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

**BEFORE
HON'BLE SHRI JUSTICE PRANAY VERMA**

ON THE 25th OF JANUARY, 2024

MISC. PETITION No. 6684 of 2023

BETWEEN:-

1. SUNDARLAL S/O LATE SHRI PANNALAL JAISWAL
DECD THROUGH LRS
1. KOMAL JAISWAL D/O SHRI LATE SHRI
SUNDARLAL W/O SHRI NEERAJ JAISWAL, AGED
ABOUT 50 YEARS, OCCUPATION: HOUSEWIFE R/O
GAONSHINDE NAGAR, KHANDWA ROAD,
KHARGONE, TEHSIL AND DISTT KHAROGONE
(MADHYA PRADESH)
2. MANJU JAISWAL D/O SHRI LT. SUNDARLAL W/O
RAKESH JAISWAL, AGED ABOUT 45 YEARS,
OCCUPATION: HOUSEWIFE R/O. 286 SCHEME NO.
51, INDORE (MADHYA PRADESH)
3. PANKAJ JAISWAL S/O LATE SHRI SUNDARLAL
JAISWAL, AGED ABOUT 38 YEARS, OCCUPATION:
UNEMPLOYED GAONSHINDE NAGAR KHANDWA
ROAD KHARGONE (MADHYA PRADESH)

....PETITIONERS

(BY SHRI SOMESH GOBHUJ - ADVOCATE)

AND

1. TRILOK SINGH S/O LATE SHRI LAXMAN SINGH
RAGHUWANSHI, AGED ABOUT 45 YEARS,
OCCUPATION: HOTEL BUSINESS PAHADSINGH
PURA, KHARGONE (MADHYA PRADESH)
2. STATE OF MP THROUGH COLLECTOR
KHARGONE, KHARGONE (MADHYA PRADESH)

....RESPONDENTS

**(BY SHRI SAVIL PARASHAR, LEARNED COUNSEL FOR THE
RESPONDENT NO.1)**

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

following:

ORDER

1. Heard.

2. By this petition under Article 227 of the Constitution of India, the petitioners have challenged the order dated 6/10/2023 passed in MJC No.27 of 2019 by the 1st Civil Judge, Senior Division Khargone, District Mandleshwar whereby declining their prayer for grant of further time, their right to lead evidence has been closed.

3. A perusal of the impugned order shows that the petitioners have already been granted opportunities on 18 occasions earlier for adducing their evidence. Cost has also been imposed upon them and last of last opportunity has also been granted to them. It also appears that on 6/10/2023 conflicting stands were taken by the petitioners as regards their failure to adduce their evidence. However, it cannot be lost sight that the proceedings are under Order 39 Rule 2A of the CPC wherein the petitioners are alleging violation of interim order of temporary injunction granted by the trial Court. They are thus not *stricto sensu* proceedings of a civil suit and for the delay in adducing evidence it is only the petitioners who shall suffer and respondent No.1 would not be prejudiced in any manner. It is stated at bar that the civil suit out of which the proceedings arise is still pending.

4. Thus in the available facts and circumstances of the case, in my opinion, in the interest of justice, the petitioners can be granted one more opportunity for adducing their evidence. As a result, the impugned order dated 6/10/2023 passed by the Court below is hereby set aside and the petitioners are granted one more opportunity to adduce their evidence which shall be done by them on the date fixed by the trial Court for the said purpose. The same shall

also be subject to payment of cost of Rs.5000/- by the petitioners to respondent No.1 before the Court below on the next date of hearing.

5. With the aforesaid, the petition stands allowed and disposed off.

C.c. as per rules.

(PRANAY VERMA)
JUDGE

SS/-

