

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 2542 of 2016

1. Jagannath Prasad Patel S/o Nilamber Prasad Patel, Aged About 65 Years R/o Village Patharipali, Post Pahanda, P.H. No 16, Revenue Circle Sarangarh, Tahsil Sarangarh, Distirct Raigarh Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary Revenue Department, Mahanadi Bhawan, Mantralaya, New Raipur, Distirct Raipur Chhattisgarh
2. The Collector, Raigarh, Distirct Raigarh Chhattisgarh
3. The Sub Divisional Officer, (R) Sarangarh, District Raigarh Chhattisgarh
4. The Tahsildar Tahsil Sarangarh Distirct Raigarh Chhattisgarh
5. The Manager, Sewa Sahkari Samity Maryadit Kedar, Tahsil Sarangarh, Distirct Raigarh Chhattisgarh

---- Respondent

For Petitioner Shri R.S. Patel, Advocate
For Respondent/State Shri Arun Sao, Dy. Adv. General

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

27/10/2016

1. The issue brought before this Court pertains to petitioner's registration as a cultivator for being entitled to sell the paddy for the Kharif procurement year 2015-16.

2. When, according to the Government instructions, the petitioner moved an application before the Tahsildar, Sarangarh, an endorsement was made by the Tahsildar that one Hingul Prasad, the eldest brother of the petitioner is the *numberdhar*, therefore, according to the Government instructions the registration can be made in his name only and not in the name of the other joint holder i.e. the petitioner.
3. It is argued that 3 brothers whose holdings are joint are in separate cultivating possession of their respective share which have already been partitioned in the year 1986, therefore, the petitioner is entitled to obtain registration for the land which has fallen in his share. It is also argued that there is no instruction of the State Government to the effect as is endorsed by the Tahsildar in the petitioner's application (Annexure – P/2).
4. Be that as it may, separate registration according to the possession may amount to partition between the brothers which cannot be done without hearing the remaining members of the joint family, therefore, even if there is no instruction by the State Government in this regard, the endorsement made does not appear to be arbitrary or without any reason.

5. The petitioner may apply for partition of holdings before the concerned Nayab Tahsildar in accordance with the provisions contained in the Chhattisgarh Land Revenue Code, 1959.
6. On such application for partition being filed by the petitioner, the concerned Tahsildar shall conclude the proceedings at the earliest preferably before the next Kharif season.
7. Accordingly, the writ petition is disposed of.

Sd/-

Prashant Kumar Mishra
Judge

Gowri