

HIGH COURT OF CHHATTISGARH, BILASPUR

WP227 No. 1060 of 2015

1. Smt. Shashi Dubey W/o Shri E. P. Dubey, aged about 57 years, R/o Near Laxmi Narayan Temple behind Irrigation Office, Shyam Nagar, Polsaipara Durg, Tahsil & District Durg (Chhattisgarh).....
(Defendant No. 1)

---- Petitioner

Versus

1. Dinesh Tiwari S/o Shri Satyendra Narayan Tiwari, aged about 74 years, R/o Rajabada Motipara, Station Road, Durg, Tahsil & District Durg (Chhattisgarh).....(Plaintiff)
2. The State of Chhattisgarh, Through : The Collector, Durg, Tahsil & District Durg (Chhattisgarh).....(Defendant No. 2)

---- Respondents

For Petitioner – Shri Satish Chandra Verma, Advocate.

For Respondent No.1– None, not noticed.

For Respondent No.2 – Shri S.C.Khakhariya, Deputy Advocate General, on advance notice.

Hon'ble Shri Justice Chandra Bhushan Bajpai

Order on Board

21/12/2015

1. Heard on admission.
2. Learned counsel for the petitioner would submit that the matter is such which may be disposed of finally at the motion stage itself after a protective umbrella to the petitioner to raise the issues regarding admissibility and other related facts on merits of demarcation report at the appropriate stage.
3. For the prayer as submitted by the learned counsel for the petitioner, I have perused impugned order dated 31-10-2015 passed by the Court below in Civil Suit No.20-A/2010 (Dinesh Tiwari v. Smt. Shashi Dubey and another).
4. On due consideration, and also as per the submission made in this behalf, the trial Court too in the last para of the order dated 31-10-2015 observed that for the assessment under Order 39 Rule 4 of the CPC it is not required to dispose of the validity of demarcation report of Revenue Inspector

Durg on its merit. Hence, the objection in this behalf by defendant No.1/petitioner was dismissed.

5. After perusal of the said order, it goes to show that validity of the demarcation report on its merit is still under consideration at appropriate stage. Learned counsel for the petitioner is also praying that his opportunity to challenge the validity of the demarcation report on its merit be reserved so that at the said appropriate stage he may raise all issues regarding validity of such demarcation report.

6. On due consideration, the instant petition is hereby disposed of and it is observed that the petitioner/defendant No.1 may raise all the issues regarding maintainability of the demarcation report on its merit when occasion so arises at the appropriate stage.

7. The petition disposed of.

8. No order as to cost.

Sd/-
(Chandra Bhushan Bajpai)
JUDGE