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

**BEFORE
HON'BLE SMT. JUSTICE ANJULI PALO
ON THE 16th OF MARCH, 2023**

MISC. CRIMINAL CASE No. 3317 of 2019

BETWEEN:-

1. **SMT. CHANDRAWATI DEVI W/O LATE JINESHWAR DAS JAIN, AGED ABOUT 70 YEARS, OCCUPATION: HOUSE WIFE WARD NO.9 PANCHAYATI MANDIR ROAD, SHAHDOL POST SHAHDOL DISTT. SHAHDOL (MADHYA PRADESH)**
2. **PRAMOD KUMAR JAIN S/O LATE JINESHWAR DAS JAIN, AGED ABOUT 55 YEARS, OCCUPATION: BUSINESS RESIDENT OF WARD NO 9 PANCHAYATI MANDIR ROAD SHAHDOL POST SHAHDOL DISTRICT SHAHDOL (MADHYA PRADESH)**
3. **SUBODH KUMAR JAIN S/O LATE JINESHWAR DAS JAIN, AGED ABOUT 53 YEARS, OCCUPATION: BUSINESS RESIDENT OF WARD NO 9 PANCHAYATI MANDIR ROAD SHAHDOL POST SHAHDOL DISTRICT SHAHDOL (MADHYA PRADESH)**
4. **MANOJ KUMAR JAIN S/O LATE JINESHWAR DAS JAIN, AGED ABOUT 50 YEARS, OCCUPATION: BUSINESS RESIDENT OF WARD NO 9 PANCHAYATI MANDIR ROAD SHAHDOL POST SHAHDOL DISTRICT SHAHDOL (MADHYA PRADESH)**
5. **ANIL KUMAR JAIN S/O LATE SOMCHAND JAIN, AGED ABOUT 44 YEARS, OCCUPATION: BUSINESS RESIDENT OF WARD NO 9 PANCHAYATI MANDIR ROAD SHAHDOL POST SHAHDOL DISTRICT SHAHDOL (MADHYA PRADESH)**

.....APPLICANT

**(SHRI R.K. VERMA - SENIOR ADVOCATE WITH SHRI RAM MURTI TIWARI
AND SHRI ASHISH DATTA - ADVOCATES FOR THE APPLICANTS)**

AND

1. **THE STATE OF MADHYA PRADESH THR. COLLECTOR SHAHDOL (MADHYA PRADESH)**
2. **HARPRASAD PANDEY S/O LATE TIRATH PRASAD PANDEY, AGED ABOUT 88 YEARS, OCCUPATION: BUSINESS RESIDENT OF VILLAGE ASRAR POST AMARPATAN PS AND TEHSIL AMARPATAN DISTRICT SATNA (MADHYA PRADESH)**
3. **BRIJBHARI PANDEY S/O LATE TIRATH PRASAD PANDEY, AGED ABOUT 78 YEARS, OCCUPATION: BUSINESS RESIDENT OF VILLAGE ASRAR POST AMARPATAN PS AND TEHSIL AMARPATAN DISTRICT SATNA (MADHYA PRADESH)**
4. **SANT PRASAD PANDEYS/O LATE BAWAN PRASAD PANDEY, AGED ABOUT 48 YEARS, OCCUPATION: BUSINESS RESIDENT OF VILLAGE ASRAR POST AMARPATAN PS AND TEHSIL AMARPATAN DISTRICT SATNA (MADHYA PRADESH)**
5. **GANESH PRASAD PANDEY S/O LATE BHUVNESHWAR PRASAD PANDEY, AGED ABOUT 42 YEARS, OCCUPATION: BUSINESS RESIDENT OF VILLAGE ASRAR POST AMARPATAN PS AND TEHSIL AMARPATAN DISTRICT SATNA MP (MADHYA PRADESH)**
6. **SAKSHI PRASAD PANDEY ALIAS SAKSHI GOPAL S/O LATE BHUVNESHWAR PRASAD PANDEY, AGED ABOUT 38 YEARS, OCCUPATION: BUSINESS RESIDENT OF VILLAGE ASRAR POST AMARPATAN PS AND TEHSIL AMARPATAN DISTRICT SATNA (MADHYA PRADESH)**
7. **JAGMOHAN PRASAD PANDEY S/O LATE BHUVNESHWAR PRASAD PANDEY, AGED ABOUT 34 YEARS, OCCUPATION: BUSINESS RESIDENT OF VILLAGE ASRAR POST AMARPATAN PS AND TEHSIL AMARPATAN DISTRICT SATNA MP (MADHYA PRADESH)**
8. **SMT PARVATI W/O LATE BHUVNESHWAR PRASAD PANDEY, AGED ABOUT 73 YEARS, OCCUPATION: BUSINESS RESIDENT OF VILLAGE ASRAR POST AMARPATAN PS AND TEHSIL AMARPATAN DISTRICT SATNA (MADHYA PRADESH)**
9. **RAMASHISH SAHU S/O LATE MATHURA SAHU, AGED ABOUT 60 YEARS, OCCUPATION: BUSINESS**

