

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

**HON'BLE SHRI JUSTICE GURPAL SINGH AHLUWALIA  
ON THE 25<sup>TH</sup> OF AUGUST, 2023  
MISC. PETITION No.2358 of 2021**

**BETWEEN:-**

1. VIVEK POURANIK S/O LATE  
SHRI NARENDRA KUMAR  
POURANIK, AGED ABOUT 40  
YEARS, OCCUPATION:  
GOVT. SERVANT R/O RAMJI  
NAGAR CHHATARPUR  
DISTT. CHHATARPUR (M.P.)  
(MADHYA PRADESH)
2. VAIBHAV POURANIK S/O  
LATE SHRI NARENDRA  
KUMAR POURANIK, AGED  
ABOUT 38 YEARS,  
OCCUPATION: GOVT.  
SERVANT RAMJI NAGAR,  
CHHATARPUR, DISTT.  
CHHATARPUR (MADHYA  
PRADESH)

**.....PETITIONERS**

***(BY SHRI BINOD KUMAR TIWARI - ADVOCATE)***

**AND**

1. THE STATE OF MADHYA  
PRADESH THROUGH THE  
COMMISSIONER SAGAR  
SAGAR (M.P.)
2. THE STATE OF M.P.  
THROUGH ADDITIONAL  
COLLECTOR CHHATARPUR  
DIST. CHHATARPUR (M.P.)
3. STATE OF MADHYA  
PRADESH THROUGH  
TEHSILDAR, TEHSIL

**CHHATARPUR, DISTRICT  
CHHATARPUR (M.P.)**

- 4. NAZUL OFFICER  
CHHATARPUR, DIST.  
CHHATARPUR (M.P.)**
- 5. RAMENDRA KUMAR  
POURANIK S/O LATE SHRI  
SOHAN LAL POURANIK,  
AGED ABOUT 48 YEARS,  
OCCUPATION: GOVT.  
SERVANT 22 MIG, SUMITRA  
PARISAR, PHASE-I, KOLAR  
ROAD, BHOPAL (M.P.)**
- 6. SMT.MATHURA DEVI ASATI  
W/O DURGA PRASAD ASATI,  
AGED ABOUT 63 YEARS,  
OCCUPATION: HOUSEWIFE,  
R/O ASATI MOHALLA  
CHHATARPUR, DISTRICT  
CHHATARPUR (M.P.)**
- 7. SMT.JANKI DEVI ASATI W/O  
JAGDISH PRASAD ASATI,  
AGED ABOUT 60 YEARS,  
OCCUPATION: HOUSEWIFE  
R/O ASATI MOHALLA  
CHHATARPUR, DISTRICT  
CHHATARPUR (M.P.)**

**.....RESPONDENTS**

***(BY SHRI VIKALP SONI - ADVOCATE)***

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

**ORDER**

This petition under Article 226 of the Constitution of India has  
been filed seeking following reliefs :-

“That, it is therefore prayed that Hon’ble Court be pleased to set aside the order under challenge dated 02.07.2021 (Annexure-P/11) passed by learned Commissioner, Sagar Division, Sagar and impugned order dated 28.12.2017 (Annexure-P/7) passed by Additional Collector, Chhattarpur, in the interest of justice.

Any other relief or direction which this Hon’ble Court deems fit may also be granted to the petitioner.”

2. A preliminary objection is raised by learned counsel for respondent that the petition suffers from suppression of material facts. The petitioners have already filed a civil suit before the Court of I<sup>st</sup> Civil Judge, Class-I, Chhatarpur in the year 2020 itself and had also prayed for declaration of order dated 28.12.2017 passed by the Additional Collector, Chhatarpur in Appeal No.23/Appeal/Nazul/B-121/2016-17 as null and void. However, the said fact has been suppressed by petitioners. Thus, it is submitted that petition be dismissed with heavy costs.

3. It is fairly considered by counsel for the petitioners that civil suit is already pending and by mistake the said fact was not mentioned. However, counsel for petitioners tried to convince this Court by referring to order dated 02.07.2021 passed by Commissioner, Sagar Division, Sagar in Appeal No.0158/Appeal/2019-20 by pointing out that in the said order there is a reference of pendency of civil suit therefore, it cannot be said that there is a material suppression.

4. Considered the submissions made by the counsel for the parties.

5. This petition was filed in the year 2021 i.e., during the pendency of civil suit. The order dated 28.12.2017 passed by the Additional Collector, Chhatarpur in Appeal No.23/Appeal/Nazul/B-121/2016-17 is

subject matter of this petition and is also subject matter of the suit. Under these circumstances, it was obligatory on the part of petitioners to disclose the pendency of the civil suit. However, admittedly, that has not been done. The only explanation given by counsel for petitioners is that since there is already a reference of civil suit in the order dated 02.07.2021 passed by Commissioner, Sagar Division, Sagar in Appeal No.0158/Appeal/2019-20, therefore, the non-mentioning of pendency of civil suit cannot be said to be material suppression.

