

HIGH COURT OF CHHATTISGARH, BILASPUR

W.P.(227) No. 307 of 2018

Om Prakash Bhatt S/o Shri Bansh Gopal Bhatt, Aged About 62 Years
R/o Pendra Road, Tahsil Pendra Road, District Bilaspur Chhattisgarh.

---- Petitioner

Versus

1. Sharad Tudu S/o Rupert Tudu, Aged About 50 Years R/o Jyotipur, Pendra Road, Tehsil Pendra Road, District Bilaspur Chhattisgarh.
2. Ramchandra Agwani, S/o Trilokchandra Agwani, Aged About 50 Years R/o Amarkantak Road, Pendra Road, Tehsil Pendra Road, District Bilaspur Chhattisgarh.
3. Suchadra Tiwari, S/o Sanosh Tiwari, Aged About 49 Years R/o Dhanouli, Tehsil Pendra Road, District Bilaspur Chhattisgarh.
4. The Tahsildar, Pendra Road, District Bilaspur Chhattisgarh.

---- Respondents

For petitioner –Shri Pravesh Bhatt, Advocate.
For State- Smt Astha Shukla, PL.

Hon'ble Shri Justice Goutam Bhaduri

Order

10/04/2018

Heard.

1. Instant petition is against the order dated 27/01/2018 passed by the Civil Judge, Class-I, Pendra Road in Civil Suit No.4-A/2007 whereby an application filed by the plaintiff/petitioner objecting to demarcation report filed by the Tehsildar was rejected.
2. Learned counsel for the petitioner would submit that suit for possession and injunction was filed by the petitioner/plaintiff on the basis of earlier demarcation report dated 26/05/2008 wherein it was categorically demarcated by the Revenue Inspector that the subject land is in possession of Om Prakash Bhatt and the map was also attached. He further submits that however when again an application was filed for demarcation, contrary report has come because of the fact that plaintiff was not present on the spot when the demarcation was carried out. He therefore submits that there cannot be two contradictory demarcation report as already one is existing in favour of

the petitioner and when objection was made about demarcation report same was dismissed by accepting the subsequent report which is completely contrary and illegal. Learned counsel therefore submits that learned court below may be directed to ask for the fresh demarcation report by the respective Revenue Inspector while taking into consideration earlier report dated 26/05/2008 as it has not been annulled.

3. Perused the order and the document filed alongwith the petition. Petition contains alongwith the demarcation report dated 26/05/2008 wherein map is also attached and it is stated that in part of the other land khasra No.44 possession of the plaintiff is shown whereas in subsequent demarcation report the possession of the plaintiff is not been shown as it has been shown as grass land. Therefore it appears that serious contradiction appears as against the earlier demarcation report dated 26/05/2008. Therefore, while second demarcation was carried out plaintiff/petitioner should have been heard at the time of demarcation and respective RI should have considered the earlier demarcation report. In view of the contradictory demarcation report wherein one is existing in favour of the petitioner/plaintiff and another is against him, it is directed that fresh demarcation be carried out in respect of the land pursuant to the earlier query made by the learned court below. It is further observed that Revenue Inspector shall carry out the demarcation in presence of the plaintiff/petitioner and defendant and shall also consider the earlier demarcation report dated 26/05/2008 while preparation of the report.

4. With such observation, the petition stands allowed and order dated order dated 27/01/2018 passed by the Civil Judge, Class-I, Pendra Road in Civil Suit No.4-A/2007 is set aside accordingly.

Sd/-

(Goutam Bhaduri)

JUDGE