RESIDENT OF WARD NO 26 SINDHI BAZAR
SHAHDOL POST AND PS SHAHDOOL TEHSIL
SUHAGPUR DISTRICT SAHADOL (MADHYA
PRADESH)

10. SMT GYANWATI SAHU W/O LATE SITARAM SAHU,
AGED ABOUT 75 YEARS, OCCUPATION:
HOUSEWIFE RESIDENT OF WARD NO 26 SINDHI
BAZAR SHAHDOL POST AND PS SHAHDOL TEHSIL
SUHAGPUR DISTRICT SAHADOL (MADHYA
PRADESH)
11. RAM BABU SAHU S/O SITARAM SAHU, AGED
ABOUT 58 YEARS, OCCUPATION: BUSINESS
RESIDENT OF WARD NO 26 SINDHI BAZAR
SHAHDOL POST AND PS SHAHDOOL TEHSIL
SUHAGPUR DISTRICT SAHADOL (MADHYA
PRADESH)
12. RAKESH SAHU S/O SITARAM SAHU, AGED ABOUT
55 YEARS, OCCUPATION: BUSINESS RESIDENT OF
WARD NO 26 SINDHI BAZAR SHAHDOL POST AND
PS SHAHDOOL TEHSIL SUHAGPUR DISTRICT
SAHADOL (MADHYA PRADESH)
13. RAJESH KUMAR GUPTA S/O LATE LALJI GUPTA
HALWAI, AGED ABOUT 44 YEARS, OCCUPATION:
BUSINESS RESIDENT OF WARD NO 26 SINDHI
BAZAR SHAHDOL POST AND PS SHAHDOOL
TEHSIL SUHAGPUR DISTRICT SAHADOL
(MADHYA PRADESH)
14. SMT INJANA AASWANI W/O LATE PRAHLAD RAI,
AGED ABOUT 70 YEARS, OCCUPATION: BUSINESS
RESIDENT OF WARD NO 26 SINDHI BAZAR
SHAHDOL POST AND PS SHAHDOOL TEHSIL
SUHAGPUR DISTRICT SAHADOL (MADHYA
PRADESH)
15. LAKSHMAN AASWANI S/O LATE PRAHLAD RAI,
AGED ABOUT 50 YEARS, RESIDENT OF WARD NO
26 SINDHI BAZAR SHAHDOL POST AND PS
SHAHDOOL TEHSIL SUHAGPUR DISTRICT
SAHADOL (MADHYA PRADESH)
16. DILIP RAJ AASWANI S/O LATE PRAHLAD RAI,
AGED ABOUT 47 YEARS, OCCUPATION: BUSINESS
RESIDENT OF WARD NO 26 SINDHI BAZAR
SHAHDOL POST AND PS SHAHDOOL TEHSIL
SUHAGPUR DISTRICT SAHADOL (MADHYA
PRADESH)

17. SUNIL AASWANI S/O LATE PRAHLAD RAI, AGED ABOUT 42 YEARS, OCCUPATION: BUSINESS RESIDENT OF WARD NO 26 SINDHI BAZAR SHAHDOL POST AND PS SHAHDOL TEHSIL SUHAGPUR DISTRICT SAHADOL (MADHYA PRADESH)

.....RESPONDENTS

(SHRI ANIL KUMAR DWIVEDI - ADVOCATE FOR RESPONDENT NOS. 2, 4, 5 AND 6)

(SHRI VIKAS JYOTISHI - ADVOCATE FOR RESPONDENT NO.3)

(SHRI PRIYANK CHOUBEY - ADVOCATE FOR RESPONDENT NOS. 9, 10 & 12)

(SHRI A.N. SHARMA - ADVOCATE FOR RESPONDENT NO.13)

MISC. CRIMINAL CASE No. 3903 of 2019

BETWEEN:-

RAJESH KUMAR GUPTA S/O SHRI LALJI GUPTA HALWAI, AGED ABOUT 47 YEARS, OCCUPATION: SHOPKEEPER R/O WARD NO.26 SINDHI BAZAAR SHAHDOL (MADHYA PRADESH)

.....APPLICANT

(SHRI ADITYA NARAYAN SHARMA - ADVOCATE FOR THE APPLICANT)

AND

1. THE STATE OF MADHYA PRADESH THR. DISTRICT MAGISTRATE SHAHDOL (MADHYA PRADESH)
2. HAR PRASAD PANDEY S/O TEERATH PRASAD PANDEY, AGED ABOUT 88 YEARS, VILALGE ASRAR P.O. AMRPATAN P.S. TEHSIL AMARPATAN (MADHYA PRADESH)
3. BRAJ BIHARI PANDEY S/O TEERATH PRASAD PANDEY, AGED ABOUT 78 YEARS, VILALGE ASRAR P.O. AMRPATAN P.S. TEHSIL AMARPATAN (MADHYA PRADESH)
4. SANT PRASAD PANDEY S/O BAVAN PRASAD PANDEY, AGED ABOUT 48 YEARS, VILALGE ASRAR P.O. AMRPATAN P.S. TEHSIL AMARPATAN (MADHYA PRADESH)
5. GANESH PRASAD PANDEY S/O BAVAN PRASAD PANDEY, AGED ABOUT 42 YEARS, VILALGE

