

HIGH COURT OF CHHATTISGARH, BILASPUR

W.P.(227) No.201 of 2020

- Sukhendu Mallick S/o Late Basant Mallick Aged About 34 Years By Caste Kayasth, R/o Quarter No. B 7, Housing Board Colony Bodhghat Jagdalpur District Baster Through Power Of Attorney Holder Piyush Rai, Aged About 53 Years, S/o Late Khagennath Rai, By Caste Namoshudra, R/o Near Harichand Ashram, Tahsil Pakhanjore, District Uttar Baster Kanker Chhattisgarh

---- Petitioner

Versus

1. Ramesh Mourya Aged About 45 Years
2. Chitrnanjan Sarkar S/o Kalipad Sarkar Aged About 65 Years
(Both are R/o Chote Kapsi, Pakhanjore, Tahsil And Thana Pakhanjore, District Uttar Baster Kanker Chhattisgarh)
3. The State Of Chhattisgarh Through Collector, District Uttar Baster Kanker

---- Respondents

For Petitioner	: Mr. Parag Kotecha, Advocate.
For State/respondent No.3	: Mr. Adil Minhaj, Govt. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

20-02-2020

Heard.

1. This petition has been brought being aggrieved by the order dated 08.01.2020 by which the application filed by the petitioner under Order 16 Rule 2 of C.P.C. was dismissed.
2. Learned counsel for the petitioner submitted that the petitioner/plaintiff has filed Civil Suit praying for reliefs of declaration, injunction and possession. In support of his case, he has filed the revenue documents, certified copies prepared by the Patwari and for the proof of the same, the appearance of the same Patwari as a witness is a requirement,

therefore, the application was filed. However, the learned trial Court without appreciating the fact and the law in this respect has dismissed the application arbitrarily and erroneously.

3. Considered on the submission and also perused the copies of the impugned order as it has been replied by the respondent side that the application filed by the petitioners did not contain specific details. Therefore, it would be proper to afford one more opportunity to the petitioner and also for the reason that any certified copy which has been issued by the Patwari has to be proved by the Patwari to show that the copy was prepared by him and attested by him, therefore, this petition is disposed off at motion stage, the impugned order is set aside. The petitioner is granted liberty to file afresh application under Order 16 Rule 2 of C.P.C. mentioning the details regarding the necessity. The trial Court is directed to decide the same in accordance with law after giving the respondent side proper opportunity for hearing.
4. Accordingly, the petition stands disposed off.

Sd/-

(Rajendra Chandra Singh Samant)
Judge

Monika