

HIGH COURT OF CHHATTISGARH, BILASPUR

WP227 No. 153 of 2020

- Jagdish Prasad Agrawal, S/o Shri Prabhulal Agrawal, Aged About 69 Years, R/o House No. 250, Near Mittal Bhawan, Samta Colony, Raipur, Tahsil, and District: Raipur, Chhattisgarh.

---- Petitioner

Versus

1. State of Chhattisgarh Through The Collector, Durg, District:Durg, Chhattisgarh.
2. Manharan Lal Ganghel The Then Nayab Tahsildar, Bhilai - 3, Tahsil Patan, District: Durg, Chhattisgarh.
3. Shri Kamlesh Verma The - Then Patwari, Village Amleshwar P.H. No. 5, Through, Tahsildar, Patan, District: Durg, Chhattisgarh.
4. Kenwat (Nishad) Samaj Village Amleshwar, Post Sankara, Tahsil Patan, District Durg, Chhattisgarh, Through Gothiya Shri Kumar Kenwat(Nishad), S/o Shri Milan Kenat, R/o Near Panchayat Bhawan, Amleshwar, Post Sankara, Tahsil Patan, District: Durg, Chhattisgarh.
5. Yadav Samaj, Through The Mukhiya Shyam Ratan Yadav, S/o Shri Pyari Yadav, Aged About 58 Years, R/o Village Amleshwar, Post Sankara, Tahsil and Police Station Patan, District: Durg, Chhattisgarh
6. Sahu Samaj, Through Mukhiya Brij Lal Sahu, Aged About 62 Years, R/o Village Amleshwar, Post Sankara, Tahsil and Police Station Patan, District:Durg, Chhattisgarh
7. Kumhar Samaj, Through The Mukhiya, Makhan Chakradhari, S/o Hari Chakradhari, No. 5 To 7 R/o Village Amleshwar, Post Sankara, Tahsil and Police Station Patan, District: Durg, Chhattisgarh.

---- Respondents

For petitioner	:	Mr. Shikhar Sharma, Advocate.
For respondents	:	Mr. Devendra Pratap Singh, Dy. Advocate General.

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

10/02/2020

Heard.

1. This petition has been brought being aggrieved by the order dated 23.11.2019 (Annexure P-1) passed by the learned Civil Judge, Class-II, Bhilai-3, District Durg rejecting application of plaintiff/petitioner herein filed under Order 26 Rule 9 of the Code of Civil Procedure, 1908 (for short 'CPC').
2. It is submitted that the petitioner was the recorded owner of land bearing khasra No.82, area 0.301 hectare, however, in the year 2000, respondent No.1 erroneously recorded the aforementioned land as 'Grass Land' and subsequently the same has been leased out to respondent No.4. Respondent No.4 has not given any detail in his written statement regarding clear identification of land in his possession, therefore, the application was filed for demarcation of the disputed land which has been erroneously rejected by the trial Court, hence, this order is not sustainable.
3. Learned State counsel appearing for respondent No.1 opposes the petition and submissions made in this respect. It is submitted that there appears to be no dispute with respect to identity or area of the suit land. Therefore, the learned trial Court has not committed any error, hence, the petition be dismissed at motion stage.
4. Considered on the submissions made by the appearing counsel and perused the documents presented along with the petition.
5. On due consideration, I am of this view that at this stage there is no clear dispute regarding identity and area of the property in question. Although it is informed that the plaintiff's evidence is now complete, but the defence evidence is yet to begin. If any circumstance arises in future according to which identity or the area of the suit property becomes disputed, in that case the petitioner shall have liberty to file repeat application for demarcation or inspection of the property.
6. Accordingly, the petition is disposed off at motion stage with liberty to the petitioner as aforesaid.

Sd/-

(Rajendra Chandra Singh Samant)
Judge