

HIGH COURT OF CHHATTISGARH, BILASPUR

WP227 No. 226 of 2017

Govind Ram Sahu S/o Shri Ramprasad Sahu, Aged About 50 Years R/o
Village Hasuwa, Thana Gidhouri, Tahsil Kasdol, Civil & Revenue Distt.
Balodabazar Bhatapara, (Chhattisgarh) **---- Petitioner**

Versus

1. Prabhudayal Sao S/o Shri Indrajeet Sao, Aged About 65 Years R/o Village
Hasuwa, Thana Gidhouri, Tahsil Kasdol, Civil & Revenue Distt.
Balodabazar Bhatapara, (Chhattisgarh)
2. Nawal Kumar S/o Shri Indrajeet Sao, Aged About 50 Years R/o Village
Hasuwa, Thana Gidhouri, Tahsil Kasdol, Civil & Revenue District
Balodabajar Bhatapara (Chhattigarh).
3. State Of Chhattisgarh, Through Collector Raipur Now Balodabajar
(Chhattisgarh) **---- Respondents**

For Petitioner : Mr. Sunil Sahu, Advocate.

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

21/03/2017

Heard on admission.

1. This petition, under Article 227 of the Constitution of India, is preferred against order dated 11.07.2016 passed by the Executing Court, whereby petitioner's application under Section 151 C.P.C. for carrying out fresh demarcation has been rejected.

2. Learned counsel for the petitioner submits that during execution proceeding, the petitioner came out with the stand that in so far as the land in dispute, in respect of which, decree has been passed in favour of the decree holder/respondent is concerned, the petitioner has already vacated that part of the land but in the garb of execution, the petitioner may be dispossessed of his own property situated in adjoining Khasra No.962.

3. The petitioner in the garb of seeking a fresh demarcation, has sought to go behind the decree.

4. A perusal of the judgment and decree placed on record shows that the issue of demarcation did arise for consideration before the Trial Court and after examining the oral and documentary evidence on record, the trial Court rejected the defendant's plea that he had not encroached upon plaintiff's land. Now in the execution proceeding, which has remained pending for last 13 years, the same issue is sought to be raised by the defendant to avoid execution of decree.

5. The petition has no merit and is accordingly dismissed.

Sd/-

(Manindra Mohan Shrivastava)

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