

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

**BEFORE**

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

**MISC. PETITION No.3550 of 2019**

**Between:-**

**BRAJESH KUMAR, S/O SANTOSH KUMAR  
JAISWAL, AGED ABOUT 39 YEARS, R/O  
APNA APARTMENT, NEW INDIRA  
COLONY, BURHANPUR, DISTRICT  
BURHANDPUR (M.P.)**

**.....PETITIONER**

***(BY SHRI SANKALP KOCHAR, ADVOCATE)***

**AND**

- 1. SANTOSH KUMAR, S/O SHYAMLALJI,  
AGED ABOUT 68 YEARS, R/O IN MASJID  
QUARTER, KILA ROAD, DISTRICT  
BURHANPUR (M.P.)**
- 2. SHAKUNTALA DEVI, W/O SANTOSH KUMAR,  
AGED ABOUT 66 YEARS, R/O IN MASJID  
QUARTER, KILA ROAD, BURHANPUR (M.P.)**
- 3. SMT. ARTI, W/O KAILASH JAISWAL, AGED  
ABOUT 46 YEARS, D/O SANTOSH JAISWAL,  
R/O SUDARSHAN COLONY, PLOT NO.8,  
DEVPUR, DHULIYA (MAHARASHTRA)**
- 4. SMT. KAVITA, W/O VIJAY KUMAR JAISWAL,  
AGED ABOUT 45 YEARS, D/O SANTOSH  
JAISWAL, R/O NEAR CHOURAHA,  
AMRAWATI (MAHARASHTRA)**
- 5. ASHISH, S/O SANTOSH KUMAR JAISWAL,  
AGED ABOUT 43 YEARS, R/O IN DORA  
MASJID QUARTER, KILA ROAD,  
BURHANPUR (M.P.)**
- 6. SMT. RAJNI, W/O UMESH DHANESHWARI,  
AGED ABOUT 41 YEARS, R/O DASHMESH  
NAGAR, BEHIND JANTA NAGAR, NEAR**

**GOVINDNAGAR, CHANDKHEDA  
GANDHINAGAR, AHMADABAD (GUJRAT)**

- 7. SHAKUNTALA DEVI W/O SHRI SURENDRA RAI, AGED ABOUT 65 YEARS, R/O BUDHWARI BAZAR NEAR RAM MANDIR CHHINDWARA (MADHYA PRADESH)**
- 8. ASHOK KUMAR S/O LATE SHRI SHYAMLALJI, AGED ABOUT 65 YEARS, R/O NAVALKHA COMPLEX BLOCK D FLAT NO 31 INDORE (MADHYA PRADESH)**
- 9. SMT VIDYA DEVI W/O SHRI ASHOK KUMAR R/O NAVALKHA COMPLEX BLOCK D FLAT NO 31 AND 32 INDORE (MADHYA PRADESH)**
- 10. ANIL KUMAR S/O LATE SHYAMLALJI JAISWAL, AGED ABOUT 61 YEARS, R/O KISHANGANJ INDRAPURI APARTMENT MHOW DIST INDORE MP (MADHYA PRADESH)**
- 11. DELIP KUMAR S/O LATE SHYAMLAL JAISWAL, AGED ABOUT 60 YEARS, R/O 502 KANAT ROAD MHOW DISTT INDORE (MADHYA PRADESH)**
- 12. SMT VANDANA W/O DILIP KUMAR, AGED ABOUT 51 YEARS, R/O 502 KANAT ROAD MHOW DISTT INDORE (MADHYA PRADESH)**
- 13. SMT SHASHI DEVI W/O SHRI AVINASH JAISWAL, AGED ABOUT 57 YEARS, R/O BADAWADA WADE WALE NEEMACH DISTT NEEMACH (MADHYA PRADESH)**
- 14. SMT KIRAN BALA W/O SHRI HEMANT KUMAR, AGED ABOUT 54 YEARS, R/O VAISHALI NAGAR INDORE (MADHYA PRADESH)**
- 15. SHRI SYED SHAKEEL, S/O SYED SHARIFUDDIN, AGED ABOUT 43 YEARS, R/O MOHALLA KHANKA WARD TEHSIL AND DISTT BURHANPUR (MADHYA PRADESH)**
- 16. SAYED AKHTAR ALI S/O MOHAMMAD MUZZAFFAR, AGED ABOUT 64 YEARS, R/O MOHALLA KHANKA WARD TEHSIL AND DISTT BURHANPUR (MADHYA PRADESH)**