**ASRAR P.O. AMRPATAN P.S. TEHSIL AMARPATAN
(MADHYA PRADESH)**

6. **SAKSHI PRASAD PANDEY @ SAKSHI GOPAL S/O BHUVESHWAR PRASAD PANDEY, AGED ABOUT 34 YEARS, VILALGE ASRAR P.O. AMRPATAN P.S. TEHSIL AMARPATAN (MADHYA PRADESH)**
7. **JAGMOHAN PRASAD PANDEY S/O BHUVESHWAR PRASAD PANDEY, AGED ABOUT 34 YEARS, VILALGE ASRAR P.O. AMRPATAN P.S. TEHSIL AMARPATAN (MADHYA PRADESH)**
8. **SMT. PARVATI W/O BHUVESHWAR PRASAD PANDEY, AGED ABOUT 73 YEARS, VILALGE ASRAR P.O. AMRPATAN P.S. TEHSIL AMARPATAN (MADHYA PRADESH)**
9. **RAMASHISH SAHU S/O MATHURA SAHU, AGED ABOUT 60 YEARS, R/O WARD NO 26 SINDHI BAZAAR SHEHDOL P.S. AND P.O. SHEHDOL (MADHYA PRADESH)**
10. **SMT. GYANWATI SAHU W/O SITARAM SAHU, AGED ABOUT 75 YEARS, R/O WARD NO 26 SINDHI BAZAAR SHEHDOL P.S. AND P.O. SHEHDOL (MADHYA PRADESH)**
11. **RAMBABU SAHU S/O SITARAM SAHU, AGED ABOUT 58 YEARS, R/O WARD NO 26 SINDHI BAZAAR SHEHDOL P.S. AND P.O. SHEHDOL (MADHYA PRADESH)**
12. **RAKESH SAHU S/O SITARAM SAHU, AGED ABOUT 55 YEARS, R/O WARD NO 26 SINDHI BAZAAR SHEHDOL P.S. AND P.O. SHEHDOL (MADHYA PRADESH)**
13. **SMT. CHANDRAWATI DEVI W/O JINESHWAR DAS JAIN, AGED ABOUT 70 YEARS, OCCUPATION: WARD NO 9 PANCHAYATI MANDIR RPAD SHAHDOL SHADORA (MADHYA PRADESH)**
14. **PRAMOD KUMAR JAIN S/O JINESHWAR DAS JAIN, AGED ABOUT 55 YEARS, WARD NO 9 PANCHAYATI MANDIR ROAD SHAHDOL (MADHYA PRADESH)**
15. **SUBODH KUMAR JAIN S/O JINESHWAR DAS JAIN, AGED ABOUT 53 YEARS, WARD NO 9 PANCHAYATI MANDIR ROAD SHAHDOL (MADHYA PRADESH)**

16. MANOJ KUMAR JAIN S/O JINESHWAR DAS JAIN, AGED ABOUT 20 YEARS, WARD NO 9 PANCHYATI MANDIR ROAD SHAHDOL (MADHYA PRADESH)
17. ANIL KUMAR JAIN S/O SOMCHNAD JAIN, AGED ABOUT 44 YEARS, WARD NO 9 PANCHYATI MANDIR ROAD SHAHDOL (MADHYA PRADESH)
18. SMT. INJANA ASWANI W/O PRAHLAD RAI, AGED ABOUT 70 YEARS, WARD NO 9 PANCHYATI MANDIR ROAD SHAHDOL (MADHYA PRADESH)
19. LAXMAN ASWANI S/O PRAHLAD RAI, AGED ABOUT 50 YEARS, WARD NO 26 SINDHI BAZAAR SHAHDOL P.S. SHEHDOL (MADHYA PRADESH)
20. DILIPRAJ ASWANI S/O PRAHLAD RAI, AGED ABOUT 47 YEARS, WARD NO 26 SINDHI BAZAAR SHAHDOL P.S. SHEHDOL (MADHYA PRADESH)
21. SUNIL ASWANI S/O PRAHLAD RAI, AGED ABOUT 42 YEARS, WARD NO 26 SINDHI BAZAAR SHAHDOL P.S. SHEHDOL (MADHYA PRADESH)

.....RESPONDENTS

(SHRI ANIL KUMAR DWIVEDI - ADVOCATE FOR RESPONDENT NOS. 2, 3, 4, 5, 6, 7 & 8)

(SHRI PRIYANK CHOUBEY - ADVOCATE FOR RESPONDENT NO.9)

