

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 1159 of 2008**

Mukesh Rathor, S/o Gangji Bhai Rathore, aged about 25 years, R/o- Infront of P.D. Company, Bastar Raod, Dhamtari, District- Dhamtari.....
(Judgment Debtor) **---- Petitioner**

Versus

1. Kamli Bai @ Kammu, W/o Kanti Lal Chauhan, R/o- Danitola Ward Dhamtari, District- Dhamtari (C.G.).....Decree Holder
 2. Praveen Rathore, S/o Bachchu Bhai Veerji Rathore, R/o- Dindora, District- Mandla.
 3. Smt. Jaya Gauri, Wd/o- Lakdheer Bhai Rathore (died) through Legal Representatives Respondent No. 3-A and 3-B, R/o- Dhamtari in front of P.D. Company, Bastar Road, Dhamtari, Dist. Dhamtari (C.G.)
- 3-A. Bharat Rathore, S/o Lakdheer Bhai Rathore, aged about 25 years, R/o- Dhamtari in front of P.D. Company, Bastar Road, Dhamtari, Dist. Dhamtari (C.G.)
- 3-B. Pankaj Rathore, S/o Gagji Bhai Rathore, aged about 20 years, R/o- Dhamtari in front of P.D. Company, Bastar Road, Dhamtari, Dist. Dhamtari (C.G.)
4. Pankaj Rathore, S/o Late Gagji Bhai Rathore, aged about 20 years, R/o- In front of P.D. Company Bastar Road, Dhamtari (C.G.)
 5. Bhuwan lal Rathore, S/o Bachchu Bhai Rathore, aged about 45 years, R/o- Khariyar Road, Tahsil Khariyar Road, Dist. Kalahandi (Orissa)----
Respondents

For Petitioner	:	Mr. Pawan Kesharwani, Advocate.
For Respondents	:	Mr. Rajat Agrawal, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal**Order On Board****13/11/17**

1. By the impugned order dated 15.03.2005, the executing Court has passed an order accepting the Commissioner's report dated 05.01.2004 regarding the partition decree and rejecting the objection filed by the

petitioner herein, being aggrieved against which this writ petition has been preferred by the petitioner.

2. Learned counsel appearing on behalf of petitioner would submit that the order passed by the learned executing Court rejecting the petitioner's objection on Commissioner's report and accepting the Commissioner's report is illegal and bad in law.

3. On the other hand, learned counsel for the respondents would oppose the submissions made by counsel for the petitioner and would support the impugned order.

4. I have heard learned counsel for the parties have gone through the records carefully and have perused the impugned order with utmost circumspection.

5. The Appellate Court granted a decree in favour of respondent No. 1- Smt. Kamli Bai in Civil Appeal No. 20-A/2002 dated 18.09.2002 directing delivery of the possession of the suit shop except residential part after making partition to the extent of 10.5/56 share. In execution of the decree, the executing Court appointed commissioner for partition. The said commissioner took the assistance of Architect as directed by the trial Court and also made an inspection of the spot and submitted its report. By the impugned order, the executing Court has accepted the report of the commissioner and has rejected the objection made by the petitioner. The executing Court has clearly held the report of the commissioner to be reasonable and equitable and has found no merit in the objection raised by the petitioner.

6. After going through the impugned order, I find that the executing Court has exercised the discretion vested in him in accordance with law and it is neither perverse nor contrary to the record. I do not find any ground to interfere with the order of the executing Court.

7. The writ petition deserves to be and is accordingly dismissed. No

order as to cost(s).

Sd/-

(Sanjay K. Agrawal)
Judge

Priyanka