

HIGH COURT OF CHHATTISGARH, BILASPUR

W.P.(227) No.91 of 2020

- Prasoon Kumar Bose S/o Shri Pran Kumar Bose Aged About 50 Years
R/o MIG-1/704, Amdi Nagar Hudco, Bhilai, Tahsil And District - Durg,
Chhattisgarh

---- Petitioner

Versus

- Pranav Kumar Rai S/o P.C. Rai R/o House No. 29/1, Nehru Nagar
(West), Bhilai, Tahsil And District - Durg, Chhattisgarh

---- Respondent

For Petitioner : Mr. Jitendra Gupta, Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

29-01-2020

Heard.

1. This petition has been brought being aggrieved by the order dated 08.11.2019, passed by the learned Third Additional Judge of First Civil Judge Class-II, Durg, District- Durg, C.G., in Civil Case No.292-A/2017 by which the learned trial Court has dismissed the application filed by the petitioner under Order 18 Rule 18 of C.P.C.
2. Learned counsel for the petitioner submits that the petitioner has made a claim for the property bearing Khasra No.1959 and measuring 2400 sqft. The respondent/defendant side has denied this plea and made a claim that it is a different Khasra No. and the disputed property has a different identity. It is further submitted that the respondent has managed the Revenue Officer and therefore, they have given a different survey report mentioning that the property in dispute has a different identity, therefore, the prayer was made to the Court to personally

inspect the spot and draw a conclusion. The learned trial Court has not properly appreciated the prayer made by the petitioners and dismissed the application. Hence, it is prayed that looking to the dispute present in this case, the application under Order 18 Rule 18 of C.P.C. should have been allowed and this petition may also be allowed and appropriate order be passed.

3. On perusal of the impugned order, the copy of plaint, the copy of W.S. and copy of reports by the Revenue Inspector, I am of this view that it is a case in which the dispute regarding identity of the property can be determined only by the experts in that field and such experts are the Revenue Officers themselves. Therefore, I do not find any error in the impugned order of the Court and by making any inspection of this kind the Court will not be able to draw any conclusion regarding the identity of the property. Therefore, this petition is disposed off at motion stage. It appears that there is an application under Order 26 Rule 9 of C.P.C. is pending before the Court filed by the petitioner. The petitioner is at liberty to pursue the same and the learned trial Court is directed to consider and expeditiously decide the application under Order 26 Rule 9 of C.P.C. by passing appropriate order.
4. Accordingly, the petition stands disposed off.

Sd/-
(Rajendra Chandra Singh Samant)
Judge