MISC. CRIMINAL CASE No. 7714 of 2019

BETWEEN:-

1. RAKESH SAHU S/O LATE SITARAM SAHU, AGED ABOUT 55 YEARS, OCCUPATION: SHOPKEEPER R/O. WARD NO. 26, SINDHI BAZAAR SHAHDOL P.O. SHAHDOL P.S. SHAHDOL DISTT. SHAHDOL (MADHYA PRADESH)
2. SMT GYANWATI SAHU W/O NOT KNOWN, AGED ABOUT 75 YEARS, OCCUPATION: HOUOSEWIFE RESIDENT OF WARD NO 26 SINDHI BAZAAR SHAHDOL PO SHAHDOL PS SHAHDOL DISTT SHAHDOL MP (MADHYA PRADESH)

.....APPLICANTS

(SHRI PRIYANK CHOUBEY - ADVOCATE FOR THE APPLICANTS)

AND

1. **THE STATE OF MADHYA PRADESH THR COLLECTOR SHAHDOL DISTT. SHAHDOL (MADHYA PRADESH)**
2. **HARPRASAD PANDEY S/O TIRATH PRASAD PANDEY, AGED ABOUT 88 YEARS, OCCUPATION: BUSINESS RESIDENT OF VILLAGE ASRAR POST AMARPATAN PS AAND TEH AMARPATAN DISTT SATNA MP (MADHYA PRADESH)**
3. **BRIJBIHARI PANDEY S/O LATE TIRATH PRASAD PANDEY, AGED ABOUT 78 YEARS, OCCUPATION: BUSINESS RESIDENT OF VILLAGE ASRAR POST AMARPATAN PS AAND TEH AMARPATAN DISTT SATNA MP (MADHYA PRADESH)**
4. **SANT PRASAD PANDEY S/O BABAN PRASAD PANDEY, AGED ABOUT 48 YEARS, OCCUPATION: BUSINESS RESIDENT OF VILLAGE ASRAR POST AMARPATAN PS AAND TEH AMARPATAN DISTT SATNA MP (MADHYA PRADESH)**
5. **G A N E S H PRASAD PANDEY S/O LATE BHUVNESHWAR PRASAD PANDEY, AGED ABOUT 42 YEARS, OCCUPATION: BUSINESS RESIDENT OF VILLAGE ASRAR POST AMARPATAN PS AAND TEH AMARPATAN DISTT SATNA MP (MADHYA PRADESH)**
6. **SHAKSHI PRASAD ALIAS SHAKSHI GOPAL S/O LATE BHUWANESHWAR PRASAD PANDEY, AGED ABOUT 38 YEARS, OCCUPATION: BUSINESS RESIDENT OF VILAGE ASRAR POST AMARPATAN PS AND TEH AMARPATAN DISTT SATNA MP (MADHYA PRADESH)**
7. **JAGMOHAN PRASAD PANDEY S/O BHUWANESHWAR PRASAD PANDEY, AGED ABOUT 34 YEARS, OCCUPATION: BUSINESS RESIDENT OF VILLAGE ASRAR POST AMARPATAN PS AAND TEH AMARPATAN DISTT SATNA MP (MADHYA PRADESH)**
8. **SMT PARVATI W/O LATE BHUWANESHWAR PRASAD PANDEY, AGED ABOUT 73 YEARS, OCCUPATION: BUSINESS RESIDENT OF VILLAGE ASRAR POST AMARPATAN PS AAND TEH AMARPATAN DISTT SATNA MP (MADHYA PRADESH)**

