

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 1026 of 2017**

1. Vijay Kumar Agrawal S/o Late Tarachand Agrawal, Aged About 60 Years
2. Ajay Kumar Agrawal, S/o Late Tarachand Agrawal, Aged About 56 Years
3. Abhay Kumar Agrawal, S/o Late Tarachand Agrawal, Aged About 50 Years
4. Krishna Kumar Agrawal, S/o Late Tarachand Agrawal, Aged About 45 Years
5. Rekha Agrawal, W/o Late Sanjay Kumar Agrawal, Aged About 45 Years
6. Aman Agrawal, S/o Late Sanjay Kumar Agrawal, Aged About 25 Years
7. Joya Agrawal, D/o Late Sanjay Kumar Agrawal, Aged About 28 Years

All Above R/o Gaddipara, Ambikapur, Police Station and Post Ambikapur, Civil and Revenue District Ambikapur, District Surguja, Chhattisgarh

8. Anil Kumar Agrawal, S/o Bajranglal Agrawal, Aged About 50 Years
9. Sunil Kumar Agrawal, S/o Bajranglal Agrawal, Aged About 47 Years

Both above R/o Jawahar Nagar, Ambikapur, Police Station and Post Ambikapur, Civil and Revenue District Ambikapur, District Surguja Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh Through Secretary, Revenue, Mahanadi Bhawan, Mantralaya, Capital Complex, New Raipur, District Raipur Chhattisgarh
2. Collector, Surguja Ambikapur, District Surguja Chhattisgarh
3. Tahsildar, Ambikapur, District Surguja, Chhattisgarh
4. Nirusha Agrawal, D/o Rameshchandra Agrawal, Aged About 30

Years, Through Her Power Of Attorney Holder Rameshchandra Agrawal, S/o Late Tarachand Agrawal, Aged About 61 Years, R/o Chopdapara, Ambikapur, Police Station and Post Ambikapur, Civil and Revenue District Ambikapur, District Surguja Chhattisgarh

5. Kailash Kumar Budhiya, S/o Late Rameshwar Prasad Budhiya, Aged About 59 Years R/o Sadar Road, Ambikapur, District Surguja Chhattisgarh
6. Pawan Kumar Agrawal, S/o Radheshyam Agrawal, Aged About 53 Years R/o Ramanujganj Road, Ambikapur, District Surguja Chhattisgarh

---- Respondent

For Petitioners	Shri Manoj Paranjpe, Advocate
For Respondent Nos.1 to 3	Shri Anand Dadariya, GA
For Respondent No.4	Shri V. G. Tamaskar, Advocate
For Respondent No.5	Shri Amrito Das, Advocate
For Respondent No.6	Shri Prateek Sharma, Advocate

Hon'ble Justice Mr. Prashant Kumar Mishra

Order On Board

10/10/2018

1. Though the parties are hotly contesting the subject issue concerning preparation of map before the Revenue Court, the limited issue which would fall for determination eventually by the Civil Court is whether an area admeasuring 1.35 Acres of Khasra No.334/1 acquired for construction of road prior to 1961 is part of sale deed executed in favour of Tarachand Agrawal or Ram Niranjnallal or Chandrakala Devi.
2. Tarachand Agrawal, father of the present petitioners, purchased 2 Acres of land on 15.6.1961 from Chandikeshwar Sharan Singh and likewise Ram Niranjnallal purchased 2 Acres of land on

16.7.1962 and Chandrakala Devi purchased 1 Acre of land on the same date from the same vendor. The dispute was first brought to the Revenue Court by Nirusha Devi Agrawal for drawing or correction of map so as to ascertain as to the area of 1.35 Acres falling in one or the other sale deed.

3. In an earlier round of litigation, the issue was brought to this Court in WPC No.89/2007 (**Kumari Nirusha Agrawal vs Vijay Kumar Agrawal and others**) and WPC No.1261/201 (**Kailash Kumar Budhiya vs State of Chhattisgarh and others**), whereas the following operative order was passed in paras 10 & 11:-

“10. Having considered the aforesaid submission of the parties carefully as well as pleadings and various documents annexed with the petitions, this Court is of the opinion that without showing the name of the owner or title holder, a map may be drawn indicating the separate areas including the road in presence of the parties concerned and therefore the claim of the parties may be settled in a proper forum i.e. before the competent jurisdictional civil Court, if grievance of the parties still survive.

11. Accordingly, it is directed that the Tahsildar, after issuing proper notice to all the parties and on the basis of spot inspection in presence of all the parties draw and authenticate the map, indicating the khasra number, area, etc. entered in the revenue records. The Tahsildar shall include a slip or note with the map showing names of possessors or of the title holders, ownership, etc.”

4. After the above order was passed by this Court, the parties are now litigating before the Revenue Court for preparation of correct map.

5. Indisputably, a civil suit for declaration and permanent injunction has already been preferred by Pawan Kumar Agrawal, the respondent No.6 herein, which is pending before the jurisdictional trial Court at Ambikapur.
6. Needless to say, while deciding the suit, all the parties would always be at liberty to raise all contentions, both oral and documentary, pertaining to drawing or validity of the existing map. Based on the outcome of the suit, the issue as to in which sale deed area of 1.35 Acre would fall would also be determined by the Court if such pleadings are raised by the parties in the trial Court. If the parties have not raised such pleadings till date, they would be at liberty to amend their respective pleadings to raise the issue. It is also clear from the order passed by the trial Court on 14.12.2016 that the defendants in the suit have been restrained from interfering with plaintiff's possession over 0.02 Acre of land bearing Khasra No.334/76. Likewise, defendants' prayer for temporary injunction on the area admeasuring 2 Acre purchased by Tarachand Agrawal on 15.06.1961 has also been allowed by the trial Court on the same date and the injunction in respect of the land bearing Khasra No.334/1, area admeasuring 0.008 Acres was granted.
7. In view of the pendency of the civil suit, this Court would refrain from making any observation as to the merits of the matter in favour of or against one or the other party. Let the civil suit itself be decided by the trial Court within a period of 6 months from today.

8. It is made clear, the impugned order passed by the Board of Revenue shall not be acted upon and the parties shall move before the trial Court for appointment of Commissioner for preparation of map, which shall be done in the presence of all the parties and their respective advocates.
9. The writ petition stands disposed of.

Sd/-
Prashant Kumar Mishra
Judge

Nirala