

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

W.P.(227) No. 987 of 2019

Ashutosh Khatri, S/o. Late Dr. M.L. Khatri, Aged About 49 Years, Caste Khatriya, Occupation Business, R/o. Imlipara, Near Municipal Corporation Complex, Near Ambikapur, District Surguja Chhattisgarh.

---- Petitioner

Versus

1. Pankaj Khatri, S/o. Late Dr. M.L. Khatri, Aged About 49 Years, Caste Khatriya, Occupation Business, R/o Imlipara, Near Municipal Corporation Complex, Near Ambikapur , District Surguja Chhattisgarh.
2. State Of Chhattisgarh, Through : The Collector, District Ambikapur Chhattisgarh.

-----Respondents

For Petitioner	: Mr. Sushil Dubey, Advocate
For State	: Mr. Sudeep Verma, Dy.G.A.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

20/12/2019

1. Challenge in this petition is to the order dated 08.11.2019, passed by the IVth Civil Judge Class-II, Ambikapur, District – Sarguja (C.G.) in Civil Suit No.221-A/2017, by which the application filed by the petitioner/defendant under Order 26 Rule 9 of C.P.C. has been dismissed.
2. It is submitted by the counsel for the petitioner that the petitioner has challenged the valuation of the suit property as it is situated in a place, where the market price of the property is exorbitant, therefore, the spot inspection to evaluate the property is essential

and the petitioner has also pleaded in his written statement that suit property has not been properly valued, therefore, demarcation was essential. Hence, the impugned order suffers from infirmity, which may be set-aside.

3. Perused the impugned order and also the other documents filed along with the petition.
4. There is no dispute regarding identity of the property and the dispute is this that the plaintiff/respondent has pleaded that the house is *Kachha* and *Khaparaposh*, whereas the petitioner has pleaded that house is *Pakka* and is of much more value. On the basis of the pleading made by the both the parties, the learned trial Court has framed the issue on the point of valuation and also held in the impugned order that the issue shall be determined after recording of evidence, therefore there is no necessity to pass any order for appointment of any Commissioner.
5. After considering on the submissions made and the facts presented, this Court is of the view that the trial Court has not committed any error in passing the impugned order. Accordingly this petition is being devoid of merits, which is dismissed accordingly at the motion stage itself.

Sd/-
(Rajendra Chandra Singh Samant)
Judge