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IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE

BEFORE
HON'BLE SHRI JUSTICE VIJAY KUMAR SHUKLA

ON THE 23rd OF JUNE, 2022

MISC. PETITION No. 2276 of 2022

Between:-

SURESH CHANDRA SAKLECHA S/O SHRI BAGMAL JI SAKLECHA , AGED ABOUT 75 YEARS, OCCUPATION: BUSINESS R/O FLAT NO. 205 LIBRA LIFE SPACE 818/1 RIDDHI SIDDI COLONY KHAJRANA TILAK NAGAR INDORE (MADHYA PRADESH)

.....PETITIONER

(BY SHRI ARPIT OSWAL-ADVOCATE)

AND

GENERAL PUBLIC (SARVSADHARAN) (MADHYA PRADESH)

**DECEASED - LATE SMT. KUSUM W/o SHRI SURESHCHANDRA SAKLECHA
Last recided at : 202 Shrinagar Colony Main, Indore**

.....RESPONDENTS

(SHRI ADITYA GARG-GOVT.ADVOCATE FOR STATE)

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

ORDER

This is a petition under Article 227 of the Constitution of India being aggrieved by the order dated 14.3.2022 passed by X Civil Judge (Senior Division), Indore whereby the petitioner's application for grant of probate under sections 57, 213, 218 and 222 of Indian Succession Act, 1925 has been rejected on the ground that court is not having competent jurisdiction to entertain such application as per the work distribution order of District Judge, Indore.

Counsel for the petitioner submits that one side the court has stated that it has no jurisdiction whereas on the other side in para-14 the application has been dismissed. He further submits that court ought to have returned the plaint to present it before the competent court of law.

It is not in dispute that concerned Civil Judge (Senior Division) had no jurisdiction to issue the probate as prayed by the petitioner and there is no illegality in the order in not entertaining the application filed by the petitioner for grant of probate. However, court has committed illegality while rejecting the application on merit.

Upon perusal of the impugned order, it is evident that in para 13 of the order the Court has held that as per work distribution memo of the District Judge, the court was not having jurisdiction to hear the application filed by the petitioner but in para 14 the Court has rejected the said application.

In view of aforesaid, the order rejecting the application filed by the petitioner for grant of probate on merit is set aside. It is directed that the plaint presented by the petitioner shall be returned to him for presenting before the competent court of law.

With the aforesaid, the impugned order is modified and accordingly, the petition is allowed and disposed of.

C.c. as per rules.

(VIJAY KUMAR SHUKLA)
JUDGE