

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WP227 No. 164 of 2019

Ramdayal S/o Late Padimlal Sahu Aged About 48 Years R/o Kurud Basti, Ward No. 16, Tahsil And District Durg Chhattisgarh.

---- Petitioner

Versus

1. Veer Singh S/o Late Pudum Lal Sahu Aged About 55 Years R/o Kurud Basti, Ward No. 16, Tahsil And District Durg Chhattisgarh., District : Durg, Chhattisgarh
2. State Of Chhattisgarh Through The District Collector District Durg Chhattisgarh., District : Durg, Chhattisgarh

---- Respondents

For Petitioner	: Shri Vipin Tiwari, Advocate.
For Respondent No.1	: Shri Shantanu Parmanand, Advocate on behalf of Shri Avinash Chand Sahu, Advocate.
For Respondent No.2/ State	: Shri Avinash K. Mishra, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

03-02-2020

1. Heard.
2. This petition has been brought being aggrieved by the order dated 16.7.2018 passed by the trial Court, rejecting the application filed by the parties to record a compromise between them.
3. It is submitted by counsel for the petitioner that the petitioner has brought a civil suit against respondent No.1 pleading that the property bearing Khasra No. 178, ad-measuring 0.74 hectares, Patwari Halka No. 14/ 193 situated in Kurud Basti, Durg is the disputed property. The claim of the petitioner is that this property had fallen in his share in the partition which took place with respondent No.1, who is brother of the petitioner. However, the name of respondent No.1 has been entered in the revenue records erroneously and when the petitioner wanted to

rectify, respondent No.1 did not agree, therefore, the civil suit was filed praying for relief of declaration and other reliefs.

4. Respondent No.1 had earlier contested and pleaded in denial but at the subsequent stage both the parties have agreed to resolve their dispute and therefore, they filed an application under Order XXIII Rule 3 of the CPC regarding the compromise between the parties and passing a decree in favour of the plaintiff. Learned trial Court has rejected the application and it is mentioned that the parties have never made efforts to get the revenue records rectified and also the partition deed is an unregistered document, therefore, the application has been rejected. It is further submitted that the learned trial Court has passed an erroneous order against the provisions of law which needs to be set aside. Further, Learned counsel for respondent No.1 submits that he has no objection if this petition and the compromise petition are allowed.
5. Learned counsel for the State/ respondent No.2 makes a formal objection.
6. Heard counsel for both the parties and perused the documents present on record.
7. On perusal of the copy of the plaint, it is found that the petitioner/ plaintiff has made a claim over the suit property on this ground, that this property was given in his share and the partition took place in the year 1990. Respondent No.1 who has although denied the claim of the petitioner/ plaintiff in his written statement, but later on, he has agreed to terms with the petitioner and filed an application for compromise. The terms of compromise are that the petitioner/ plaintiff be declared as the title owner of the suit property and he be permitted to get the revenue record corrected accordingly. The terms of compromise between the petitioner and respondent No.1 are as follows:

Respondent No.1 has agreed that the petitioner be declared as the title holder of the suit property and that the petitioner be permitted to carry out the amendment and rectification in the revenue records.

8. On perusal of the copy of the plaint and WS, it is nowhere found mentioned that the partition between the parties had been a written partition, therefore, a partition which is made in writing between the parties disclosing the partition of the property with each other, only that needs registration. There is no requirement of registration of oral partition between the parties. There being no specific averment made by both the parties that there was a written partition, therefore, it can be said, that it can be an oral partition. The copy of batwaranama which is produced alongwith the documents though in appearance shows that there had been a written partition between the parties, but at the stage of compromise, there is no requirement to make reference to any evidence of the partition. At the stage of compromise, the proof part is given up, therefore, there is no requirement to consider on this partition deed at the stage of compromise which may be either admissible or inadmissible and at this stage the consent of the parties has more weightage. The fact of delay in rectification of revenue records was not at all a question in this case, because that dispute regarding the entry in revenue record is already a ground in the plaint, that it was an erroneous entry and respondent No.1 has not agreed to correct it, therefore, the said fact itself was the reason of dispute between the parties and this dispute has been resolved by the parties between themselves.
9. Learned trial Court has erroneously rejected the application filed by the parties, namely, the petitioner and respondent No.1. There is a complete agreement between the parties. The whole dispute is being

resolved by the parties and the terms of compromise between them appears to be lawful. Therefore, this petition is allowed at the motion stage. The impugned order passed by the Court below is set aside. The application filed by the petitioner and respondent No.1 praying for compromise is allowed and it is ordered accordingly:-

- '1. The petitioner/ plaintiff is declared the title holder of the suit property bearing Khasra No. 178 ad-measuring 0.74 hectares, patwari halka No.14/ 193 situated at Kurud Basti, Durg.
2. The petitioner shall be at liberty to apply for correction of the revenue records accordingly.
3. No order as to costs.'

10. As there is an implication of transfer of property in this decree, this decree shall be required to be registered. The process of registration shall be carried out by the trial Court through the office of Registrar in accordance with law.

Sd/-
(Rajendra Chandra Singh Samant)
Judge