9. **RAMASHISH SAHU S/O LATE MATHURA SAHU, AGED ABOUT 60 YEARS, OCCUPATION: BUSINESS RESIDENT OF WARD NO 26 SINDHI BAZAAR SHAHDOL TEH AND PS SHAHDOL DISTT SHAHDOL MP (MADHYA PRADESH)**
10. **RAMBABU SAHU S/O SITARAM SAHU, AGED ABOUT 58 YEARS, OCCUPATION: BUSINESS RESIDENT OF WARD NO 26 SINDHI BAZAAR SHAHDOL TEH AND PS SHAHDOL DISTT SHAHDOL MP (MADHYA PRADESH)**
11. **RAJESH KUMAR GUPTA S/O LATE LALJI GUPTA, AGED ABOUT 44 YEARS, OCCUPATION: BUSINESS RESIDENT OF WARD NO 26 SINDHI BAZAAR SHAHDOL TEH AND PS SHAHDOL DISTT SHAHDOL MP (MADHYA PRADESH)**
12. **SMT INJANA ASWANI W/O LATE PRAHLAD RAI, AGED ABOUT 70 YEARS, OCCUPATION: HOUSEWIFE RESIDENT OF WARD NO 26 SINDHI BAZAAR SHAHDOL TEH AND PS SHAHDOL DISTT SHAHDOL MP (MADHYA PRADESH)**
13. **LAXMAN AWASTHI S/O LATE PRAHLAD RAI, AGED ABOUT 50 YEARS, OCCUPATION: BUSINESS RESIDENT OF WARD NO 26 SINDHI BAZAAR SHAHDOL TEH AND PS SHAHDOL DISTT SHAHDOL MP (MADHYA PRADESH)**
14. **DILIPRAJ ASWANI S/O LATE PRAHLAD RAI, AGED ABOUT 47 YEARS, OCCUPATION: BUSINESS RESIDENT OF WARD NO 26 SINDHI BAZAAR SHAHDOL TEH AND PS SHAHDOL DISTT SHAHDOL MP (MADHYA PRADESH)**
15. **SUNIL ASWANI S/O LATE PRAHLAD RAI, AGED ABOUT 42 YEARS, OCCUPATION: BUSINESS RESIDENT OF WARD NO 26 SINDHI BAZAAR SHAHDOL TEH AND PS SHAHDOL DISTT SHAHDOL MP (MADHYA PRADESH)**
16. **SMT CHANDRAWATI DEVI W/O LATE JINESWAR DAS JAIN, AGED ABOUT 70 YEARS, OCCUPATION: HOUSEWIFE RESIDENT OF WARD NO 9 PANCHAYATI MANDIR ROAD SHAHDOL POST SHAHDOL DISTT SHAHDOL MP (MADHYA PRADESH)**
17. **PRAMID KUMAR JAIN S/O LATE JINESWAR DAS JAIN, AGED ABOUT 55 YEARS, OCCUPATION: BUSINESS RESIDENT OF WARD NO 9 PAN**

CHAYATI MANDIR ROAD SHAHDOL POST
SHAHDOL DISTT SHAHDOL MP (MADHYA
PRADESH)

18. SUBODH KUMAR JAIN S/O LATE JINESWAR DAS
JAIN, AGED ABOUT 53 YEARS, OCCUPATION:
BUSINESS RESIDENT OF WARD NO 9 PAN
CHAYATI MANDIR ROAD SHAHDOL POST
SHAHDOL DISTT SHAHDOL MP (MADHYA
PRADESH)
19. MANOJ KUMAR JAIN S/O LATE JINESWAR DAS
JAIN, AGED ABOUT 50 YEARS, OCCUPATION:
BUSINESS RESIDENT OF WARD NO 9 PAN
CHAYATI MANDIR ROAD SHAHDOL POST
SHAHDOL DISTT SHAHDOL MP (MADHYA
PRADESH)
20. ANIL KUMAR JAIN S/O LATE JINESWAR DAS
JAIN, AGED ABOUT 44 YEARS, OCCUPATION:
BUSINESS RESIDENT OF WARD NO 9 PAN
CHAYATI MANDIR ROAD SHAHDOL POST
SHAHDOL DISTT SHAHDOL MP (MADHYA
PRADESH)

.....RESPONDENTS

(SHRI ANIL KUMAR DWIVEDI - ADVOCATE FOR RESPONDENT NOS. 2, 3,
4, 5, 6, 7 & 8)

MISC. CRIMINAL CASE No. 11706 of 2019

BETWEEN:-

1. SMT. INJANA AASWANI W/O LATE PRAHLAD RAI,
AGED ABOUT 70 YEARS, OCCUPATION: HOUSE
WIFE WARD NO.26 SINDHI BAZAR SHAHDOL
POST AND P.S. SHAHDOL TEHSIL SUHAGPUR
(MADHYA PRADESH)
2. LAKSHMAN AASWANI S/O LATE PRAHLAD RAI,
AGED ABOUT 50 YEARS, OCCUPATION: BUSINESS
WARD NO. 26 SINDHI BAZAR SHAHDOL POST AND
PS SHAHDOL TEH. SUHAGPUR (MADHYA
PRADESH)
3. DILIPRAJ AASWANI S/O LATE PRAHLAD RAI,
AGED ABOUT 47 YEARS, OCCUPATION: BUSINESS
WARD NO. 26 SINDHI BAZAR SHAHDOL POST AND
PS SHAHDOL TEH. SUHAGPUR (MADHYA
PRADESH)

4. **SUNIL AASWANI S/O LATE PRAHLAD RAI, AGED ABOUT 42 YEARS, OCCUPATION: BUSINESS WARD NO. 26 SINDHI BAZAR SHAHDOL POST AND PS SHAHDOL TEH. SUHAGPUR (MADHYA PRADESH)**

.....APPLICANT

(SHRI R.K. VERMA - SENIOR ADVOCATE WITH SHRI RAM MURTI TIWARI AND SHRI ASHISH DATTA - ADVOCATES FOR THE APPLICANTS)

