

**Sagar Vs. Manohar**

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**SooperKanoon Citation :** [sooperkanoon.com/1039065](http://sooperkanoon.com/1039065)

**Court :** Madhya Pradesh

**Decided On :** Aug-31-2012

**Appellant :** Sagar

**Respondent :** Manohar

**Advocate for Pet/Ap. :** Shri. Atulanand Awasthy

**Judgement :**

1 Writ Petition No.13574/2012.

31.8.2012 Shri Atulanand Awasthy, learned counsel for the petitioners. Heard on the question of admission.

The petitioners-defendants/ judgment debtors have filed this petition under Article 227 of Constitution of India for quashment of the order dated 18.7.2012 (Ann.

P.3) passed by the District Judge, Khandwa in M.R.No.5/12, dismissing his application filed under Section 151 of CPC for extension of time to pay the sum of the decree passed against them by such Court in Civil Original Suit No.13-A/11 vide dated 9.2.2012.

In the course of the argument on admission on referring the provision of Order 20 Rule 11 of CPC by the petitioners counsel on asking him whether any application under the aforesaid provision according to its spirit has been filed by the petitioner in the trial Court, on which he fairly submits that no application was filed in

accordance with such provision and also with the prayer, as per requirement of Order 20 Rule 11 of CPC.

Again on asking the petitioners counsel that if the petitioner did not make the payment to the respondent in compliance of the aforesaid decree then what wrong has been committed by the trial Court in dismissing his application (Ann.

P.2) by the impugned order (Ann.

P.3).on which instead to argue further the counsel seeks permission to withdraw this petition as not pressed with liberty to file appropriate application under Order 20 Rule 11 of CPC before the trial Court with a prayer to permit the petitioners to pay the decreetal sum in installments with a further prayer of appropriate direction to the trial Court to consider 2 such application in accordance with the procedure so also without influencing from any findings or observation of the order impugned.

On consideration by allowing the prayer of the petitioners.counsel, the petition is dismissed as withdrawn and not pressed.

However, considering his oral prayer, it is observed that the petitioners shall be at liberty to file appropriate application under Order 20 Rule 11 of CPC and trial Court is directed that on filing such application the same shall be considered and adjudicated on its own merits in accordance with the procedure prescribed under the law without influencing from any findings or observation of the order impugned or this order.

The petition is dismissed as withdrawn and not pressed with aforesaid observation and direction.

Certified copy as per rules.

(U.C.Maheshwari) Judge k

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