - Advocate for the petitioner.*

*Shri Sohit Mishra - Government Advocate for the State.*

*Shri I.S. Ashthana - Advocate for respondent No.3.*

.....  
ORDER

The present petition under Article 226 of the Constitution of India has been filed by the petitioner seeking following reliefs:

*"(i) That, Order Impugned Annexure P/1, P/2 & P/4 may kindly be quashed.*

*(ii) That, Application for settlement Annexure P/5 may kindly be allowed.*

*Any other relief which this Hon'ble Court deems fit in the facts and circumstances of the case same may kindly be granted to the petitioner."*

2. Short facts of the case are that the petitioners and the private respondents are family members and vide order dated 14.04.2013, the



partition between the parties over the property in dispute has been made. Against the said order of partition, respondent No.1/Mamta had preferred an appeal before the Sub-Divisional Officer, Jaura, District Morena which was registered as Case No.27/2015-16/Appeal and vide order dated 07.07.2017, the SDO concerned while allowing the said appeal had set aside the order of partition dated 14.04.2013. Against the said order of appeal dated 07.07.2017, the present petitioner had preferred a second appeal before the Additional Commissioner, Chambal Division, Morena. During the pendency of the second appeal, a compromise had been taken place between the parties outside the Court and on the basis of the compromise, prayer for affirming the order of partition dated 14.04.2013 was made, but the learned Commissioner without going into this aspect had disposed of the said appeal. The petitioners had sought quashment of the orders dated 14.11.2022 and 05.11.2024 on the ground of settlement arrived between the parties in the matter, but the same has been declined holding that there is no error apparent on the face of record. Hence, the present petition.

3. Learned counsel for the petitioners has submitted before this Court that the impugned orders passed by the Court below are illegal, arbitrary and not tenable in the eyes of law, as the very application of settlement has not been considered while adjudicating the second appeal and review preferred by the petitioner, which has resulted into confirmation of the order of SDO.

4. It was further submitted that once the parties have amicably settled their dispute outside the Court, therefore, the authorities concerned being *quasi-judicial* authorities are expected to apply their judicial mind over the



grievances made by the parties.

5. It was further submitted that the impugned orders suffer from *malafide*, arbitrariness and colorable exercise of powers, as the dispute which pertains to the partition of the family property was purely private in nature and the settlement which had arrived at between the parties can only interfere if there is breach of any public law.

6. Heard.

7. Vide order dated 14.04.2013, the partition between the parties over the property in dispute has been done, which later on challenged by respondent No.3 in appeal before SDO and though the appellant wanted to not press the appeal on account of compromise arrived between the parties outside the Court, ignoring it, learned SDO dismissed the first appeal and set aside the order of partition dated 14.04.2013 . The said order of first appeal when challenged before the Commissioner in second appeal and in review had also received the same fate.

8. After hearing counsel for the parties and perusing the record as well as taking into account that the parties have amicably settled their dispute outside the Court over the property in question without breach of any public law, this Court finds force in the submissions made by counsel for the petitioners, thus, the orders impugned herein dated 14.12.2022, 05.11.2024 and 07.07.2017 (Annexure P/1, P/2 & P/4) appears to be wholly illegal and unwarranted. Accordingly, they are hereby **set aside**. In consequence thereof, the application for settlement arrived at between the parties (Annexure P/5) is **allowed**.



9. With the aforesaid observation, the present petition is **allowed** and **disposed of**.

**(MILIND RAMESH PHADKE)**  
**JUDGE**

pwn\*