

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

**BEFORE**

**HON'BLE SHRI JUSTICE PURUSHAINDR KUMAR KAURAV**

**ON THE 09<sup>th</sup> OF MARCH, 2022**

**MISCELLANEOUS PETITION No. 1366 of 2018**

**Between:-**

**RAMWATI BAI W/O RIKHIRAM W/O LATE  
SHRI BABULAL DAROI, AGED ABOUT 35  
YEARS, OCCUPATION: AGRICULTURIST, R/O  
VILLAGE PUAR KHEDA, TEHSIL AND  
DISTRICT HOSHANGABAD (M.P.)  
(PLAINTIFF)**

**.....PETITIONER**

**(BY SHRI JANAK LAL SONI - ADVOCATE)**

**AND**

1. **RAMGOPAL KAHHI S/O SAMARURAM, AGED  
ABOUT 42 YEARS.**
2. **SMT. ASHA W/O RAMGOPAL, AGED ABOUT  
40 YEARS.**  
**NO.1 AND 2 R/O H.NO.169, WARD NO.9,  
RAMNAGAR, MANDIDEEP, DISTRICT-  
RAISEN (M.P.)**
3. **BADRI PRASAD LOVANSHI S/O SHRI  
PATIRAM LOVANSHI, AGED ABOUT 43  
YEARS, R/O WARD NO.9, MANDIDEEP  
TAHSIL GAUHARGANJ, DISTRICT-RAISEN  
(M.P.) (DEFENDANTS)**

**.....RESPONDENTS**

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

**ORDER**

Heard the learned counsel for the petitioner.

The instant petition under Article 227 of the Constitution is against impugned order dated 16.02.2018 (Annexure P-1), which has been passed during cross-examination of DW-1 Ram Gopal Patel, in the civil suit filed by the petitioner herein.

This Court while issuing notice to the respondent, directed for stay of further proceedings of the trial Court by order dated 16.03.2018. Learned counsel for the petitioner has placed service report of notice to the respondent along with covering memo dated 17.04.2018.

Since no one appears on behalf of the respondents, therefore, this Court is proceeding to to decide the matter on merits.

The facts of the case are that the petitioner-plaintiff filed a civil suit for declaration, retaining of possession, permanent injunction and for declaration of sale-deed dated 07.11.2015 as *null* and *void*. During the cross-examination of Defendant No.1 Ram Gopal, the counsel for the petitioner wanted to confront him on the basis of sale-deed dated 07.11.2015 (Annexure P-2). The prayer was opposed by the defendant and the learned trial Court in the note appended to para 13 of the deposition dated 07.11.2015 has upheld the objection and, accordingly, the petitioner-plaintiff was denied to ask questions on the basis of the said sale-deed.

The reasoning given by the learned trial Court is that there was nothing on record to indicate as to whether the document in question i.e. the sale-deed dated 07.11.2015 is a certified copy in accordance with Section 76 of the Indian Evidence Act, 1872.

The learned counsel appearing for the petitioner specifically submitted that the sale-deed in question is a certified copy and the same is duly sealed,

dated and certified, therefore, the order passed by the learned trial Court is erroneous.

This court has perused the sale-deed dated 07.11.2015, which is placed on record as Annexure P-2. There is a signature of Deputy Registrar. The said document is a certified copy, which can be seen from the note appended at the bottom of the page, where the certified copy number is also mentioned.

In view of the aforesaid, this Court is satisfied that the requirement of Section 76 of the Indian Evidence Act, 1872 is met and, hence, the order passed by the trial Court is unsustainable. The impugned order is erroneous and caused prejudice to the petitioner. Hence, the impugned order is set aside. It is directed that the petitioner-plaintiff would be entitled to ask questions on the basis of the said sale-deed dated 07.11.2015 from DW-1, Ram Gopal Patel in accordance with law.

In view of the aforesaid, the present petition is allowed. Since, the civil suit remained stayed during the pendency of present proceedings, it is directed that the trial court shall endeavor to conclude the trial expeditiously.

**(PURUSHAINDR KUMAR KAURAV)**  
**JUDGE**

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