

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WP227 No. 584 of 2018**

1. Ashfaq Husain S/o Late Altaf Hussain Aged About 42 Years R/o Nawapara (Gobra) Tahsil-Abhanpur, District- Raipur, Civil And Revenue District- Raipur, Chhattisgarh
2. Aasif Husain S/o Late Altaf Hussain Aged About 39 Years R/o Nawapara (Gobra) Tahsil-Abhanpur, District- Raipur Civil And Revenue District- Raipur, Chhattisgarh

---- Petitioners**Versus**

1. Shamim Begam W/o Late Altaf Hussain Aged About 58 Years R/o Nawapara (Gobra) Tahsil-Abhanpur, District- Raipur, Chhattisgarh
2. Parveen Shukla W/o Dr. Abhitesh Shukla Aged About 39 Years D/o Late Altaf Husain, R/o Nawapara (Gobra) Tahsil-Abhanpur, District- Raipur, Chhattisgarh
3. State of Chhattisgarh Through- Collector, Raipur, District- Raipur, Chhattisgarh

---- Respondents

For Petitioners	:	Shri MK Sinha, Advocate
For Respondent/State	:	Shri SK Mishra, PL for the State

Hon'ble Shri Justice Goutam Bhaduri**Order On Board****12/07/2018**

1. Heard.
2. The present petition is against the order passed in an appeal under Order 43 Rule 1 CPC.
3. Learned counsel for the petitioners submits that a suit has been filed for declaration, partition and permanent injunction in respect of certain agricultural lands, wherein the simultaneous proceeding was drawn before

the Tehsildar for mutation of name and partition by the respondent and the Tehsildar has proceeded with the same. It is submitted that the suit for partition itself is pending and unless & until the decree is passed, the partition cannot be effected.

4. Perusal of the order passed in an appeal under Order 43 Rule 1 CPC, which is arising out of an order passed in the application under Order 39 Rule 1 & 2 CPC, wherein it has been observed that the petitioners/plaintiffs were not able to prove prima facie case, balance of convenience and irreparable loss, exists in their favour. In any case the mutation proceeding commenced by the revenue authority, the right of the parties cannot be decided and it will ultimately interdependent on the decree which is eventually be passed.
5. In view of the law laid down by the Supreme Court in the matter of ***Municipal Corporation, Gwalior Vs. Puran Singh alias Puran Chand and others reported in AIR 2014 SC 2665***, wherein the Supreme Court has held that the entry into the revenue records are only for the purpose of paying land revenue, it do not decide the title. In view of this I do not find any reason to interfere with the impugned order in exercise of powers under Article 227 of the Constitution of India.
6. The petition has no merit. It is accordingly dismissed.

Sd/-

Goutam Bhaduri
Judge

Ashu