17. **TAHSINUDDIN S/O NASEEMUDDIN, AGED ABOUT 28 YEARS, R/O MOHALLA JAISTAMBH WARD TEHSIL AND DISTT BURHANPUR (MADHYA PRADESH)**
18. **ATEEK KHAN S/O RASHEED KHAN, AGED ABOUT 44 YEARS, R/O MOHALLA CHANDRAKALA TEHSIL AND DISTT BURHANPUR (MADHYA PRADESH)**
19. **MUSHTAK KHAN S/O HABIB KHAN, AGED ABOUT 44 YEARS, R/O RAJENDRA PRASAD WARD TEHSIL AND DISTT BURHANPUR (MADHYA PRADESH)**
20. **AKEELUDDIN S/O CHIRAGUDDIN AULIYA, AGED ABOUT 45 YEARS, R/O MOHALLA JAISTAMBH WARD TEHSIL AND DISTT BURHANPUR (MADHYA PRADESH)**
21. **GHULAM MEHBOOB S/O MOHAMMAD CHIRAG, AGED ABOUT 48 YEARS, MOHALLA JAISTAMBH WARD TEHSIL AND DISTT BURHANPUR (MADHYA PRADESH)**
22. **FAHEEM AKHTAR S/O SAYEED AHMED, AGED ABOUT 35 YEARS, R/O MOHALLA JAISTAMBH WARD TEHSIL AND DISTT BURHANPUR (MADHYA PRADESH)**
23. **SHAKEEL SAHAB S/O MANJLE SAHAB, AGED ABOUT 365 YEARS, R/O MOHALLA JAISTAMBH WARD TEHSIL AND DISTT BURHANPUR (MADHYA PRADESH)**
24. **NAGEENLAL S/O ICCHARAM, AGED ABOUT 65 YEARS, R/O ICHCHA BHAWAN VILLAGE CHOPARA TEHSIL AND DISTT BURHANPUR (MADHYA PRADESH)**
25. **STATE OF MADHYA PRADESH THROUGH COLLECTOR BURHANPUR DISTT BURHANPUR (MADHYA PRADESH)**
26. **YOGESH S/O RATILAL SHAH, R/O IN FRONT OF GYANVARDHAN SABHAGRIH RAJPURA BURHANPUR (MADHYA PRADESH)**

**....RESPONDENTS**

**(SHRI VIJENDRA SINGH CHOUDHARY, ADVOCATE  
FOR 1 & 2 AND SANJIV KUMAR MISHRA, ADVOCATE  
FOR RESPONDENT NO.26)**

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Reserved on : 17.02.2022  
Delivered on : 26.02.2022

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**ORDER**

The petitioner in the present writ petition has called in question order dated 08.05.2019 and 02.07.2019, whereby, the trial Court has closed the right of the petitioner-plaintiff to adduce the evidence and has rejected the application under Order 16 Rule 3, 4 and 5 of CPC. So far as the nature of dispute is concerned, this Court has dealt with the same in M.P.No.3253/2019 while deciding legality of another interim order passed by the trial Court against the petitioner, therefore, the same are not being referred here, except those which are necessary for the decision involved here.

2. The learned trial Court vide order dated 08.05.2019 has recorded that the suit is pending since 2014 and on 18.07.2018, 08.08.2018, 16.11.2018, 20.11.2018, 14.12.2018 and 09.02.2019 opportunities to adduce the evidence were given and on 08.05.2019 also the petitioner-plaintiff was not in a position to inform as to who are the witnesses to be examined by him. No list of witnesses was produced and, therefore, the evidence of the petitioner-plaintiff was closed. The directions were given to the defendant to produce his witnesses. Vide another order dated 02.07.2019 the application of the petitioner-plaintiff under Order 16 Rule 3, 4 and 5 of CPC was considered where the petitioner-plaintiff wanted to produce four more witnesses who are in his relation,

however, it was seen by the trial Court that since the evidence of the plaintiff was already closed, the evidence of the defendant was also completed and hence, after hearing the matter the opportunity for submission of the written argument was given.

3. Having gone through the contents of the application (Annexure P/5) and the reasoning given by the trial Court, I do not find any scope for interference under Article 227 of the Constitution of India. In the instant case, the trial Court had sufficient reason to decline the prayer of the petitioner at the fag end of the trial. Even a wrong/illegal order need not be interfered with on mere asking or on a drop of hat {*See Shalini Shyam Shetty and another vs. Rajendra Shankar Patil*<sup>1</sup>}.

In view of the aforesaid, the writ petition is **dismissed**.

**(PURUSHAINDRA KUMAR KAURAV)**  
**JUDGE**

Jasleen

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1 (2010) 8 SCC 329.