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CGHC010255972020 2026:CGHC:45381

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

Reserved for orders on :28-07-2026

Order passed on : 27-10-2026

WP227 No. 781 of 2026

1 - Tulsiram S/o Late Chhedilal Sahu Aged About 80 Years R/o Village Madai, Tahsil- Masturi, District- Bilaspur, Chhattisgarh, District : Bilaspur, Chhattisgarh

2 - Parasram S/o Late Chhedilal Sahu Aged About 65 Years R/o Village Madai, Tahsil- Masturi, District- Bilaspur, Chhattisgarh, District : Bilaspur, Chhattisgarh

3 - Dhanaram (Died) amended as per Hon'ble Court Order Dated 01-02-2024.

3.1 - Lata Bai Sahu W/o Lt. Ghanaram Sahu, Aged About 63 Years, R/o Village Madai, P.S. Sipat, Distt. Bilaspur, C.G.

3.2 - Kumar Gaurav Sahu S/o Lt. Ghanaram Sahu, Aged About 37 Years, R/o Village Datan, P.S. Palari, Distt. Balodabazar-Bhatapara, C.G.

3.3 - Khileshwar Chandra Kumar Sahu S/o Lt. Ghanaram Sahu, Aged About 33 Years, R/o D.L.S. College Near Ekta Colony, Ashok Nagar, P.S. Sarkanda, Bilaspur, Distt. Bilaspur, C.G.

3.4 - Ohi Krishna Sahu S/o Lt. Ghanaram Sahu, Aged About 30 Years, R/o Village Madai, P.S. Sipat, Distt. Bilaspur, C.G.

4 - Arvind Kumar Sahu S/o Kaleshwar Prasad Sahu, Aged About 33 Years, R/o Village- Madhuwa, Tahsil- Akaltara, Distrit- Janjgir-Champa, Chhattisgarh, District : Janjgir-Champa, Chhattisgarh

5 - Smt. Uma Sahu Daughter of Kaleshwar Prasad Sahu, Aged About 35 Years, R/o Village- Loharsi, Tahsil- Pamgarh, District- Janjgir-Champa, Chhattisgarh, District : Janjgir-Champa, Chhattisgarh

6 - Smt. Rama Sahu Daughter of Kaleshwar Prasad Sahu, Aged About 30 Years, R/o Premnagar, Near Murra Bhatthi, Gudhiyari, District- Raipur, Chhattisgarh, District : Raipur, Chhattisgarh

7 - Smt. Satrupa Bai W/o Khamhan Lal Sahu, Aged About 55 Years, R/o Village- Amali, Tahsil-Kota, District- Bilaspur, Chattisgarh, District : Bilaspur, Chhattisgarh

8 - Rangnath Sahu S/o Late Gangaram Sahu, Aged About 78 Years, R/o Village- Madai, Tahsil- Masturi, District- Bilaspur, Chhattisgarh, District : Bilaspur, Chhattisgarh

9 - Ramdulari (Died Through Lrs) amended as per Hon'ble Court Order Dated 15-05-2026

9.1 - Smt. Saroj Sahu D/o Ramdulare Sahu, Aged About 56 Years, W/o Shri Nilkanth Sahu, R/o Village- Chhurikali, Thana and Tahsil- Kathghora, District- Korba (C.G.)

9.2 - Ramkhilawan Sahu S/o Ramdulare Sahu, Aged About 54 Years, At Present R/o Hardi Bazar, Thana and Tahsil- Hardi Bazar, District- Korba (C.G.)

9.3 - Smt. Devaki Sahu D/o Ramdulare Sahu, Aged About 51 Years, W/o Ashok Kumar Sahu, R/o Village- Mauhakapa, Thana and Tahsil- Takhatpur (Belpan), District- Bilaspur (C.G.)

9.4 - Smt. Kausilaya Sahu D/o Ramdulare Sahu, Aged About 48 Years, W/o Tekram Sahu, R/o Village- Hardi, Thana and Tahsil- Balauda, District- Janjgir-Champa (C.G.)

9.5 - Smt. Shashi Sahu D/o Ramdulare Sahu, Aged About 45 Years, W/o Shivnandan Sahu, R/o Village- Bantarpur, Thana and Tahsil- Champa, District- Janjgir-Champa (C.G.)

