

AFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WP227 No. 402 of 2018**

1. Sourabh Tamrakar S/o Sudhir Tamrakar, Aged About 18 Years (Present Age 28 Years) R/o Tamerpara, Dhamdha, Tahsil Dhamdha, District Durg Chhattisgarh.
 2. Ku. Bhagyashri Tamrakar D/o Sudhir Tamrakar, Aged About 14 Years Minor Represented Through Legal Guardian Mother Smt. Sarita Tamrakar W/o Sudhir Tamrakar, Aged About 40 Years, R/o Tamerpara, Dhamdha, Tahsil Dhamdha, District Durg Chhattisgarh.
- Petitioners**

Versus

1. Sudhir Tamrakar S/o Faguram Tamrakar, Aged About 44 Years R/o Ward No. 12, Tamerpara, Dhamdha, Tahsil Dhamdha, District : Durg, Chhattisgarh
 2. Faguram Tamrakar, S/o Manrakhan Tamrakar, Aged About 65 Years R/o Ward No. 12, Tamerpara, Dhamdha, Tahsil Dhamdha, District : Durg, Chhattisgarh
 3. Smt. Sheela Bai Wd/o Faguram Tamrakar, Aged About 60 Years R/o Ward No. 12, Tamerpara, Dhamdha, Tahsil Dhamdha, District : Durg, Chhattisgarh
 4. Kirti Devi Tamrakar, W/o Naresh Tamrakar, R/o Ward No. 13, Tamerpara, Dhamdha, Tahsil Dhamdha, District Durg Chhattisgarh.
 5. Sanjeev Gupta S/o Shri Shrawan Kumar Gupta, Aged About 38 Years R/o Ward No. 2, Main Road, Dhamdha, Tahsil Dhamdha, District Durg Chhattisgarh.
 6. State of Chhattisgarh, through The Collector, Durg Chhattisgarh.
 7. Kartar Singh S/o Late Shri Sardar Shyam Singh, R/o Raipur Naka, Sindhi Colony, Durg, Tahsil & District Durg Chhattisgarh.
- Respondents**

For the Petitioners	:	Mr. Goutam Khetrapal, Advocate.
For the Respondents	:	Mr. S.R.J. Jaiswal, Panel Lawyer

HON'BLE SHRI JUSTICE GOUTAM BHADURI**ORAL ORDER****15.05.2018**

1. The present petition is against the order dated 05.04.2018

passed by the 4th Addl. District Judge, Durg, in Civil Suit No.5627-A/2011 whereby the application to recall the witness i.e., the plaintiff to prove the documents has been dismissed though the copies of the documents were already placed on record.

2. Learned counsel for the petitioner would submit that the plaintiff was examined on 06.02.2018 and there are two documents i.e., the revenue records of 1954-55 and the revenue Missal Bandobast of 1929-30 and though the photocopies of these documents are on record, the same could not be tallied with the original due to inadvertence therefore one opportunity may be given to the petitioner to exhibit those documents by tallying with the original. It is further submitted that since the suit is for partition and the documents would go to show the nature of property as such in order to adjudicate the real lis between the parties the marking of documents as exhibits would be necessary in the interest of justice.
3. A perusal of the order dated 05.04.2018 and the documents which are filed along-with the petition show that it is a Jamabandi Record according Jamabandi of the year 1955-1956 and Missal Bandobast 1929-30.
4. In the application filed under Order 18 Rule 17(A) read with section 151 of CPC it has been stated that since the case was old and there was urgency as such during the evidence, he could not exhibit the document though the photocopies are on record. It is submitted that the photocopy of the documents are still on record of the court below, therefore, the application was made on 26.3.2018 and further

submission has been made at the Bar that the defendants have not adduced any evidence.

5. Taking into the nature of documents which are sought for marking as exhibits and the fact that the photocopies are already on record I am of the view that in the interest of justice, one more opportunity may be granted to mark those documents as exhibits by tallying with the with the original ones. Since the defendants have not adduced any evidence as appears from the record, no prejudice would be caused to them if the documents are so exhibited.
6. In the result, the order dated 05.04.2018 is set aside and the writ petition is allowed in terms of the afore-said observations.

Sd/-

**GOUTAM BHADURI
JUDGE**