

**IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR
BEFORE
HON'BLE SHRI JUSTICE SUSHRUT ARVIND DHARMADHIKARI
ON THE 24th OF NOVEMBER, 2022
WRIT PETITION No. 5756 of 2016**

BETWEEN:-

**RASHI JAIN D/O SHRI ANIL KUMAR
JAIN, AGED ABOUT 23 YEARS, R/O 1025,
DIXITPURA MOTILAL NEHRU WARD
JABALPUR (MADHYA PRADESH)**

.....PETITIONER

(BY SHRI SANJAY KUMAR JAIN- ADVOCATE)

AND

- 1. MAMTA BAI W/O MAHENDRA SINGH
PATEL, AGED ABOUT 50 YEARS, R/O
KANTORA TEHSIL PATAN, DISTRICT
JABALPUR (MADHYA PRADESH)**

- 2. PRITI BAI W/O GOVID PRASAD, AGED
ABOUT 28 YEARS, OCCUPATION: NONE
R/O IMLIYA, TEH. GOTEGAWAN,
DISTRICT NARSINGHPUR (MADHYA
PRADESH)**

- 3. KIRTI BAI PATEL W/O BALLI PATEL,
AGED ABOUT 26 YEARS, OCCUPATION:
NONE R/O ORIYA, TEH. AND DIST.
JABALPUR (MADHYA PRADESH)**

- 4. BHARTI PATEL D/O RAJARAM PATEL,
AGED ABOUT 24 YEARS, OCCUPATION:
NONE R/O KANTORA, TEH. PATAN,
DISTRICT JABALPUR (MADHYA**

PRADESH)

5. **AARTI PATEL D/O RAJARAM PATEL, AGED ABOUT 22 YEARS, OCCUPATION: NONE, R/O KANTORA, TEH. PATAN, DISTRICT JABALPUR (MADHYA PRADESH)**

6. **JYOTI D/O RAJARAM PATEL, AGED ABOUT 20 YEARS, OCCUPATION: NONE R/O KANTORA, TEH. PATAN, DISTRICT JABALPUR (MADHYA PRADESH)**

7. **STATE OF M.P., THR. COLLECTOR, JABALPUR TEHSIL AND DISTRICT JABALPUR (MADHYA PRADESH)**

.....RESPONDENTS

(NONE FOR THE RESPONDENTS EVEN THOUGH SERVED)

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

ORDER

In this petition under Article 226 of the Constitution of India, the petitioner has assailed the order dated 12.12.2015 passed in Civil Suit No.391A/2015 in Lok Adalat by Additional Judge to the Court of Civil Judge, Class II, Patan District Jabalpur, whereby the suit has been decreed on the basis of compromise between the parties and

accordingly, the decree has been drawn. The grievance of the petitioner is that she is the registered owner of Khasra No.52/1.

2. The brief facts of the case are that respondent No.2 to 6 are daughters of Rajaram and Rameti Bai. Originally Khasra No.52 and 139/3 situated at village Kantora belonging family of Rajaram was partitioned vide partition deed dated 28.04.1998 part Khasra No.52 area 1.96 hectares and the same was allotted to Rameti Bai, which was registered as Khasra No.52/1. Thereafter, Rameti Bai by way of registered sale deed dated 31.03.2012 sold 1.20 hectares of land situated in Khasra No.52/1 to the petitioner.

3. Learned counsel for the petitioner submitted that this fact was in the knowledge of the plaintiff since one suit was filed, wherein the present petitioner was arrayed as defendant No.1. He further submitted that by playing fraud and not impleading the petitioner as defendant in the present suit, compromise decree has been passed within one month of institution of suit as the suit was filed on 20.11.2015, whereas the suit has been decreed on 12.12.2015. Thereafter, being aggrieved, the petitioner had filed a review petition before the trial Court, which was registered as Review No.1/2016 (Annexure P/13), which was also dismissed as not maintainable since the order was passed in Lok Adalat and in such a situation, only writ

petition is maintainable in the light of the judgment of the Apex Court in the case of **State of Punjab and Anr. Vs. Jalour Singh and others** as reported in **AIR 2008 SC 1209**. In view of the aforesaid, the judgment and decree dated 12.12.2015 deserves to be set aside.

4. Heard the learned counsel for the petitioner.

5. On perusal of Annexure P/2, which is a registered sale deed dated 31.03.2012, it can be seen that the same has been entered between the parties, wherein the petitioner is the purchaser of the property bearing Khasra No.52/1. Admittedly, the petitioner was not arrayed as defendant in the present suit; therefore, compromise could not have been arrived at between the parties. On this ground alone, the impugned judgment and decree dated 12.12.2015 is hereby set aside. The plaintiff therein would be free to prosecute the suit in accordance with law, if so advised.

The petition stands **allowed** to the extent indicated hereinabove.

No order as to costs.

(S. A. DHARMADHIKARI)
JUDGE

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