

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 616 of 2016

1. Deep Kumar Kesharwani S/o Kaushal Prasad, Aged About 62 Years
2. Prem Kumar Kesharwani, S/o Kaushal Prasad, Aged About 55 Years
3. Satyendra Kumar Kesharwani S/o Kaushal Prasad, Aged About 48 Years

All R/o Village Rajpalpur (Wrongly Mentioned As Rajpalanpur In The Impugned Order), Tahsil Mungeli, District Mungeli, Chhattisgarh

---- Petitioners

Versus

1. The Chhattisgarh Board Of Revenue Bilaspur Chhattisgarh
2. The Additional Commissioner, Bilaspur Division, Bilaspur Chhattisgarh
3. The Sub Divisional Officer, (Revenue) Mungeli, District Mungeli, Chhattisgarh
4. The Naib Tahsildar, Mungeli, District Mungeli, Chhattisgarh
5. Rambhajan S/o Babulal Dewangan, R/o Kharripara, Mungeli Tahsil Mungeli, District Mungeli Chhattisgarh

---- Respondents

For Petitioners	:	Shri H.S Patel, Advocate
For Respondent-State	:	Shri B. Gop Kumar, Dy.A.G.

S.B.:Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

09/03/2016

Heard.

1. This petition under Article 227 of the Constitution of India is preferred against order dated 9.2.2016 passed by the Board of Revenue.

2. The dispute arises in the matter of mutation. The petitioners applied for mutation on the basis of unregistered will. The will has been found to be suspicious by the revenue courts.
3. Learned counsel for the petitioners submits that earlier a compromise had taken place between the parties.
4. I find that before the Board of Revenue, the other party has not acted on the compromise but disputed settlement between the parties. The operative reason for the Board of Revenue is that the will is suspicious and therefore on that ground mutation cannot be ordered.
5. It appears that the dispute revolves around the validity of the will which is not registered.
6. The matter can be resolved only by an appropriate declaration of the Civil Court. Therefore, in these circumstances, I am not inclined to grant any relief to the petitioners. The petitioners, if so advised, may file an appropriate civil suit seeking declaration, injunction etc. to vindicate their right.
7. The petition is accordingly dismissed.
8. The observations made by all the revenue authorities with regard to correctness of the will etc. will not be binding on the Civil Court and it will be for the jurisdictional civil Court to decide the legal issue arising for consideration before it.

Sd/-
(Manindra Mohan Shrivastava)
Judge