

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 3691 of 2021

Tarkeshwar Sahu Late S/o Ganga Sahu Aged About 40 Years R/o Kasaridih,
Tahsil And District Durg, Chhattisgarh,

---- **Petitioner**

Versus

1. Santosh Singh S/o Late Ramayan Singh Aged About 46 Years R/o Ward No. 05, Umarpoti, Post Puri, Ps. Utai, Tahsil And District Durg, Chhattisgarh
2. Smt. Mamta Singh W/o Santosh Singh Aged About 41 Years R/o Ward No. 05, Umarpoti, Post Puri, Ps. Utai, Tahsil And District Durg, Chhattisgarh
3. Manoranjan Bharti S/o Satyendra Bharti Aged About 55 Years R/o Chandra Nagar, Umarpoti, Tahsil And District Durg, Chhattisgarh
4. Niranjana Kumar Bharti S/o Satyendra Bharti Aged About 35 Years R/o Chandra Nagar, Umarpoti, Tahsil And District Durg, Chhattisgarh.
5. State Of Chhattisgarh Through The Collector Durg, District Durg, Chhattisgarh

---- **Respondents**

For petitioner	:	Shri Rudranath Mukherjee, Advocate.
For State	:	Shri Ashish Tiwari, G.A.

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

22/09/2021

Heard.

1. Instant petition is against the order dated 3/03/2021 passed in Misc. Civil Appeal No.06/2020.
2. The contention of the petitioner is that the respondents No.1 and 2 have encroached upon certain land and thereafter it was sold to respondents No.3 and 4 and when construction started a suit for declaration and injunction was filed. With the suit an application under Order 39 Rule 1 and 2 of CPC was also preferred which was dismissed on the ground that the demarcation report

has not been placed. When the appeal was filed against the said order same was affirmed by the appellate court in a misc. appeal which is under challenge.

3. At this stage, this court in exercise of power under Article 226 of the Constitution of India cannot go into merits as it is a finding of fact. The evidence is still to be adduced by the parties. Taking into the fact that the suit is already pending wherein the right of the parties are required to be decided, the learned court below is requested to decide the civil suit preferred by the petitioner within a period of six months from the date of receipt of this order.
4. With such observation, the petition stands disposed of.

Sd/-

(Goutam Bhaduri)

Judge