AND

1. **THE STATE OF MADHYA PRADESH THR. COLLECTOR SHAHDOL (MADHYA PRADESH)**
2. **HARPRASAD PANDEY S/O LATE TIRATH PRASAD PANDEY, AGED ABOUT 88 YEARS, OCCUPATION: BUSINESS VILLAGE ASRAR POST AMARPATAN PS TEH. AMARPTAN (MADHYA PRADESH)**
3. **BRIJBIHARI PANDEY S/O LATE TIRATH PRASAD PANDEY, AGED ABOUT 78 YEARS, OCCUPATION: BUSINESS VILLAGE ASRAR POST AMARPATAN PS TEH. AMARPTAN (MADHYA PRADESH)**
4. **SANTPRASAD PANDEY S/O LATE BAWAN PANDEY, AGED ABOUT 48 YEARS, OCCUPATION: BUSINESS VILLAGE ASRAR POST AMARPATAN PS TEH. AMARPTAN (MADHYA PRADESH)**
5. **GANESH PRASAD PANDEY S/O LATE BHUVNESHWAR PRASAD PANDEY, AGED ABOUT 42 YEARS, OCCUPATION: BUSINESS VILLAGE ASRAR POST AMARPATAN PS TEH. AMARPTAN (MADHYA PRADESH)**
6. **SAKSHI PRASAD PANDEY ALIAS SAKSHI GOPAL S/O LATE BHUVNESHWAR PRASAD PANDEY, AGED ABOUT 38 YEARS, OCCUPATION: BUSINESS VILLAGE ASRAR POST AMARPATAN PS TEH. AMARPTAN (MADHYA PRADESH)**
7. **JAGMOHAN PRASAD PANDEY S/O LATE BHUVNESHWAR PRASAD PANDEY, AGED ABOUT 34 YEARS, OCCUPATION: BUSINESS VILLAGE ASRAR POST AMARPATAN PS TEH. AMARPTAN (MADHYA PRADESH)**
8. **SMT. PARVATI W/O LATE BHUVNESHWAR PRASAD PANDEY, AGED ABOUT 73 YEARS, OCCUPATION: HOUSEWIFE VILLAGE ASRAR POST**

AMARPATAN PS TEH. AMARPTAN (MADHYA PRADESH)

9. **RAMASHISH SAHU S/O LATE MATHURA SAHU, AGED ABOUT 60 YEARS, OCCUPATION: BUSINESS WARD NO. 26 SINDHI BAZAR SHAHDOL POST AND PS SHAHDOL TEH. SUHAGPUR (MADHYA PRADESH)**
10. **SMT. GYANWATI SAHU W/O LATE SITARAM SAHU, AGED ABOUT 75 YEARS, OCCUPATION: HOUSEWIFE WARD NO. 26 SINDHI BAZAR SHAHDOL POST AND PS SHAHDOL TEH. SUHAGPUR (MADHYA PRADESH)**
11. **RAMBABU SAHU S/O LATE SITARAM SAHU, AGED ABOUT 58 YEARS, OCCUPATION: BUSINESS WARD NO. 26 SINDHI BAZAR SHAHDOL POST AND PS SHAHDOL TEH. SUHAGPUR (MADHYA PRADESH)**
12. **RAKESH SAHU S/O LATE SITARAM SAHU, AGED ABOUT 55 YEARS, OCCUPATION: BUSINESS WARD NO. 26 SINDHI BAZAR SHAHDOL POST AND PS SHAHDOL TEH. SUHAGPUR (MADHYA PRADESH)**
13. **RAJESH KUMAR GUPTA S/O LATE LALJI GUPTA HALWAI, AGED ABOUT 44 YEARS, OCCUPATION: BUSINESS WARD NO. 26 SINDHI BAZAR SHAHDOL POST AND PS SHAHDOL TEH. SUHAGPUR (MADHYA PRADESH)**
14. **SMT. CHANDRAWATI DEVI W/O LATE JINESHWAR DAS JAIN, AGED ABOUT 70 YEARS, OCCUPATION: HOUSEWIFE WARD NO. 9 PANCHAYATI MANDIR ROAD SHAHDOL POST SHAHDOL (MADHYA PRADESH)**
15. **PRAMOD KUMAR JAIN S/O LATE JINESHWAR DAS JAIN, AGED ABOUT 55 YEARS, OCCUPATION: BUSINESS WARD NO. 9 PANCHAYATI MANDIR ROAD SHAHDOL POST SHAHDOL (MADHYA PRADESH)**
16. **SUBODH KUMAR JAIN S/O LATE JINESHWAR DAS JAIN, AGED ABOUT 53 YEARS, OCCUPATION: BUSINESS WARD NO. 9 PANCHAYATI MANDIR ROAD SHAHDOL POST SHAHDOL (MADHYA PRADESH)**
17. **MANOJ KUMAR JAIN S/O LATE JINESHWAR DAS JAIN, AGED ABOUT 50 YEARS, OCCUPATION:**

**BUSINESS WARD NO. 9 PANCHAYATI MANDIR
ROAD SHAHDOL POST SHAHDOL (MADHYA
PRADESH)**

18. **ANIL KUMAR JAIN S/O LATE SOMCHAND JAIN,
AGED ABOUT 44 YEARS, OCCUPATION: BUSINESS
WARD NO. 9 PANCHAYATI MANDIR ROAD
SHAHDOL POST SHAHDOL (MADHYA PRADESH)**