9.6 - Kamlesh Sahu S/o Ramdulare, Aged About 41 Years, R/o Seepat, N.T.P.C, Thana and Tahsil- Seepat, District- Bilaspur (C.G.)

10 - Ganeshram S/o Late Gangaram Sahu, Aged About 72 Years, R/o Village Madai, Tahsil- Masturi, District- Bilaspur, Chhattisgarh, District : Bilaspur,

Chhattisgarh

11 - Gopal Prasad Sahu S/o Late Gangaram Sahu, Aged About 62 Years, R/o Village Madai, Tahsil- Masturi, District- Bilaspur, Chhattisgarh, District : Bilaspur, Chhattisgarh

12 - Jaypal Prasad Sahu S/o Late Gangaram Sahu, Aged About 57 Years, R/o Village Madai, Tahsil- Masturi, District- Bilaspur, Chhattisgarh, District : Bilaspur, Chhattisgarh

... Petitioners

versus

1 - The Board of Revenue Chhattisgarh Bilaspur, Chhattisgarh, District : Bilaspur, Chhattisgarh

2 - The Additional Commissioner, Bilaspur Division, District-Bilaspur, Chhattisgarh, District : Bilaspur, Chhattisgarh

3 - The Sub-Divisional Officer (Revenue), Masturi, District- Bilaspur, Chhattisgarh, District : Bilaspur, Chhattisgarh

4 - The Additional Tahsildar, Seepat, District- Bilaspur, Chhattisgarh, District : Bilaspur, Chhattisgarh

5 - Rajkumar S/o Late Kartikram Sahu, Aged About 60 Years, R/o Village Madai, Tahsil- Masturi, District- Bilaspur, Chhattisgarh, District : Bilaspur, Chhattisgarh

6 - Krishna Kumar S/o Late Kartikram Sahu, Aged About 42 Years, R/o Village Madai, Tahsil- Masturi, District- Bilaspur, Chhattisgarh, District : Bilaspur, Chhattisgarh

7 - Dropadi Bai W/o Late Mathura, Aged About 62 Years, R/o Village- Lakhram, Tahsil- Ratanpur, District-Bilaspur, Chhattisgarh, District : Bilaspur, Chhattisgarh

8 - Savitri Bai W/o Dhanaram Sahu, Aged About 48 Years, R/o Village-Sis, Tahsil-Kota, District- Bilaspur, Chhattisgarh, District : Bilaspur, Chhattisgarh

9 - Gayatri Bai W/o Shankarlal Sahu, Aged About 45 Years, R/o Katghora, Tahsil-Katghora, District-Korba, Chhattisgarh, District : Korba, Chhattisgarh

10 - Meena Sahu W/o Nandlal Sahu, Aged About 44 Years, R/o Mohalla Kanshi Nagar, Korba, Tahsil and District- Korba, Chhattisgarh, District : Korba, Chhattisgarh

... Respondents

(Cause-title taken from Case Information System)

For Petitioners	:	Mr. Bharat Rajput, Advocate.
For Respondents No.1 to 4	:	Mr. Rohan Shukla, Panel Lawyer.
For Respondents No.5 to 10	:	Mr. Sangharsh Pandey, Advocate.

Hon'ble Shri Justice Ravindra Kumar Agrawal, J.

C A V Order

1. Initially the impugned order dated 24-08-2020 passed by the learned Board of Revenue was challenged by the petitioners by filing petition under Article 226 of the Constitution of India, i.e., WPC No.2827/2020 and subsequently, by order dated 22-06-2026 the coordinate Bench of this Court permitted the petitioners to convert the WPC No.2827/2020 into a petition under Article 227 of the Constitution of India and then the said writ petition has been converted as WP227 No.781/2026.

2. The present writ petition under Article 227 of the Constitution of India filed by the petitioners against the impugned order dated 24-08-2020 passed by the C.G. Board of Revenue, Bilaspur in Case No.R.N./02/R/A-27/51/2020 whereby the revision filed by the petitioners has been dismissed.

3. The petitioners have prayed for following relief(s) in the present writ petition:-

> “10.1 That this Hon’ble Court may kindly be pleased to set-aside the impugned order dated 24.08.2020 (Annexure P/1).
>
> 10.2 That any other relief/order which may deem fit and just in the facts and circumstances of the case including award of the cost of the petition may be given.”

