

HIGH COURT OF CHHATTISGARH, BILASPUR

W.P.(227) No. 808 of 2019

- Bhagwat Rathore S/o Late Shri Jagoli Rathore, Aged About 56 Years
Caste Rathore, R/o Village Janjgir, Tahsil And District Janjgir Champa
Chhattisgarh

---- Petitioner

Versus

1. Ratnakar S/o Saheb Lal, Aged About 30 Years
2. Narendra Kumar S/o Saheb Lal, Aged About 28 Years
3. Lal S/o Saheb Lal, Aged About 26 Years
4. Pappu S/o Saheb Lal, Aged About 24 Years
(All are R/o Village Tilai, Tahsil Akaltara, District Janjgir Champa
Chhattisgarh)
5. State Of Chhattisgarh Through The Collector, Janjgir, District Janjgir
Champa Chhattisgarh

---- Respondent

For Petitioner	:	Mr. H.B. Agrawal, Senior Advocate with Mr. Yogesh Chandra, Advocate.
For State/respondent	:	Mr. Jitendra Shukla, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

07-11-2019

Heard.

1. This petition has been brought being aggrieved by the order of trial Court dated 16.09.2019 passed in Civil Suit No.22-A/2017 by Third Additional District Judge, District- Janjgir-Champa rejecting the application under Order 26 Rule 9 of C.P.C. filed by the petitioner/plaintiff.
2. Learned counsel for the petitioner submitted that the defendant has disputed the claim of the plaintiff regarding the ownership and possession of the suit property by making a statement that the

boundaries of the disputed property are different and the identity is also different. Therefore, to rule out the dispute regarding identity, the petitioner has sought spot demarcation to be made by the Commissioner. Hence, the rejection of the application by the trial Court had been improper.

3. No notice has been issued to private respondents so far. However, the respondent No.5/State is represented by the learned counsel for the State, who makes formal objection.
4. On perusal of the copy of plaint filed, it is found that the petitioner/plaintiff has claimed ownership title and possession over the suit property and on that basis, he has prayed for relief of permanent injunction. The defendants, who are the private respondents No.1, 2, 3 and 4, have made a statement of denial in their W.S. and also disputed the suit property by claiming that it has a different identity.
5. Considering that what the private respondents/defendants have pleaded and claimed in their W.S., it is the burden on their part to bring evidence in that respect in the trial. According to the pleadings made in the plaint, the plaintiff is not in any confusion regarding the identity of the property, therefore, there was no requirement for any spot inspection. Hence, no fault can be found with the order passed by the Court below. Hence, the petition is disposed off at motion stage.
6. Accordingly, the petition stands disposed off.

Sd/-

(Rajendra Chandra Singh Samant)
Judge