

HIGH COURT OF CHHATTISGARH, BILASPUR

W.P.(227) No.79 of 2019

- Kulwant Singh S/o Late Guruvachan Singh Aged About 65 Years R/o Ward No. 17, Manendragarh, District Koriya, Chhattisgarh

---- Petitioner

Versus

1. Tapa Harijan @ Sudarshan Ram S/o Lahri Harijan Aged About 55 Years
2. Smt. Kaushilya W/o Tapa Harijan Aged About 50 Years

(Both are R/o Rapakherwa Ward No. 1 District Koriya, Chhattisgarh)

3. State Of Chhattisgarh Through Collector Koriya, Baikunthpur, Chhattisgarh

---- Respondents

For Petitioner	– Mr. Shakti Raj Sinha, Advocate.
For Respondent 3/State	– Mr. Gurudev I. Sharan, G.A.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

28-01-2021

Heard.

1. This petition has been brought against the impugned order dated 07.12.2018 by which the application of the petitioner/plaintiff under Order 26 Ruler 9 of C.P.C. was dismissed.
2. Learned counsel for the applicant submits that the trial Court has not decided the application on the point as to whether the demarcation of suit land is necessary or not. Although, the defendant did not raise any specific objection.
3. After considering on the submissions and perusing the copy of the plaint

and their written statement, I am of this view that there appears to be a dispute regarding possession of the suit land in question. Hence, the necessity of making a demarcation is present or not should have been specifically answered in the impugned order which has not been done in that manner, hence, for this reason, the petition is disposed off at the motion stage.

4. The impugned order is set aside and the application of the petitioner under Order 26 Rule 9 of C.P.C. is restored. The trial Court is directed to reconsider on the application after giving opportunity of hearing to both the parties and decide the same afresh giving a finding whether there is necessity for demarcation of the suit land.
5. Accordingly, this petition is disposed off.

Sd/-
(Rajendra Chandra Singh Samant)
Judge