

1
**IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE**

**BEFORE
HON'BLE SHRI JUSTICE VIVEK RUSIA**

ON THE 30th OF JANUARY, 2023

MISC. PETITION No. 2396 of 2022

BETWEEN:-

1. **SMT. MISHRIBAI W/O BHURAJI DECEASED THROUGH LRS. MOHD. SHAKIR S/O MOHD. SALIM, AGED ABOUT 32 YEARS, OCCUPATION: LABOUR 21/4, USHAGANJ, CHHAWANI INDORE M.P. CURRENT ADD. 3/3 USHAGANJ, CHHAWANI. BOHRA, MASJID KE PICHHE INDORE (MADHYA PRADESH)**
2. **MOHAMMAD ROSHAN S/O MO. SALEEM, AGED ABOUT 34 YEARS, OCCUPATION: LABOURER 21/4, USHAGANJ, CHHAWANI INDORE M.P. CURRENT ADD. 3/3 USHAGANJ, CHHAWANI. BOHRA, MASJID KE PICHHE INDORE (MADHYA PRADESH)**
3. **MOHAMMAD SAKEEL S/O MO. SALEEM, AGED ABOUT 37 YEARS, OCCUPATION: LABOUR 21/4, USHAGANJ, CHHAWANI INDORE M.P. CURRENT ADD. 3/3 USHAGANJ, CHHAWANI. BOHRA, MASJID KE PICHHE INDORE (MADHYA PRADESH)**

.....PETITIONER

(SHRI NITIN NANOREYA, LEARNED COUNSEL FOR THE PETITIONERS.)

AND

1. **AJHAR NOOR S/O MAZHARNOOR, AGED ABOUT 62 YEARS, OCCUPATION: LABOUR 11/4 USHAGANJ, CHHWANI. INDORE (MADHYA PRADESH)**
2. **NAZARNOOR S/O MAZHARNOOR, AGED ABOUT 60 YEARS, OCCUPATION: BUSINESS 11/4, USHA CHHAVANI, INDORE (MADHYA PRADESH)**

.....RESPONDENTS

(NONE FOR THE RESPONDENTS DESPITE SERVICE OF NOTICE.)

.....

This petition coming on for hearing this day, the court passed the

following:

ORDER

The petitioners/defendants have filed the present petition under Article 227 of the Constitution of India against order dated 20.4.2022 whereby the application filed by the respondents/plaintiffs u/s. 13(6) of the M.P. Accommodation Control Act has been allowed and their right of defence has been closed.

The petitioners are defendants in the suit filed by the respondents for eviction and arrears of rent. In the said suit, the respondent/plaintiff filed an application u/s. 13(6) of the M.P. Accommodation Control Act on account of default in deposit of the rent for the period from 2020 to 2021.

Learned counsel for the petitioners submits that during the lock-down, the petitioners were not permitted to enter into the Court, therefore, they could not deposit the rent. The trial is pending since last 10 years and there is no default in payment of rent. During Corona period, delay, default, etc. all have been stayed by the apex Court in the suo motu petition. The trial Court has also observed that for the lock-down period, rent of few months has been deposited.

No one has appeared on behalf of the respondents to oppose this petition. Order 20.4.2022, on which date, the petitioners were proceeded ex-parte, has already been quashed today in M.P. No.3210/2022. On the same day i.e. on 20.4.2022 impugned order has been passed.

In view of the above, this petition is allowed and the impugned order dated 20.4.2022 whereby application filed by the respondent/plaintiff u/s. 13(6) of the M.P. Accommodation Control Act was allowed and defence of the petitioners was closed, is hereby set aside.

Alok

