

(2018) 05 CHH CK 0122
Chhattisgarh High Court
Case No: WPCR No. 288 Of 2018

Anil Kumar Verma

APPELLANT

Vs

State Of Chhattisgarh And Ors

RESPONDENT

Date of Decision: May 15, 2018

Acts Referred:

- Evidence Act, 1872 - Section 68

Hon'ble Judges: Goutam Bhaduri, J

Bench: Single Bench

Advocate: PK Tulsyan, Ashish Shukla

Final Decision: Dismissed

Judgement

Goutam Bhaduri, J

1. Heard.

2. The present petition is filed claiming following reliefs:-

a. This Hon'ble Court may kindly be pleased to issue a suitable direction(s) to the respondent No.1 to 4 for fair inquiry and take the appropriate action

against the respondent No.5 accordance with law.

b. This Hon'ble court may kindly be pleased to issue a suitable writ to respondent no.1 to 4 to register the F.I.R. against the respondent no.5.

c. This Hon'ble Court may kindly call the entire record of the police station Civil Line with respect of this case and passed the appropriate order on

that.

d. Any other relief as the Hon'ble Court may be deemed fit with cost of petition.

3. Learned counsel for the petitioner submits that respondent No.5 Dinesh Verma has initially in the year 2012 filed an application for mutation of the name in respect of the agricultural land on the basis of a WILL. The petitioner having objected to it on the basis of the expert opinion report that signature on WILL is forged, the Tehsildar did not act upon the WILL and has directed for mutation of the name of all the legal heirs. Subsequently, the said order of the Tehsildar was challenged in the year 2012 and the same was dismissed on the ground of limitation. Again an application was filed before the Tehsildar in the year 2018 to get the name mutated in respect of respondent No.5 Dinesh Verma on the basis of the WILL. It is contended that once the issue has been decided that the WILL is forged then in such case, the subsequent proceeding which tried to carry out by suppressing the earlier dismissal would be a fraud, therefore, the report was made to the Superintendent of Police, Bilaspur, however, the police did not act upon it.

4. Perusal of the document filed along with the petition would show that it is an inter se dispute in between the family members with respect to the mutation of the land. Respondent No.5 is claiming his right on the basis of the WILL whereas the petitioner is claiming that the WILL is forged.

Section 68 of the Indian Evidence Act, 1872 contemplates the proof of WILL, in specific way on the evidence of the attesting witness.

5. Considering the nature of this case, it appears that the property dispute is existing in between the parties for which the petitioner is free to take the civil action against the erring respondent or other heirs. Any direction by this Court to register the case would ipso facto will give a branding to the fact that the WILL is forged, which is still to be adjudicated before the civil court. The suppression of fact like nature prima facie do not take it within the domain of criminality. The petitioner is free to take recourse as available to him under the law.

6. The petition has no merit. It is accordingly dismissed.