



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

**BEFORE**

**HON'BLE SHRI JUSTICE G. S. AHLUWALIA**

**ON THE 20<sup>th</sup> OF SEPTEMBER, 2024**

**MISC. PETITION No. 2414 of 2021**

***SHRI TANMAY PASHINE AND OTHERS***

*Versus*

***SUSHIL KACHWAHA MANFOOL***

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**Appearance:**

***Shri Sanjay Sharma – Advocate for petitioners.***

***Shri Pushendra Dev Pandey –Advocate for respondent.***

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**ORDER**

This petition under Article 227 of Constitution of India has been filed seeking following relief(s):

“(i) It is therefore said this Hon'ble Court may kindly be pleased to quash order dated 19.07.2021/20.07.2021 Contained in Annexure P/1 for depositing amount of Rs. 2,50,000/- in C.C.D. and I.A. No. 2 filed by the petitioners be kindly be allowed.

(ii) Any other relief which this Hon'ble Court may kindly be deemed fit and proper in favour of petitioners may also be given together with cost of petition, in the interest of justice.”

2. Since, the controversy involved in the present case lies in a very narrow compass, therefore the consideration of factual matrix in detail is not required. It is suffice to mention here that plaintiff filed a suit for



recovery of loan of Rs.5,15,000/-. The trial Court by the impugned order dated 19.07.2021/20.07.2021 directed the petitioner to furnish the security of Rs.2,50,000/- and to deposit cash amount of Rs.2,50,000/- in CCD of the Court. The petitioner is only aggrieved by the direction by which he has been directed to deposit an amount of Rs.2,50,000/- in CCD of the Court. By referring to Order 37 Rule 3 of CPC, it is submitted that the word “security” used in Rule 3(6) of Order 37 does not include the deposit of amount and it only includes the security of amount and therefore, the direction to furnish a security of Rs.2,50,000/- is in accordance with law but the direction to deposit of an amount of Rs.2,50,000/- is contrary to the provisions of Order 37 Rule 3(6) of CPC.

3. *Per contra*, it is submitted by counsel for respondent that order could be modified to that extent.
4. Heard the learned counsel for the parties.
5. A Coordinate Bench of this Court in the case of **Devendra Kumar Jain v. G.N. Goyal** reported in **AIR 2006 M.P. 25**, the Coordinate Bench of this Court has held as under:-

“The word "security" which is used in Order 37 relates to the security of the amount. This word cannot be stretched to the extent that in the garb of security, defendant may be directed to deposit the suit amount. When the legislature used the word 'security' only without any qualification or giving any option to the Court to direct the defendant to deposit the amount then the security has to be constituted in restricted sense. If the word security is stretched to the extent of direction to deposit the amount by way of security, then the entire purpose of sub-rule (6) of Rule 3 of Order 37 CPC shall be frustrated. The Court examined the case



of the defendant at the time while the Court was granting leave to defend to the defendant. On second occasion when the Court was considering the application filed by the plaintiff cannot go back to the stage of granting leave to defend and only has to consider the case in respect of the direction to furnish security. In this case the word security has to be interpreted in the reference, which can be explained only security is in respect of the suit amount and not beyond it. If at the stage when the Court has already granted leave to defend then at the time of considering the case for judgement if the defendant is directed to deposit the entire suit amount or the amount of promissory notes, then grant of leave to defend unconditionally shall become redundant. In these circumstances, security can be considered only in respect of securing payment of suit amount and not beyond it. In these circumstances, the trial Court erred in directing the petitioner to deposit the entire amount of promissory notes by way of security in the case. Impugned order passed by the trial Court deserves to be modified.”

6. In view of the aforesaid, this petition is **disposed of**. The order dated 20.07.2021 passed by Civil Judge, Class-1, Mandla District Mandla in Case No. RCSB/04/2021 is hereby modified and in place of direction to deposit amount of **Rs.2,50,000/- (Rupees Two Lakhs)** in the CCD of the Court, it is directed that the petitioner shall furnish the security to the tune of **Rs.5,00,000/- (Rupees Five Lakhs)** within a period of 15 days from today.

7. With aforesaid observation, the petition is finally **disposed of**.

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