

HIGH COURT OF CHHATTISGARH, BILASPUR**MA No. 68 of 2016**

- Joint Director, S.T.P.I. Communication And Information Technology, Department, Govt. Of India, Nehru Nagar, East Bhilai, District- Durg, Chhattisgarh,....Plaintiff

---- Petitioner**Versus**

- Krishna Education Society Nehru Nagar, Bhilai, District- Durg, Chhattisgarh,.....Defendant

---- Respondent

For Appellant	:	Shri Devershi Thakur, Advocate
For Respondent	:	Shri Amiyakant Tiwari, Advocate

Hon'ble Shri Justice Goutam Bhaduri**Order On Board****05/12/2018**

1. The present appeal has been filed against the order dated 02.04.2016 passed in Civil Appeal No.67A/2013, passed by the 7th Additional District Judge, Durg, whereby the 7th Additional District Judge, Durg by setting aside the judgment and decree dated 11.03.2013 has remanded back the case to the trial Court for fresh adjudication to conduct the demarcation.
2. Perusal of the order of the appellate Court dated 02.04.2016 would show that the plaintiff/appellant herein contended that the defendant had encroached upon certain part of their land, which were allotted to them by the government to set up a software technology park. The order records that earlier to it the encroachment was found to be that of the respondent and revenue case No.181/A-68/2005-06 a fine of Rs.1500/- was imposed on the respondent and they were directed to remove the encroachment and pursuant thereto the

encroachment was removed. Subsequently, again a suit was filed by the appellant/plaintiff claiming that the defendants have again encroached upon that part of land.

3. Reading of the order of the appellate Court would show that the evidence was led by the plaintiff and the defendant Krishna Education Society contended that they have not encroached upon the land and the boundary wall which exists, it exists on their own land. The appellate Court after evaluating the facts has remanded the case for fresh adjudication and directed for fresh demarcation report by the revenue inspector so as to find out the actual position existing at the spot. Considering the order I do not want to interfere with the same, since both the parties claim certain part of land to their own possession, it is the revenue inspector who may throw a light on the aspect that the construction which is existing, whether it belongs to the plaintiff/appellant or defendant/respondent, in order to decide the actual lis in between the parties the same would be necessary. Therefore, taking into the reasoning of the appellate Court, I do not find any reason to interfere with the same. It is further directed that the revenue inspector shall demarcate the land by following the procedure of the Land Revenue Code within a period of three months from the date of receipt of this order. Thereafter, the trial Court shall adjudicate the same afresh as has been directed.
4. With such observation, the appeal stands disposed of.

Sd/-
Goutam Bhaduri
Judge

Ashu