

HIGH COURT OF CHHATTISGARH, BILASPUR

WP (227) No. 596 of 2018

Ramchandra Agrawal, S/o. Gajanand Agrawal, Aged About 64 Years,
R/o. Dharamgad, Kalahandi, Orissa

--- Petitioner

Versus

Parmanand Nanwani, S/o. Shobhraj Nanwani, Aged About 69 Years,
R/o. House No. 335 Samta Sahkari Grih Nirman, Chirhuldi Ward,
Raipur, Chhattisgarh

-- Respondent

For Petitioner : Mr. Ankur Agrawal, Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

02.08.2018

1. Learned counsel for the petitioner submits that the parties are disputing over an identity of a plot, as such, initially an application for demarcation was allowed by the trial Court, however, the demarcation could not be carried out for the reason that the Map was not available. It is stated that lastly the Map was obtained from the Patwari and an application was filed with a fresh Map to demarcate the subject land but the same was dismissed on the ground that on the earlier occasion, the Map was not available, as such, how the Map came into being is not clear, therefore, the application was dismissed.
2. Perused the order dated 18.05.2018. The order would show that there is a dispute over the identity of the land, one is Khasra No.509 and another is Khasra No. 510. Perusal of the document would show that the plaintiff / petitioner is claiming that his land is Khasra No. 509 and the land belongs to defendant is Khasra No. 510 and the defendant has encroached upon the part of the land of 509. The order sheet shows that in the earlier occasion, the Court has directed for issuance of commission to identify the plot, but the demarcation could not be

carried out for the reason that the Map of the said land were in dilapidated condition, as such, the demarcation was not possible. It appears that the plaintiff/petitioner has filed an application under Section 151 of C.P.C. after he obtained the map from the Patwari. The Court below only on the ground that in the earlier occasion, the map was not available and subsequently how the new Map came into being raised suspicion, as such, dismissed the application under Section 151 of C.P.C.

3. Perusal of the record would show that the copy of the Map is placed on record, which is signed by the concerned Patwari. In the said Map different lands are shown alongwith their Khasra numbers. Under the circumstances, when one Map is produced then subject to prove of fact that the said Map is existing in revenue records or not can be the later course of evidence, at this stage, the petition for demarcation of land could not have been dismissed by drawing a presumption that the said Map is wrong. Considering the nature of the dispute in between the parties wherein one party is claiming the encroachment by the other party over his part of land with a particular khasra number of land then in such case when the Map is being produced as has been observed above, in order to find out the identity of the land, the demarcation of the subject land should have been carried out and should not have been shelved.
4. Accordingly, the petition is allowed. The R.I. is directed to carry out the demarcation on the basis of the map submitted by the petitioner within a stipulated time as would be directed by the learned Court below.

Sd/-
(Goutam Bhaduri)
Judge