4. Learned counsel for the petitioners would submit that the petitioners had prosecuted a civil suit bearing Civil Suit No.407-A/1998 before the learned 3rd

Civil Judge Class I, Bilaspur for declaration of title and permanent injunction over the suit property of Schedule B and C annexed with the plaint. The said civil suit was dismissed by the learned trial Court vide judgment and decree dated 07-11-2002. The petitioners had filed first appeal before the learned 10th Additional District Judge, F.T.C., Bilaspur in Civil Appeal No.31-A/2004 which was decided on 08-09-2004 by allowing the first appeal filed by the petitioners and decree has been passed in their favour declaring the plaintiffs No.1 and 2 were title holder of the suit land shown in the Schedule B and C annexed with the plaint and the defendants No.1 is title holder of the suit property of Schedule D annexed with the plaint. The defendant No.1 has also restrained from interfering with the possession of the plaintiffs over the suit property. The judgment and decree dated 08-09-2004 passed by the learned first appellate Court was challenged by the defendants before this Court in Second Appeal No.495/2004 which was decided on 17-09-2013 and the second appeal filed by the defendants have been allowed and the judgment and decree passed by the learned first appellate Court was set aside and then the judgment and decree of the trial Court was affirmed. The Special Leave to file appeal filed by the petitioners before the Hon'ble Supreme Court has also been dismissed. He would further submit that it was claim of the plaintiffs in the suit that they were title and possession holder of the entire property of Schedule B and C annexed with the plaint. After the judgment passed by this Court in Second Appeal No.495/2004, the defendants had filed an application before the Nayab Tahsildar Seepat, District Bilaspur on 26-09-2013 for partition of the suit property between the parties and they claimed their 1/3rd share over the suit properties.

5. Initially, the Tahsildar has passed the order dated 27-01-2014 directing for partition of the suit property without following the due procedure of partition. The said order dated 27-01-2014 was challenged before the Sub-Divisional Officer (Revenue) Masturi which was decided on 24-07-2014 and the appeal

filed by the petitioners were allowed and the matter was remitted back to the Tahsildar for deciding the case afresh after following due procedure of law for partition of the suit property, according to the fard batwara from the concerned patwari and calling objection on it. The said order passed by the Sub-Divisional Officer (Revenue) Masturi was further challenged in revision before the Addl. Collector Bilaspur which was dismissed on 23-06-2015 and subsequent revision filed before the Additional Commissioner, Bilaspur Division was also dismissed vide order dated 02-02-2016 and then the Addl. Tahsildar proceeded in the case for partition.

6. The Addl. Tahsildar Seepat vide its order dated 28-09-2018 passed the order and partitioned the suit properties in three shares after obtaining fard batwara report from the concerned Patwari. The challenge to the order dated 28-09-2018 before the Sub-Divisional Officer (Revenue) Masturi has been dismissed vide order dated 23-09-2019. The challenge to the order dated 28-09-2018 passed by the Additional Tahsildar was on the ground that the Addl. Tahsildar without giving proper opportunity of hearing accepted the fard batwara submitted by the concerned patwari, passed the order and neither any objections were called nor the parties were provided opportunity to lead evidence with respect to the correctness of said fard batwara. The suit properties consist with houses and residential plots including the agricultural land and with respect to the houses and residential plots the Tahsildar has no jurisdiction under Section 178 of the C.G. Land Revenue Code, 1959 for its partition. The concerned patwari has prepared the fard batwara without visiting on the spot and prepared the fard batwara on his own which was not in accordance with law, yet the said fard batwara was accepted by the Addl. Tahsildar. The further challenge to the order passed by the Addl. Tahsildar Seepat and Sub-Divisional Officer (Revenue) Masturi before the Addl. Commissioner, Bilaspur Division was also dismissed vide order dated 19-02-2020 and subsequently the Board of Revenue has also dismissed the

