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**HIGH COURT OF CHHATTISGARH, BILASPUR****WP227 No. 41 of 2017**

- Gandhiram S/o Late Shri Bhaiyaram Dhruv, Aged About 69 Years R/o Village Kukurdi, Old P. H. No. 10 (New P. H. No. 16), R.I.C. And Tahsil Baloda Bazar, District Baloda Bazar Bhatapara (Chhattisgarh)

**---- Petitioner****Versus**

1. Smt. Bunda Bai D/o Late Shri Darupsingh Dhruv, Aged About 74 Years Wd/o Late Shri Khuburam, R/o Village Kukurdi, Old P. H. No. 10 (New P. H. No. 16), R.I.C. And Tahsil Baloda Bazar, District Baloda Bazar Bhatapara (Chhattisgarh). Presently Residing At Village Bitkuli, Tahsil Baloda Bazar, District Baloda Bazar Bhatapara (Chhattisgarh)
2. Lalsing Dhruv S/o Late Shri Dubeyram Dhruv, Aged About 60 Years Presently Residence And Working As Deputy Director, Agriculture Department, Korba, District Korba (Chhattisgarh)
3. Bharat Singh, S/o Late Lalsingh Dhruv, Aged About 33 Years
4. Bhupendra Singh S/o Shri Lalsingh Dhruv, Aged About 31 Years
5. Birendra Kumar S/o Shri Lalsingh Dhruv, Aged About 28 Years

No.3 to 5 are R/o Village Kukurdi, Old P. H. No. 10 (New P. H. No. 16), R.I.C. And Tahsil Baloda Bazar, District Baloda Bazar Bhatapara (Chhattisgarh). Permanent R/o Ravan Bhata, Gariyaband, P.O. Gariyaband, Police Station, Tahsil And District Gariyaband (Chhattisgarh)

6. State Of Chhattisgarh, Through The Collector, Baloda Bazar Bhatapara, District Baloda Bazar Bhatapara (Chhattisgarh)

**---- Respondents**


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| For Petitioner        | : | Shri TK Jha, Advocate                  |
| For Respondents-State | : | Shri Shashank Thakur, GA for the State |

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**Hon'ble Shri Justice Prashant Kumar Mishra**  
**Order On Board**

**19/01/2017**

1. Plaintiff has preferred a suit for permanent injunction on the plea that after partition of the joint holdings in terms of the order dated 13.12.2013 by the

Tehsildar, Baloda Bazar-Bhatapara the holdings have been separated but Khasra Nos. are not divided, however, no relief has been claimed for a direction to the revenue authorities to divide the Khasra Nos.

2. In the above background, the petitioner/plaintiff has preferred the subject application under Order 26 Rule 9 CPC for issuance of commission for investigation and division of Khasra Nos. The trial Court has rejected the application on the ground that for affecting division of Khasra Nos., the jurisdiction lies with the revenue Court.
3. In the considered opinion of this Court, the reasoning assigned by the trial Court for rejecting the application is perfectly borne out from the pleadings made by the parties and that no commission should be issued for affecting division of Khasra Nos.
4. Applying its earlier decision in **Surya Dev Rai Vs. Ram Chander Rai**<sup>1</sup> and **Shalini Shyam Shetty Vs. Rajendra Shankar Patil**<sup>2</sup>, the Supreme Court in the matter of **Sameer Suresh Gupta through PA Holder Vs. Rahul Kumar Agarwal**<sup>3</sup> has held that supervisory jurisdiction under Article 227 of the Constitution is exercised for keeping the subordinate courts within the bounds of their jurisdiction. When a subordinate court has assumed a jurisdiction which it does not have or has failed to exercise a jurisdiction which it does have or the jurisdiction though available is being exercised by the court in a manner not permitted by law and failure of justice or grave injustice has occasioned thereby, the High Court may step in to exercise its supervisory jurisdiction. It has also been held that supervisory jurisdiction or certiorari jurisdiction is not available to correct mere errors of fact or of law unless the following requirements are satisfied : (i) the error is manifest and

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1 (2003) 6 SCC 675

2 (2010) 8 SCC 329

3 (2013) 9 SCC 374

apparent on the face of the proceedings such as when it is based on clear ignorance or utter disregard of the provisions of law, and (ii) a grave injustice or gross failure of justice has occasioned thereby. The power to issue a writ of certiorari and the supervisory jurisdiction are to be exercised sparingly and only in appropriate cases where the judicial conscience of the High Court dictates it to act lest a gross failure of justice or grave injustice should occasion.

5. In the case at hand no such case is made out for interference, as has been held by the Supreme Court, therefore, the writ petition under Article 227 of the Constitution of India deserves to be and is accordingly dismissed.

Sd/-

Judge

Prashant Kumar Mishra

Ashu