

HIGH COURT OF CHHATTISGARH, BILASPUR**W.P.(227) No. 953 of 2017**

1. Anuj Ram S/o Bechanlal, Caste Gond, Aged About 40 Years
 2. Sadhuraam S/o Bechanlal, Caste Gond, Aged About 35 Years
 3. Dihaar Singh S/o Bechanlal Caste Gond, Aged About 33 Years
- All are R/o Village Aounri , P. H. No. 24 , Tehsil Dondilohara ,
District Balod , Chhattisgarh.

---- **Petitioners**

Versus

1. Damanlal S/o Manmohan Caste Teli Aged About 65 Years R/o
Village Aounri , P. H. No. 24 , Tehsil Dondilohara , District Balod ,
Chhattisgarh.
2. The State Of Chhattisgarh Through The Collector Balod , District
Balod Chhattisgarh.

---- **Respondents**

For petitioners – Shri P.P. Sahu, Advocate.
For Respondent/State –Shri Bhaskar Payashi, PL.

Hon'ble Shri Justice Goutam Bhaduri**Order****2/01/2018**

Heard.

1. Instant petition is against the order dated 27/11/2017 against rejection of an application under Order 26 Rule 9 of CPC whereby the petitioners had prayed for inspection of the disputed land which one report says that it was public thorough fare and it was present lane used by the petitioners/plaintiffs.
2. Learned counsel for the petitioners would submit that against finding of the revenue board that land which was being used is a public lane is subject of challenge in the civil court and the order of the revenue board has been prayed to be cancelled. However, during pendency of the civil suit two reports came on record one patwari has given report that disputed property i.e. lane is a public thorough fare whereas other report of the patwari shows that it is a private land, therefore in order to clarify

the same inspection by appointment of the Patwari/Revenue Inspector may be directed so that entire controversy in the issue may be clarified.

3. Perused the order dated 27/11/2017. Civil Suit shows that finding of the revenue board which was passed in order dated 10/12/2015 is under challenge.

4. The order of the trial court shows that trial court has dismissed the report on the ground that revenue board has already given a finding, therefore no further evidence is necessary whereas plaintiff would show that finding of the revenue board itself was under challenge. Consequently, at this stage it cannot be accepted that finding of the revenue board is sacrosanct. Consequently, taking into controversy when two reports in respect of the same land i.e. lane which one patwari has stated that it was public thorough fare whereas the other report says that it was private land. Consequently, in order to decide the ambiguity and to decide the fact, in the opinion of this court inspection by the Revenue Inspector would be necessary. Consequently, order dated 27/11/2017 is set aside. Application filed by the petitioners for inspection of the disputed land by appointment of the Commissioner is allowed. Accordingly, Revenue Inspector may be appointed as Commissioner to inspect the spot and the Revenue Inspector shall be at liberty to record the necessary evidence to give a finding in respect of the disputed lane.

5. With such observation petition stands allowed.

Sd/-

(Goutam Bhaduri)

JUDGE