revision filed by the petitioners. He would refer the reply filed before the Addl. Tahsildar Seepat dated 23-02-2018 annexed at page No.57 of the document R/5/1 filed on 01-03-2021 by the respondents No.5 to 10 and also referred to the order sheet dated 05-09-2018 which has been annexed at page No.62 of the document R/5/1. He would also submit that by the impugned order dated 28-09-2018 the Addl. Tahsildar has passed unequal partition of the property as the valuable properties were given in share of respondents and the property of less value or non-agricultural were kept in share of the petitioners. Further, the Tahsildar has no right to partition the house which were also the subject property. The Sub-Divisional Officer had clearly directed in its order that the fard batwara should be prepared in presence of the parties, opportunity to raise objection should be provided and proper opportunity of hearing to the parties should be provided before considering the fard batwara submitted by the patwari and after calling objection on the fard batwara the partition order should be passed, but the same has not been complied with by the concerned Tahsildar and without considering the objection of the petitioners the order has been passed.

7. He would also submit that the Board of Revenue has mechanically passed the order dismissing the revision filed by the petitioners saying that the civil suit filed by the petitioners has been dismissed whereas the claim of the petitioners that they are the sole owners of the entire property which has been denied and it is not the decree that the plaintiffs have no right or title over the suit property. It is the defendants themselves who filed the application for partition for 1/3rd of the suit property. The same was consideration of the order passed by the learned Additional Commissioner Bilaspur. Therefore, the impugned orders passed by the revenue authorities may be quashed/set aside and the matter may be remitted back to the Tahsildar for fresh adjudication in the partition application filed by the respondents in accordance with law and after providing proper opportunity of

hearing to the parties concerned.

8. On the other hand, learned counsel appearing for respondents No.5 to 10 opposes the submission made by learned counsel for the petitioners and has submitted that on the application filed by the respondents initially the Addl. Tahsildar has passed the partition order dated 27-01-2014 which was challenged by the petitioners before the Sub-Divisional Officer (Revenue) Masturi and the said appeal was allowed and the matter was remitted back to the Tahsildar directing him to decide the case afresh after providing proper opportunity of hearing to the parties, calling of the fard batwara from the patwari and after calling objections over it. Thereafter, the Tahsildar after following the due procedure and under direction of the Sub-Divisional Officer (Revenue) Masturi called the fard batwara from the patwari and after calling the objections decided the application vide order date 28-09-2018. The Addl. Tahsildar Seepat in its order dated 28-09-2018 has observed that after obtaining the fard batwara from the patwari, proclamation (istahar) was published in the village and when no objection was received, the order was passed by the Tahsildar. The said order passed by the Tahsildar has been affirmed by the Sub-Divisional Officer (Revenue) Masturi, Additional Commissioner, Bilaspur as also the Board of Revenue. The petitioners had appeared in the proceeding before the Addl. Tahsildar Seepat and they cannot say that they have not been heard before passing the order. The Addl. Tahsildar after considering the fard batwara submitted by the patwari which was prepared on the basis of quality, quantity and convenience of the parties, has passed the order of partition which was in accordance with law and almost equal property was given in each of the share holders. The principles of partition have been followed in the order passed by the Tahsildar which has been affirmed by the superior revenue authorities. The respondents are in settled possession of their land after partition and their names have already been mutated and after such a long time the order of partition and

mutation cannot be disturbed. Therefore, there is no merit in the petition and the same is liable to be dismissed.

9. I have heard learned counsel for the parties and perused the documents annexed with the petition.

10. The controversy in the present petition revolves around the partition of the property between the parties. As per the petitioners the partition is unequal, whereas, the respondents have said that the partition order is not in accordance with law. It is the allegation leveled by the petitioners that the revenue authorities have submitted fard batwara without visiting spot and prepared the fard batwara on the instance of the respondents by which the valuable property was put in the share of the respondents and the property of less value or less potential have been put in the share of the petitioners. To demonstrate the allegation leveled by the petitioners, he would refer the order sheet of Nayab Tahsildar/Addl. Tahsildar Seepat. The order sheet of the Addl. Tahsildar Seepat dated 21-07-2017 Annexure RJ-2 filed by the petitioners on 22-02-2023 along with the rejoinder demonstrates that due to the dispute between the parties at the time of preparation of the fard batwara the same could not be prepared which was reported by the concerned patwari to the Tahsildar. He has also filed the report dated 23-06-2017 prepared by the patwari at the time of preparation of fard batwara which is necessary to be reproduced here:-

