

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**W.P. (227) No. 322 of 2018**

Anand Kumar Kutare S/o Late Alam Singh Kutare, aged about 46 years, R/o Behind Vimal Traders, Kanhaiyapuri Chowk, Kasaridih, Tahsil Durg, Civil and Revenue District Durg (C.G.)

---- Petitioner/Plaintiff

Versus

Santuram Nirmal S/o Shri Ramdayal Nirmal, aged about 37 years, R/o 193/F, Risali Sector, Bhilai, P.S. Newai, Tahsil and District Durg (C.G.)

--- Respondent/Defendant

For Petitioner : Mr. Sunil Sahu, Advocate.
For Respondent : Mr. C. K. Sahu, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board**07/12/18**

1. By the impugned order dated 19.03.2018, the application filed by the petitioner/plaintiff under Order 26 Rule 9 of CPC for appointment of commissioner for demarcation of the subject land has been rejected by the trial Court against which this writ petition has been preferred.
2. Learned counsel appearing for the petitioner submits that the impugned order is unsustainable and bad in law and is liable to be set aside.
3. I have heard learned counsel for the petitioner and perused the impugned order.
4. The trial Court has rejected the petitioner's application only on the ground that the Civil Court has no jurisdiction to order for demarcation of land and it is the job of the revenue Court to

demarcate the land. True it is that it is the job of the revenue Court to get the land demarcated but petitioner has moved an application under Order 26 Rule 9 of CPC for appointment of commissioner to get the land demarcated and civil court has the jurisdiction to order for demarcation of land in appropriate case and it cannot be held that the civil court cannot direct revenue Court for appointment of commissioner for demarcation of land. As such, the impugned order is set aside and the trial Court is directed to consider the application of petitioner afresh as to whether there is any need for demarcation of the suit land by appointing revenue commissioner within a period of two weeks.

6. With the aforesaid observation, the writ petition stands disposed of. No order as to cost(s).

7. A copy of this order be sent to the trial Court directly as well as through the concerned District Judge by email and Fax for information and compliance.

SD/-
(Sanjay K. Agrawal)
Judge