6. Now, the only question for consideration is as to whether this Court is required to go through each and every word of the writ petition and the documents or it is the duty of the petitioner to disclose the facts in the writ petition as well as to disclose the facts during the course of arguments. The Supreme Court in the case of **Bhaskar Laxman Jadhav & Ors. Vs. Karamveer Kakasaheb Wagh Education Society & Ors.** reported in (2013) 11 SCC 531 has held as under :-

"43. The learned counsel for the petitioners submitted that no material facts have been withheld from this Court. It was submitted that while the order dated 02.05.2003 was undoubtedly not filed, its existence was not material in view of subsequent developments that had taken place. We cannot agree.

44. It is not for a litigant to decide what fact is material for adjudicating a case and what is not material. It is the obligation of a litigant to disclose all the facts of a case and leave the decision-making to the court. True, there is a mention of the order dated 2-5-2003 in the order dated 24-7-2006 passed by the JCC, but that is not enough disclosure. The petitioners have not clearly disclosed the facts and circumstances in which the order dated 2-5-2003 was passed or that it has attained finality.

**45.** We may only refer to two cases on this subject. In *Hari Narain v. Badri Das* [AIR 1963 SC 1558] stress was laid on litigants eschewing inaccurate, untrue or misleading statements, otherwise leave granted to an appellant may be revoked. It was observed as follows: (AIR p. 1560, para 9)

“9. ... It is of utmost importance that in making material statements and setting forth grounds in applications for special leave care must be taken not to make any statements which are inaccurate, untrue or misleading. In dealing with applications for special leave, the Court naturally takes statements of fact and grounds of fact contained in the petitions at their face value and it would be unfair to betray the confidence of the Court by making statements which are untrue and misleading. That is why we have come to the conclusion that in the present case, special leave granted to the appellant ought to be revoked. Accordingly, special leave is revoked and the appeal is dismissed. The appellant will pay the costs of the respondent.”

**46.** More recently, in *Ramjas Foundation v. Union of India* [(2010) 14 SCC 38 : (2011) 4 SCC (Civ) 889] the case law on the subject was discussed. It was held that if a litigant does not come to the court with clean hands, he is not entitled to be heard and indeed, such a person is not entitled to any relief from any judicial forum. It was said: (SCC p. 51, para 21)

“21. The principle that a person who does not come to the court with clean hands is not entitled to be heard on the merits of his grievance and, in any case, such person is not entitled to any relief is applicable not only to the petitions filed under Articles 32, 226 and 136 of the Constitution but also to the cases instituted in others courts and judicial forums. The object underlying the principle is that every court is not only

entitled but is duty-bound to protect itself from unscrupulous litigants who do not have any respect for truth and who try to pollute the stream of justice by resorting to falsehood or by making misstatement or by suppressing facts which have a bearing on adjudication of the issue(s) arising in the case.”

47. A mere reference to the order dated 2-5-2003, en passant, in the order dated 24-7-2006 does not serve the requirement of disclosure. It is not for the court to look into every word of the pleadings, documents and annexures to fish out a fact. It is for the litigant to come upfront and clean with all material facts and then, on the basis of the submissions made by the learned counsel, leave it to the court to determine whether or not a particular fact is relevant for arriving at a decision. Unfortunately, the petitioners have not done this and must suffer the consequence thereof.”

Therefore, it is not expected from a Court to read out from each and every word of the pleadings and the document to find out as to whether there is any suppression of material facts or not. It is duty of the litigant to disclose the facts and if the litigant fails to do so, then it would amount to suppression of facts.

7. It is also clear that every suppression of fact will not result in dismissal of the writ petition but the suppression should be of a material fact. Material fact means that if it was disclosed at the earliest, then this Court would not have entertained the petition. Pendency of a civil suit is a material fact for maintainability of this writ petition. But the said fact was not disclosed. Under these circumstances, this Court is of the considered opinion that petitioners are not entitled for any equitable relief merely on the ground of suppression of material fact. Furthermore, according to the parties, one Damodar Pouranik was the owner of the

property in dispute. Damodar Pouranik had four sons namely Rajamohan, Jagdish, Jaikishan and Sohanlal. Petitioners represent the family of Rajamohan whereas respondent No.5 represents the family of Sohanlal. In light of the provisions of Hindu Succession Act, Sohanlal had 1/4<sup>th</sup> share in the property. However, it is the case of the petitioner that partition had already taken place. It is fairly considered that no document of partition has been filed.

8. Be that whatever it may be. Since civil suit is pending therefore, it is not necessary for this Court to advert to the submission as to whether any partition had taken place or not.

9. Since the petition suffers from suppression of material fact, accordingly, the petition is **dismissed with a cost of Rs.5,000/-** (Rs.Five Thousand) to be deposited by the petitioner in the Registry of this Court within a period of one month from today failing which the Registrar General shall not only initiate the proceedings for recovery of cost but shall also register a case for contempt of Court.

**(G.S. AHLUWALIA)**  
**JUDGE**