

Surendra Kumar Vaishnav Vs Board Of Revenue Circuit Bench- Raipur And Ors

Court: Chhattisgarh High Court

Date of Decision: Sept. 25, 2018

Acts Referred: Code Of Civil Procedure 1908 " Order 39 Rule 1, Order 39 Rule 2

Hon'ble Judges: Prashant Kumar Mishra, J

Bench: Single Bench

Advocate: Vishnu Koshta, Rajendra Tripathi

Final Decision: Disposed Of

Judgement

Prashant Kumar Mishra, J

1. The matter pertains to partition of joint family property. The petitioner moved before the concerned Tehsildar for mutation of his name on the basis

of previous partition. The respondents raised objection to the said prayer for mutation, therefore, the Tehsildar dismissed the application on the ground

that there exists a dispute of title concerning share of the members of the joint family property.

2. The matter eventually travelled up to the Board of Revenue, which has passed the impugned order setting aside the order passed by the Additional

Commissioner, Raipur Division on 03.01.2004 and the order passed by the SDO (Revenue), Baloda Bazar on 05.03.2010 and maintained the order

passed by the Tehsildar, Baloda Bazar on 22.09.2009.

3. It appears, the dispute between the parties is to be resolved by the competent jurisdictional Civil Court, as there exists a dispute regarding previous

partition and title acquired by the members of the joint family on such basis.

4. Let the petitioner prefer a duly constituted suit to establish his title over his part of share in the joint family property, within a period of 2 months

from today. The petitioner may also move an application for grant of temporary injunction under Order 39 Rule 1 & 2 of CPC.

5. For a period of 4 months from today, the parties shall maintain status quo in all respect over the joint family property, however, this shall remain

subject to the final order to be passed by the Civil Court on petitioner's application under Order 39 Rule 1 & 2 of CPC on its own merits and the order

of status quo shall lose its efficacy immediately after expiry of period of 4 months.

6. The writ petition stands disposed of.