

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WP227 No.445 of 2015**

Ashish Jha S/o Dr. S.K. Jha (Since Wrongly Shown S.S. Jha), aged about 38 years, R/o 1- Pallavi Vihar, Gole Chowk, Rohni Puram, Raipur, Tahsil (Revenue & Civil) District Raipur (Chhattisgarh)

---- **Petitioner****Versus**

1. Anil Kumar Dhurandhar S/o Shri Mahendra Kumar Dhurandhar, Aged About 59 Years Through : General Power Of Attorney Holder, Keshav Dhurandhar, R/o Azad Chowk, Raipur, Tahsil (Civil & Revenue) District Raipur (Chhattisgarh)
2. State Of Chhattisgarh, Through : The Collector, Raipur, Tahsil (Civil & Revenue) District Raipur (Chhattisgarh)

---- **Respondent**

For Petitioner : Shri R. N. Jha, Advocate
 For Respondent No.2/State: Shri Vinod Tekam, Panel Lawyer
 None for respondent No.1, despite service of notice.

Order On Board**25/08/2015**

This petition is directed against order dated 26-02-2015, by which, an application under Order 26 Rule 9 C.P.C. has been rejected.

2. Learned counsel for the petitioner submits that as dispute relates to factual aspect with regard to situation of shop in particular khasra number, it could be done only through the spot inspection report by the Commissioner.

3. I find that the learned trial Court has rejected the application on the ground that the matter is at preliminary stage and evidence of the parties are yet to be recorded. Order to obtain report of the Commissioner under Order 26 Rule 9 C.P.C. Is purely discretionary in nature and it can be done, only when the Court finds that it is necessary to appoint commissioner at a later stage of proceedings, after evidence of the parties is recorded. If the eventuality so arises, the petitioner can renew his

application under Order 26 Rule 9 C.P.C.

4. With the said liberty, the petition is finally disposed off.

Sd/-
Manindra Mohan Shrivastava
Judge

Tumane