

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WP227 No. 39 of 2020

Smt. Pushpa Devi Agrawal W/o Late Shambhu Dayal Agrawal, Aged About 72 Years R/o Choubey Colony, Raipur (C.G.) (Through General Power Of Attorney Holder Lal Prasad Bhagat S/o Sita Ram Bhagat Aged About 55 Years R/o Village - Dhuldhul, Tehsil - Tinda, District - Raipur Chhattisgarh.

---- Petitioner

Versus

1. Gopi Ram S/o Dhanesh Ram Teli, Aged About 55 Years Proprietor Gopi Furniture, Near Deen Dayal Upadhyay Chowk, Tilda, District - Raipur Chhattisgarh., District : Raipur, Chhattisgarh
2. Government Of Chhattisgarh, Through Collector Raipur District - Raipur Chhattisgarh. (Since, Budh Ram Verma Has Been Expired, So His Name Has Been Excluded From This Writ Petition), District : Raipur, Chhattisgarh

---- Respondents

For Petitioner	: Shri Shiv Kumar Shrivastava, Advocate.
For Respondent No.1	: Shri Lukesh Kumar Mishra, Advocate.
For Respondent No.2/ State	: Shri Sudeep Verma, Dy. G.A

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

02-03-2020

Heard.

1. This petition has been brought being aggrieved by the order dated 31.10.2019 passed by the Learned 11th Additional District Judge, Raipur, dismissing the application filed by the petitioner praying for appointment of the Commissioner for demarcation under Order XXIX Rule 9 of the CPC.
2. It is submitted that the disputed property is Khasra No.18 measuring 0.975 hectares situated in village Chhapora, Tehsil Tilda, District Raipur, regarding which a civil suit has been filed praying for a declaration that the another sale deeds executed by the defendants' side dated 14.7.2006 and 25.10.2017 are not binding on the petitioner and also the

relief of permanent injunction has been prayed for. It is further submitted that on the basis of sale deed, the petitioner/ plaintiff is placing her claim to show the map of the suit property whereas, the sale deed executed by the respondents/ defendants' side shows a different map, therefore, for the sake of clarifying the dispute between the parties regarding the maps on which they are relying, an application was filed which was necessary for the determination of the dispute between the parties. Learned Court below has erroneously rejected the application. Hence, the interference is prayed for.

3. Learned counsel for the respondents/ defendants opposes the submissions made by counsel for the petitioner and submits that the identification of the disputed property is not an issue in this case, therefore, there is no error committed by the Court below in dismissing the petition.
4. Heard counsel for the parties and perused the documents present on record.
5. On perusal of the written statement filed by respondent No.2, it is seen that the pleadings of the petitioner/ plaintiff have been rebutted and no different kind of dispute has been raised by the defendants' side. Therefore, looking to the nature of the dispute present between the parties and the reliefs claimed in the suit being only for declaration and injunction, the question of demarcation of the suit property does not arise in any manner, hence, I find no reason why the impugned order should be interfered with.
6. Accordingly, the petition is disposed off at the motion stage.

Sd/-

(Rajendra Chandra Singh Samant)
Judge