.....RESPONDENTS

**(SHRI ANIL KUMAR DWIVEDI - ADVOCATE FOR RESPONDENT NOS. 2 TO
8)**

<i>Reserved on</i>	:	<i>08.02.2023</i>
<i>Pronounced on</i>	:	<i>16.03.2023</i>

*These petitions having been heard and reserved for orders, coming on
for pronouncement this day, the Court pronounced the following:*

ORDER

These petitions arise out of common order, therefore, they are being decided together by this common order. However, the facts narrated in M.Cr.C. No. 3317 of 2019 are being adumbrated herein

The applicants have filed these petitions invoking the extraordinary jurisdiction of this Court under Section 482 of Cr.P.C. to set aside the order dated 14.1.2019 passed by Special Sessions Judge, Shahdol in Criminal Revision No. 1 of 2016 whereby the revision filed by the applicants has been dismissed and the order dated 23.11.2015 passed by Sub-Divisional Magistrate Sohagpur, Shahdol in Case No. 238 of 1999 has been affirmed.

Succinctly stated facts of the case are that respondent Nos. 2 to 8 are the owners and landlord of a house situated at Ward No. 26 and the applicants are the tenants of two shops in the house in dispute. Respondent Nos. 2 to 8 requested to the applicants to vacate the disputed shops on the ground that the house is very old and in a dilapidated condition and has become unsafe for human habitation but the applicants declined to vacate the shop, hence

respondent Nos. 2 to 8/complainants filed proceedings (Annexure A-1) under Section 133 of Cr.P.C. to get the said accommodation vacated.

The applicants filed their reply *inter alia* contending that the complainants want to sell the house and have entered into agreements to that effect, therefore, they filed the complaint to get the accommodation vacated. It was also contended that the house in dispute is in good condition and it is not required to be demolished.

The SDM called a report from the Police Department regarding status of the house and on the basis of said report, passed an order on 15.2.2010 directing the applicants to vacate the accommodation and also directed to demolish the same. Being aggrieved thereby the applicants preferred a Criminal Revision No. 20 of 2010, which was dismissed vide order dated 12.3.2010 and the order passed by the SDM was upheld.

Challenging the said order, the applicants filed M.Cr.C. No. 2474 of 2010 before this Court, which was decided vide order (Annexure A-4) dated 29.9.2010 wherein the orders passed by the Courts below were set aside and the matter was remitted back to the SDM with direction to call for a new report from the office of Executive Engineer, Public Works Department and the Executive Engineer, Rural Engineering Services (for short RES) with regard to the condition of the disputed house. It was observed that the SDM formed an opinion without examining Shri B.P. Verma and Police Officials. The opinion seems to have been formed on the basis of the report and the letter of Chief Municipal Officer dated 22.1.2009 and Police Report dated 5.8.2008 that too without cross-examining such witnesses.

After remand of the case, the SDM, Sohagpur called for a report from Executive Engineer and Officers of RES in compliance of the order dated

29.9.2010 passed by this Court in M.Cr.C. No. 2474 of 2010. The Executive Engineer and Officers of RES submitted a joint enquiry report on 16.1.2012 and on the basis of the said report, the SDM passed the order on 23.11.2015 directing to demolish the disputed house.

Being aggrieved by the order dated 23.11.2015, the applicants preferred a Criminal Revision No. 1 of 2016 on the ground that the dispute between the parties is of civil nature and, therefore, Section 133 of Cr.P.C. is not applicable in this case. It was further stated that during pendency of dispute, some tenants have died and proceedings were initiated against their legal heirs whereas under Section 141(2) of Cr.P.C. the SDM is not competent to do so. It was further submitted that the application under Section 133 of Cr.P.C. was filed on 3.2.1997 and since then 19 years have elapsed but no damage has been caused to the disputed house, therefore, the SDM has arrived at a wrong conclusion.

The aforesaid revision has been dismissed by the Special Judge on the ground that according to the enquiry reports submitted by the SHO, Chief Municipal Officer and Executive Engineer, the disputed house is about 100 years old and it is partially damaged. According to the enquiry reports and statements available on record the disputed house is in dilapidated condition and it may collapse, which may create public nuisance.

I have heard learned counsel for the parties and gone through the orders passed by the SDM as well as the revisional Court. After remand of the case by this Court, the SDM called reports from Executive Engineer and Officers of RES in compliance of the order dated 29.9.2010 passed by this Court in M.Cr.C. No. 2474 of 2010. The Executive Engineer and Officers of RES submitted a joint enquiry report on 16.1.2012 and on the basis of the said

report, the SDM passed the order on 23.11.2015 directing to demolish the disputed house. The SDM concluded that the disputed house is an old one and is in a dilapidated condition and, therefore, need to be removed and the structure needs demolition to avoid fatal accidents in future.

