

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WP227 No. 151 of 2019

1. Dilip Sahu S/o Jaitram Sahu, Aged About 25 Years, R/o Village Kadar, P.O. Datrengi, Tahsil Bhatapara, District- Balodabazar-Bhatapara, Chhattisgarh., District : Balodabazar-Bhathapara, Chhattisgarh
2. Gaur Bai S/o Late Jaitram Sahu, Aged About 75 Years, R/o Village Kadar, P.O. Datrengi, Tahsil Bhatapara, District- Balodabazar-Bhatapara, Chhattisgarh.....(Defendents), District : Balodabazar-Bhathapara, Chhattisgarh

---- Petitioners

Versus

1. Mayaram Sahu S/o Sudharam Sahu, Aged About 70 Years, Agriculturist, Village Kadar, At Present R/o Adaawal, Jagdalpur, District- Bastar, Chhattisgarh.....(Plaintiff), District : Bastar(Jagdalpur), Chhattisgarh
2. State of Chhattisgarh Through District- Collector Balodabazar, District- Balodabazar-Bhatapara, Chhattisgarh.....(Defendent No.3), District : Balodabazar-Bhathapara, Chhattisgarh

----Respondents

For Petitioners – Shri B. Madhava Rao, Advocate.

For Respondent No.1 – Shri Deepak Kumar Jain, Advocate.

For State/respondent No.2 – Shri Sudhir Sahu, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant
Order on Board

26-11-2019

1. This petition has been brought being aggrieved by the order dated 14-01-2019 passed in Civil Suit No.17A/2016 pending before the Court of Civil Judge Class I Bhatapara, District Balodabazar and also the order of rejection for producing the document at the time of cross-examination of the plaintiff's witness passed on 07-07-2018.

2. It is submitted that the Order 8 Rule 1A Sub-rule 4 of the CPC provides, that defendant can directly produce document at the time of cross-examination of plaintiff's witnesses and by exercising that liberty given under the Law, the petitioners had filed the document of partition for putting question to the plaintiff's witness, which has been erroneously rejected at the time of recording of evidence of the plaintiff's witness. Subsequent to which, when the petitioners filed application for taking document on record, that has also been rejected by the trial Court by order dated 14-01-2019. It is submitted that the petitioners

are defendants in the civil suit and they have mentioned in paragraph 16 of the written statement that there had been a partition between the parties in the year 2007 in presence of Panchas. The document sought to be produced in evidence is only a written memorandum of the same partition and is also related to the pleading made by the petitioners in their written statement. Therefore, the impugned order be set aside.

3. Learned counsel for respondent No.1 opposes the petition and submission made in this respect. It is submitted that the respondent No.1/plaintiff has very clearly denied any partition having taken place between the parties and apart from that, the document sought to be produced is not a partition deed, therefore, there is no requirement for allowing the document to be produced in the suit and also permitting the petitioners to cross-examine the plaintiff's witness on that basis.

4. Learned counsel for respondent No.2 makes formal objection.

5. Heard learned counsel for the parties and perused the documents.

6. As there are rival claims between the parties, the plaintiff is claiming that no partition has taken place, whereas, the defendants/petitioners are claiming that partition has taken place in the year 2007 and the document in question is written memorandum of the same, therefore, for complete adjudication of the dispute between the parties it would have been proper for the trial Court to allow the petitioners to put question to the plaintiff's witness on the basis of the document produced by them. Therefore, this petition is disposed off at the motion stage and the order dated 14-01-2019 is set aside. The trial Court is directed to receive the document in record of the civil suit and allow the petitioners to put question to the plaintiff's witness on the basis of the same.

7. The petition stands disposed off.

Sd/-

(Rajendra Chandra Singh Samant)
Judge