

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 2706 of 2016**

1. Haricharan S/o Shri Milu Ram Sahu, Aged About 61 Years
2. Ram Nath S/o Shri Milu Ram Sahu, Aged About 58 Years
3. Shyam Lal S/o Shri Milu Ram Sahu, Aged About 56 Years
4. Milu Ram, S/o Shri Raghunath Sahu, Aged About 88 Years

All are R/o Village Raykona, Police Station & Tahsil Bilaigarh, Civil & Revenue District Balodabazar Bhatapara Chhattisgarh

---- Petitioners**Versus**

1. Ramcharan S/o Shri Milu Ram Sahu, Aged About 73 Years ...(Defendent)
2. Mahesh Ram, S/o Shri Milu Ram Sahu, Aged About 68 Years ... (Defendent)

Both are R/o Village Raykona, Police Station & Tahsil Bilaigarh, Civil & Revenue District Balodabazar Bhatapara Chhattisgarh

3. The Additional Commissioner, Raipur, Division Raipur, Civil & Revenue District Raipur Chhattisgarh
4. The Sub Divisional Officer, Bilaigarh, Civil & Revenue District Baloda Bazar Bhatapara Chhattisgarh
5. The Tahsildar, Bilaigarh, Civil & Revenue District Baloda Bazar Bhatapara Chhattisgarh

---- Respondents

For Petitioners	:	Shri Paras Mani Shriwas, Advocate
For Respondents-State	:	Shri Vinod Deshmukh, GA for the State

Hon'ble Shri Justice Prashant Kumar Mishra
Order On Board

03/11/2016

1. The impugned order has been passed by the Additional Commissioner, Raipur Division, Raipur, to stay the effect and operation of the order passed

by the Tehsildar, Bilaigarh and Sub-Divisional Officer (R), Bilaigarh.

2. It is argued that the Tehsildar and the SDO (R) had passed the order in terms of the decree passed by the Civil Court, therefore, the Additional Commissioner, Raipur Division, Raipur, should not have interfered in the matter. It appears, when a decree for partition was passed by the Civil Court, the petitioner straight way approached the Tehsildar as if the Tehsildar is the appropriate forum to execute the decree passed by the Civil Court. The appropriate course for the petitioner should have been to move execution application before the Civil Court in terms of Order 21 CPC calling upon the Court to seek fardbatwara from the Tehsildar, hear objections from the parties and thereafter finalize the execution proceedings one way or the other. A decree passed by the Civil Court cannot be straightway put to execution before the Tehsildar.
3. The impugned order being interim in nature, this Court would refrain from interfering in the matter in exercise of powers under Article 226 of the Constitution of India.
4. Accordingly, the writ petition is dismissed.

Sd/-

Judge
Prashant Kumar Mishra

Ashu