> "उपर्युक्त विषयान्तर्गत आवेदकगण राजकुमार पि. कार्तिकराम वगै. विरुद्ध तुलसीराम पिता छेदीलाल वगै. के प्रकरण के सम्बन्ध में ग्राम – मड़ई प.ह.न – 08 में उभय पक्षकार के शामिल खाते में दर्ज में भूमि का फर्द बटवारा सूची तैयार करने हेतु उक्त संदर्भित आदेश के परिपालन में मेरे द्वारा दिनांक 18/06/2017 व 20/06/2017 को उक्त कार्य हेतु तिथि नियत कर मौके पर उपस्थित हुए परन्तु क्रमशः अनावेदकगण की अनुपस्थिति तथा मौके पर दिनांक 20/06/2017 को आवेदकगण तथा अनावेदकगण के मध्य विवाद होने के कारण फर्द बटवारा सूची तैयार नहीं किया जा सका, पुनः मेरे द्वारा उक्त कार्य हेतु दिनांक 23/06/2017 को तिथि नियत कर, उभय पक्षकार को सुचना तामिल कर, ग्राम कोटवार तथा कोटवार – खम्हरिया, लूतरा के साथ मौके पर उपस्थित

हुए,

मौके पर फर्द बटवारा सूची तैयार करने की प्रकिया के दौरान आवेदकगण मे से कृष्णकुमार पि. कार्तिकराम द्वारा अनावश्यक, अनुचित टिप्पणी किया गया, हल्का पटवारी – 08 व प.ह.न – 13 से दुर्रव्यवहार किया, साथ ही हल्का पटवारी द्वारा तैयार किए गए पंचनामा को ग्राम – कोटवार से छीनने का प्रयास किया, जिसकी वजह से पंचनामा फट गया, जिससे विवाद बढ़ने ही वजह से अप्रिय स्थिति निर्मित हो गई, इस प्रकार मौके पर फर्द बटवारा सूची तैयार नहीं किया जा सका। तथा आवेदक पेपर प्रकाशन कराने तैयार नहीं हुए।

अस्तु प्रतिवेदन यथाविधि अग्रिम कार्यवाही हेतु सादर संप्रेषित है।"

11. A panchnama was also prepared on 23-06-2017 in which the dispute regarding preparation of fard batwara was observed which read as under:-

"आज दिनांक 23/06/2017 को अतिरिक्त तहसीलदार सीपत के ज्ञापन क्रमांक क/वा 1 /अति0 तह0 /2017 सीपत दिनांक 24/04/17 के परिपालन में हल्का पटवारी द्वारा राजकुमार पिता कार्तिकराम वगै0 विरुद्ध तुलसीराम पिता छेदीलाल वगै0 के प्रकरण के संबंध में फर्द बटवारा सूची तैयार करने हेतु उभय पक्षकार को विधिवत् सूचना पश्चात् ग्राम कोटवार तथा उपस्थित ग्रामवासियों के समक्ष मौके पर उपस्थित हुए मौके पर आवेदक गड़ तथा अनावेदक गड़ उपस्थित हुए मौके पर आवेदक गड़ के अनुसार प्रत्येक खसरे का तीन भागों में विभाजन नहीं कराना चाहता तथा अनावेदक गड़ मौके पर प्रत्येक खसरे को तीन बराबर भागों में हिस्सा/बंटवारा चाहता है चूकि आवेदक फर्द बटवारा नियमानुसार बटवारा/ फर्द बटवारा करने हेतु राजी नही है इस कारण फर्द बटवारा नही किया जा सका आवेदक गण में से कृष्ण कुमार पिता राजकुमार द्वारा हल्का पटवारी 13 एवं 8 से दुर्रव्यवहार किया गया तथा पंचनामा में हस्ताक्षर नही किया गया।"

