

HIGH COURT OF CHHATTISGARH, BILASPUR

W.P.(227) No.323 of 2021

- Priyanka Bai D/o Ghasiya Aged About 35 Years Caste Mahra, R/o Village Paatarjhor, Tahsil Saja District Bemetara Chhattisgarh

---- Petitioner

Versus

1. Siyaram S/o Mehattar Caste Mahra,
2. Rajkumar S/o Mehattar Caste Mahra,
3. Gulapa Bai D/o Mehattar Caste Mahra,
4. Rampyari Bai D/o Mehattar Caste Mahra,
5. Mantoriya Bai D/o Johan Caste Mahra,
(all are r/o Village- Paatarjhor, Tahsil- Saja, District- Bemetara, C.G.)
6. Sushila D/o Ghasiya Aged About 48 Years Caste Mahra,
7. Savita D/o Ghasiya Aged About 46 Years Caste Mahra,
8. Savitri Bai D/o Ghasiya Aged About 44 Years Caste Mahra,
9. Lalita Bai D/o Ghasiya Aged About 38 Years Caste Mahra,
(All are R/o Village Paatarjhor, Tahsil Saja District Bemetara Chhattisgarh)
10. State Of Chhattisgarh Through The Collector, District Bemetara Chhattisgarh

---- Respondents

For Petitioner – Ms. Upasana Mehta, Advocate.

For State/respondent No.10 – Ms. Smriti Shrivastava, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

29-07-2021

Heard.

1. This petition has been brought being aggrieved by the order dated 26.02.2021 passed by the trial Court in Civil Suit No.4A/2021 between Sushila Bai & Ors. Vs. Siya Ram & Ors., dismissing the application filed praying for stay of the partition proceeding before the Court of Tehsildar.
2. It is submitted that a partition proceeding was earlier filed by the petitioner and others against the respondents. During the pendency of

that partition proceeding before the Tehsildar, a Civil Suit has been filed by the petitioner and others praying for relief of declaration and permanent injunction. The application was filed praying for issuance of stay order in the partition proceeding pending before the Tehsildar. The same has been rejected by the impugned order.

3. It is submitted that the impugned order passed is erroneous, illegal and arbitrary. Therefore, the petition may be admitted for hearing and relief may be granted to the petitioner.
4. Considered on the submissions. As the facts are that after filing of the partition proceeding before the Tehsildar, the dispute has been now raised in the Civil Suit filed by the petitioner and others. Section 178(1-A) of C.G. Land Revenue Code, 1959 clearly provides that after filing of any title suit with respect to the suit property subject to partition, Civil Court is empowered to the stay partition proceeding pending before the Revenue Court. Hence, for these reasons, the petition is disposed off at the motion stage. The impugned order is set aside. The prayer of the petitioner in the application is allowed and it is ordered that the partition proceeding pending before the Court of Tehsildar between the parties herein shall remain stayed until the disposal of the Civil Suit pending between the same parties.
5. Accordingly, this petition is disposed off.

Sd/-

(Rajendra Chandra Singh Samant)

Judge

Monika