

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WP227 No. 15 of 2018**

1. Tejram Sahu Son of Durga Prasad, Aged About 37 Years R/o Ward No. 5, Shikari Baba Ward No. 256, Colony, Dalirajra, Tehsil Dondi, District Balod, Chhattisgarh.

Through Power of Attorney Holder of:

1. Hemlal Son of Durga Prasad,
2. Ramakant, Son of Durga Prasad,
3. Shatruhan Son of Durga Prasad,
4. Nanda Son of Durga Prasad,

All are R/o Ward No. 5, Shikari Baba Ward No. 256, Colony, Dalirajra, Tehsil Dondi, District Balod, Chhattisgarh.

---- Petitioners

Versus

1. Sawal Singh (Dead) Through Legal Heirs.
 1. Smt. Jagotin Bai, Aged about 65 Years Wd/o Sawal Singh, R/o Naya Para, Balod, Tehsil And District Balod, Chhattisgarh.
 2. Smt. Rukhmani Bai, W/o Vishnu Bhosle, R/o Village Naya Para, Balod, Tehsil And District Balod, Chhattisgarh.
 3. Smt. Bhagwantin Sahu, W/o Dushyant Sahu, R/o Village Pevari, Tehsil Gurur, District Balod, Chhattisgarh.
 4. Smt. Kuleshwari Sahu, W/o Manoj Sahu, R/o Village Ujrabandha, Tehsil Gunderdehi, District Balod, Chhattisgarh.
 - 5 State Of Chhattisgarh, Through Collector Balod, District Balod, Chhattisgarh.
 - 6 Gopal Singh, Aged about 50 Years Son Of Late Sawal Singh, R/o Village Naya Para, Balod, Tehsil And District Balod, Chhattisgarh.

---- Respondents

For Petitioners	:	Shri B.P. Singh, Advocate
For Respondent-State	:	Shri SRJ Jaiswal, PL for the State

Hon'ble Shri Justice Goutam Bhaduri**Order On Board****08/01/2018**

1. Heard.
2. The instant petition is against the order dated 27.11.2017, whereby learned Court below has held that the Civil Court has jurisdiction to decide the civil suit and the suit is not barred under any law.
3. Learned counsel for the petitioner would submit that preliminary ground raised in the plaint is on the ground that the Tehsildar has wrongly mutated the name of the petitioner herein, for which expressly the civil Suit is not tenable. Therefore, on the earlier round of litigation, this Court has directed to decide the preliminary issue and the trial Court ignoring the provisions of law has decided the issue and has said the suit is maintainable. He would further submit that the entire pleading of the plaint would show that the suit was based on the ground that the mutation were wrongly made.
4. Perusal of the record would show that the preliminary issue was framed on 03.11.2017, which was directed to be decided by this Court in WP (227) No.593/2014 and accordingly, the same is decided. Perusal of the plaint would show that various reasons have been assigned to claim the relief and the suit is filed for declaration and permanent injunction. In the suit the primary relief is claimed that the plaintiff be declared as the owner of the suit land. Various pleadings have been made that how wrongly the mutation proceeding has been made. Therefore, the Court cannot ignore the final relief, which the plaintiff has eventually claimed that of the declaration that he is the owner of the suit land.
5. Perused the order dated 27.11.2017. The order impugned also is of the

nature if had it been decided in favour of the petitioner, the suit have been finally disposed of by dismissal. Taking into the prayer made, the order challenged before the Court below, I do not find any jurisdictional error whereby the suit is held to be tenable for declaration and permanent injunction. It is for the trial Court to adjudicate the case on merits. Consequently, no relief can be granted in this petition. It is accordingly, dismissed.

Sd/-

Goutam Bhaduri
Judge

Ashu