The Supreme Court in the case of **Vasant Manga Nikumba and others Vs. Baburao Bhikanna Naidu (deceased) by LRs and another** reported in **1995 Supp (4) SCC 54** has considered the object and purpose of Section 133 of Cr.P.C. and observed in Paragraphs 3, 4 & 5 as under:-

" 3 . Nuisance is an inconvenience materially interferes with the ordinary physical comfort of human existence. it is not capable of precise definition. It may be public or private nuisance. As defined in Section 268 IPC, public nuisance is an offence against public either by doing a thing which tends to the annoyance of the whole community in general or by neglect to do anything which the common good requires. It is an act or omission which causes any common injury, danger or annoyance to the public or to the people in general who dwell or occupy the property in the vicinity. On the alternative it causes injury, obstruction, danger or annoyance to persons who may have occasion to use public right. it is the quantum of annoyance or discomfort in contra distinction to private nuisance which affects an individual is the decisive factor. The object and public purpose behind Section 133 is to prevent public nuisance that if the Magistrate fails to take

immediate recourse to Section 133 irreparable damage would be done to the public. The exercise of the power should be one of judicious discretions objectively exercised on pragmatic consideration of the given facts and circumstances from evidence on record. The proceedings under Section 133 is not intended to settle private disputes or a substitute to settle civil disputes though the proceeding under Section 133 is more in the nature of civil proceedings in a summary nature.

4. A reading of Section 133 would clearly indicate that the Executive Magistrate has been empowered, on receiving a report of the police officer or other information and on taking such evidence as he thinks fit that any building, tent or structure is in such a condition that, due to failure to remove, disrepair, or without support it is likely to fall and thereby cause injury to persons living or carrying on business in the neighbourhood or passing by and that in consequence he is empowered to specify the time to remove, repair or provide support to such building, tent or structure or tree. Two options are open to the Executive Magistrate on considering whether structure, building etc. is in such a dilapidated condition which requires to be demolished immediately which brooks no delay to avert danger to the life and property of the neighbourhood or passer-by unless they could be suitably repaired or supported so as

to avert danger to the public or have it removed, etc. The condition precedent to exercise the power under Section 133 is the imminent danger to the property and consequential nuisance to the public. The removal of the building is so urgently required as it is likely to fall and cause injury to persons living or carrying on business in the neighbourhood or passer-by. The nuisance is the concomitant act resulting in danger to the life or property due to likely collapse etc. The dangerous condition of the building is in praesenti but not in future. The section is limited to injuries likely to be caused to the passers-by or persons living or carrying on business in the neighbourhood. Each case has to be considered in the light of the facts and circumstances obtained in each case.

5 . In T.K. S.M. Kalyanasundaram v. Kalyani Ammal - 1975 CriLJ 1717, the Madras High Court held that the alleged nuisance would have been in existence for a long period. The circumstance and the evidence in that case did not prove that any urgency existed warranting the taking of action under Section 133. No action can be taken under this section where the obstruction or nuisance has been in existence for a long period and the only remedy open to the aggrieved party was to move the civil court. It was also held that Section 133 is attracted only in cases of emergency and immediate danger to the health or

physical comfort of the community. Accordingly on the facts in that case, it was held that there was no immediate danger or emergency for the removal of the structure offending in that case. It is also settled law that recourse to Section 133 could not be a substitute for the civil proceedings and the parties should have recourse to the civil remedy available and should not be encourage (sic encouraged) to taking recourse to the provisions of Section 133 of the Code."

Similar view has been taken by the Supreme Court in the case of **Suhel Khan Khudyar Khan and another Vs. State of Maharashtra and others - (2009) 5 SCC 586** referring the case of **Vasant Manga Nikumba and others Vs. Baburao Bhikanna Naidu (deceased) by LRs and another (supra)**.

In the present cases, the application under Section 133 of Cr.P.C. was filed 25 years ago. I have seen the photographs of the building, which are placed on record. On a consideration of the matter, it appears that it is not so imminently dangerous as to require the building to be demolished immediately exercising the power under Section 133 of Cr.P.C. There is no danger to the customers of the shop also as the repair work has already been carried out in the said shops. It also appears that the shops are sought to be vacated behind the curtains.

Thus, in view of the aforesaid discussion and in the background of the legal principles set out by the Supreme Court in the cases of **Vasant Manga Nikumba and others Vs. Baburao Bhikanna Naidu (deceased) by LRs and another (supra)** and **Suhel Khan Khudyar Khan and another Vs.**

State of Maharashtra and others (supra), these petitions are allowed. The order dated 14.1.2019 passed by Special Sessions Judge, Shahdol in Criminal Revision No. 1 of 2016 and the order dated 23.11.2015 passed by Sub-Divisional Magistrate Sohagpur, Shahdol in Case No. 238 of 1999 are hereby set aside.

(SMT. ANJULI PALO)
JUDGE

PB

