

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WP227 No. 296 of 2018**

- Tilakram S/o Peruram Sahu Aged About 33 Years R/o Parsuram Ward, Near Naka No. 1 , Bhatapara Tahsil Bhatapara , Police Station Bhatapara City, District Balodabazar Bhatapara Chhattisgarh

---- Petitioner**Versus**

1. Dilip Kumar S/o Peruram Sahu Aged About 45 Years
2. Thakurram S/o Ramu Sahu Aged About 30 Years

Respondents No.1 & 2 are R/o Village Jhiriya , Post Office Chandanu, Tahsil And Police Station Bemetara , District Bemetara Chhattisgarh

3. Chetan S/o Ramu Sahu Aged About 28 Years R/o Parsuram Ward, Near Naka No. 1, Tarenga Road , Bhatapara , Tahsil Bhatapara District Balodabazar Bhatapara Chhattisgarh

---- Respondents

For Petitioner : Shri P.P. Sahu, Advocate

Hon'ble Shri Justice Goutam Bhaduri**Order On Board****09/04/2018**

1. The present petition is against the order dated 20.02.2018, whereby an application preferred by the petitioner under Order 11 Rule 12 & 14 CPC for production of partition deed dated 20.05.1999, which was alleged to be in the possession of respondents/defendants, was dismissed.
2. Learned counsel for the petitioner would submit that a suit is filed by the petitioner for declaration and possession, wherein reference has been made by him about the existence of partition deed dated 20.05.1999. He would further submit that the defendant has produced the copy of the said partition

deed dated 20.05.1999 in a revenue case as also in the written statement and the existence of partition deed dated 20.05.1999 has been admitted, therefore, in order to find out the truth the Court should have ordered for production of the original document dated 20.05.1999, which is a partition deed.

3. Perusal of the record would show that the suit was filed by the petitioner/plaintiff for declaration and possession of certain land, wherein the defendant in an appeal before the SDO in respect of the same land in memo of appeal has admitted the existence of document dated 20.05.1999. The memo of such appeal would show that the existence of the document dated 20.05.1999 has been admitted but this fact has not been made as to whether the original is in possession of the defendant from whom the production was sought for. When the defendant categorically comes out that the original is not in possession, then in such case during the evidence if the trial Court comes to a conclusion that the original though was in existence of the defendant but has not been produced then in such case an adverse inference can be drawn. Further when the existence of the document itself is admitted, it would be open for the plaintiff to pray to adduce the secondary evidence in respect of document dated 20.05.1999.

4. with such observation, the writ petition stands disposed of.

Sd/-

Goutam Bhaduri
Judge

Ashu