

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WP227 No.472 of 2015**

Jagdamba Prasad Agrawal S/o Shri Kishan Lal Agrawal Aged About 50 years
R/o Pendra, Tahsil Pendra, District Bilaspur (Chhattisgarh)

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

1. Ishwar Farmaniya S/o Late Shri Banarsidas Farmaniya Aged About 44 Years
2. Kishanlal Agrawal S/o Onkarmal Agrawal, (Dead)

2-A Bhagwati Prasad Agrawal S/o Late Kishanlal Aged About 63 Years

2-B Durga Prasad Agrawal S/o Late Kishanlal Aged About 57 Years

All are resident Of Pendra, Tahsil Pendra, District Bilaspur (Chhattisgarh)

---- **Respondent**

For Petitioner : Shri Yogendra Chaturvedi, Advocate

Order On Board**01/07/2015**

This petition under Article 227 of the Constitution of India, is preferred against order dated 20-04-2015, by which, plaintiff's application under Order 26 Rule 9 CPC has been rejected.

2. Learned counsel for the petitioner submits that the issue and controversy arising for determination in the suit necessary required spot inspection in order to identify the land of the plaintiff by obtaining the report on the pleadings of the plaintiff that on the land in dispute, there exists boundary wall, a well and also trees of particular species because the defendant described his land without there being any trees. This could be verified only on the basis of spot inspection.

3. The suit, at the first place, does not relate to dispute of boundary as such. The plaintiff as well as defendant No.1 claimed their respective title and possession over

their respective land on the basis of sale deed in their favour. If the plaintiff in his pleading claims his land to be identified on the basis of there being present boundary wall, a well and trees of particular species, it is for the plaintiff to prove it by leading oral and documentary evidence.

4. The Court below has not committed any jurisdictional illegality in rejecting the petitioner's application in the aforesaid background.

5. The petition, is therefore, dismissed summarily.

Sd/-
Manindra Mohan Shrivastava
Judge