

HIGH COURT OF CHHATTISGARH, BILASPUR

WPCR No. 151 of 2017

Sudershan, S/o. Late Thanwar, Aged About 58 Years (Approx), Caste- Kurmi, Residence : Village Ruhi, P.O. Ruhi, P.S. Patan, Tahsil Patan, District Durg (Chhattisgarh).

---- Petitioner

Versus

1. The State Of Chhattisgarh, Through the Police Station Patan, Tahsil & District Durg (Chhattisgarh)
2. The Superintendent Of Police, District Durg (Chhattisgarh)
3. Smt. Shakun Bai Pandey, W/o. Late Raghavendra Kumar Pandey, Aged About 60 Years (Approx), Residence- Khapari Bhatthi, Azad Chowk, In Front Of Police Station Maa Ambe Rui Bhandar Of Behind Raipur, Tahsil & District Raipur (Chhattisgarh)
4. Pushpakant Chandrakar, S/o. Bhusan Chandrakar, Aged About 44 Years, (Approx), Residence- Ruhi, P.O. Ruhi, P.S. Patan, Tahsil Patan, District Durg (Chhattisgarh)

---- Respondents

For Petitioner : Mr. K.R.Loniya, Advocate

For State/ Respondents : Mr. Neeraj Sharma, Govt. Advocate
No.1 & 2.

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

10.11.2017

Heard

1. The instant petition is being filed making a prayer that respondent No.1 do not to commence proceeding against the petitioner under Section 107 & 116(3) of Cr.P.C. for cultivating and harvesting in the disputed land Khasra of 74 dismil.
2. Learned counsel for the petitioner submits that the police is harassing the petitioner despite the fact that he is in possession since 1987 and he is not been able to take the fruits of the land, therefore, suitable orders may be passed.
3. The documents attached with this petition would show that the civil suit was filed by the petitioner against the respondents claiming

possession, declaration and permanent injunction. The said suit was dismissed on 25.06.2015 and as has been submitted by the petitioner that against such order, an appeal is pending.

4. Perusal of the order of the Civil Suit No.18A/2013 would show that a dispute in respect of the same land was agitated and the subject of dispute is of same land. When it is submitted that the appeal is already pending with respect to the same suit property, it is for the petitioner to move suitable application before the Appellate Court for appropriate orders for injunction or like nature. In a result, this Court is unable to accept the contention of the petitioner so as to invoke the jurisdiction under Article 226 of the Constitution of India, as the Civil Appeal in respect of the same property is pending before the Court below.
5. In view of the above, the petition has no merit and accordingly is hereby dismissed.

Sd/-
(Goutam Bhaduri)
Judge