12. Thereafter, the proceeding was adjourned time to time and then on 23-02-2018 the non-applicants have filed their objection in partition proceeding. Vide order dated 21-03-2018 the Addl. Tahsildar directed the concerned patwari to prepare the fard batwara on the basis of the quality, quantity and potential of the subject property in presence of the police force and submit the panchnama, revenue map and fard batwara with respect to 1/3rd share of each parties. From the order sheets it further transpires that on 11-06-2018 the concerned patwari has submitted the fard batwara along with revenue map and thereafter the Addl. Tahsildar proceeded for publication of

proclamation (istahar) and calling of objection. On 05-09-2018 when no objection were received by the Tahsildar the case was fixed for passing of the orders and then the case was fixed for 24-09-2018 and thereafter on 24-09-2018 when the case was put up before the Addl. Tahsildar no date was given for further proceeding and it was kept by the Addl. Tahsildar for consideration and thereafter on 28-09-2018 the order has been passed. It further transpires from the documents annexed with the reply filed by respondents No.5 to 10 annexed at page No.234 to 265 that the notices were issued by the patwari concerned to appear on 19-04-2018 so that the fard batwara could be prepared. It further transpires that different patwaris of different Halka numbers have issued different notices to the parties to appear on 19-04-2018 for preparation of the fard batwara and wen some of the parties could not appear they prepared the fard batwara and submitted it before the Tahsildar. When the property is situated at different villages which comes under different patwari halka numbers, the parties may not appear in different places at the same time and then it cannot be said that despite service of notices upon them they have not appeared during the process of preparation of fard batwara and then the patwari concerned had prepared the fard batwara in presence of the parties who were present. The very object of the order passed by the Sub-Divisional Officer (Revenue) and Tahsildar that proper fard batwara should be prepared in presence of the parties and after evaluating the quality, quantity and potential of the land fard batwara should be prepared in accordance with law would be frustrated.

13. The challenge to the order dated 28-09-2018 before the Sub-Divisional Officer (Revenue) Masturi was dismissed on the ground that the rights of the parties have been decided in the civil suit which has been traveled upto the Hon’ble Supreme Court and the order passed by the Tahsildar dated 28-09-2018 is passed in accordance with law. The objection raised by the petitioners during the proceeding of fard batwara have not been considered

by the appellate revenue authorities as to whether the order passed by the Sub-Divisional Officer (Revenue) Masturi dated 24-07-2014 and the order passed by the Addl. Tahsildar Seepat dated 21-03-2018 have been complied with or not in its true letter and spirit and the parties have been provided proper opportunity to raise their objection at the time of preparation of fard batwara. In absence of proper consideration of the objection raised by the petitioners in preparation of fard batwara by the concerned patwaris the purity and genuineness of the fard batwara so produced by the concerned partwaris cannot be accepted. The orders passed by the Board of Revenue, Additional Commissioner and the Sub-Divisional Officer is based on the consideration that the civil suit has been decided upto the Hon'ble Supreme Court and that the rights of the parties have been determined and the partition is in accordance with the observation made in the civil suit which does not satisfy the requirement of the partition proceeding as has already been ordered by the Sub-Divisional Officer (Revenue) vide orders dated 24-07-2014 and the Addl. Tahsildar Seepat dated 21-03-2018.

14. Consequently, this Court deems it appropriate to remit the matter back to the Tahsildar Seepat for deciding the partition application filed by the respondents afresh after obtaining proper fard batwara from the concerned patwaris in accordance with with the order passed by the Sub-Divisional Officer (Revenue) Masturi dated 24-07-2014 and by the Addl. Tahsildar Seepat dated 21-03-2018 and also providing proper opportunity of hearing to the parties concerned. The orders passed by the Board of Revenue dated 24-08-2020 and the orders passed by the Addl. Commissioner, Bilaspur and Sub-Divisional Officer (Revenue), Masturi and Addl. Tahsildar Seepat are also hereby set aside and the matter is remitted back to the Tahsildar Seepat to pass the order afresh as has been directed hereinabove.

15. Till passing of the order afresh by the Tahsildar, Seepat or period of one year whichever is earlier from today, the possession of the parties over the subject

property as on today shall not be disturbed. The Tahsildar shall also consider the alienation of the property made by any of the parties, if any, shall be considered in favour of such party as practicable as possible and shall be adjusted in share of their property.

16. The parties are directed to cooperate with the expeditious conclusion of the partition proceeding and the parties are directed to appear before the Tahsildar, Seepat on **06-11-2026.**

17. With the aforesaid observation the present writ petition is disposed of.

Sd/-
(Ravindra Kumar Agrawal)
Judge

Aadil