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HIGH COURT OF CHHATTISGARH, BILASPUR

W.P.(Cr.) No. 61 of 2016

1. Dr. Krishnapratap Pandey, aged about 46 years, S/o. Keshav Pratap Pandey, R/o. Imlipara, Gali No.2, Bus Stand, Bilaspur, P.S. - Civil Line, Tehsil and District – Bilaspur (C.G.)

----Petitioner

Versus

1. Shri Anil Mundra, S/o. Shri Vishnugopal Ji Mundra, R/o. Maheshwari Coal Benefication and Infrastructure Pvt. Ltd, Village-Parsada, Sirgitti Industrial Area, P.O. Tifra, P.S. - Chakarbhata, Tehsil – Bilha, District – Bilaspur (C.G.)
2. Ramkhilawan Dhuri, S/o. Unknown, R/o. Darha (Bodri), P.S. Chakarbhata, Tehsil Bilha, District- Bilaspur (C.G.)
3. Parmanand Kaushik, Revenue Inspector, Bilha, Tehsil – Bilha, District – Bilha (C.G.).

---- Respondents

For Petitioner : Mr. Manoj Chauhan, Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

08/11/2016

1. The instant petition has been filed by the petitioner for the following relief:-

“10.1 That, the Hon'ble Court may kindly be pleased to call for entire records pertaining to the case of the petitioner from the lower court for the proper adjudication of the matter.

10.2 That, this Hon'ble Court may kindly be pleased to set-aside the impugned order dated 4/1/2016, passed by the Sessions Judge, Bilaspur U/s. 397 of Cr.P.C.

(Annexure P/6) kindly issue direction for the lodging of the FIR and producing the final investigation report U/s. 420, 467, 468, 471, 120(B) of I.P.C. against the forge act of accused No.1 and 2 with the nexus of accused No.3.

10.3 Any other relief that the Hon'ble Court may deem fit in the facts and circumstances of the case may also be granted in favour of the petitioners.”

2. Challenge in this petition is to the order dated 04.01.2016, passed by the Sessions Judge, Bilaspur in, whereby the revision preferred under Section 397 of Cr.P.C. by the petitioner has been dismissed.
3. Learned counsel for the petitioner submits that in the year 2000, demarcation was done in respect of the property which is owned by the petitioner and the land is in possession of petitioner. It is stated that subsequently, again the demarcation was carried out in the year 2011 and in the year 2015, the respondent No.3 had encroached upon the land and the demarcation report finds in favour of the respondent No.3, which has been manipulated by the respondent No.2, therefore, investigation is required to be carried out.
4. Prima-facie reading of the judgment and the document which is filed along with the petition would show that its a civil dispute between the parties about the ownership of the land. The petitioner is claiming his right over the property on the basis of demarcation report of the year 2000, then certainly in such case he has to exert his right on the basis of demarcation which till date do appears to be nullified.
5. On query being made, it is submitted that a civil suit is pending between the parties and the issue is of encroachment. Taking into this fact and the facts and circumstances of the case at this stage any

finding by this Court would jeopardies the right of the parties since the right and the authenticity of demarcation is to be adjudicated in the civil suit, which can not be high-jacked by way of criminal complaint.

6. In view of the above, I do not find any jurisdictional error has been committed by the Court below or the Court below has failed to exercise his jurisdiction vested in it by law.
7. Accordingly, the petition is dismissed at admission stage itself.

Sd/-
(Goutam Bhaduri)
Judge