

Preetam Vs. Vandu

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Court : Madhya Pradesh

Decided On : Mar-05-2013

Appellant : Preetam

Respondent : Vandu

Advocate for Def. : Shri. Jitendra Singh

Advocate for Pet/Ap. : Shri. Paritosh Trivedi

Judgement :

W.P. No. 13432 Of 2012 5.3.2013 Shri Paritosh Trivedi, learned counsel for the petitioner.

Shri Jitendra Singh, learned counsel for the respondents.

Heard.

Order dated 30.7.2012 passed by Civil Judge, Class I, Niwari in Civil Suit No. 21A/2009 is being assailed vide this petition under Article 227 of the Constitution of India.

Vide impugned order the Trial Court allowed the respondents/plaintiffs' application under Order 26 Rule 9, Code of Civil Procedure, 1908 and appointed Tahsildar, Prithvipur as a Commissioner to give the report on the following two aspects: v-oknxLr Hkwfe losZ dz0-568/1 jdok 1-028 gs0 rFkk Hkwfe losZ dz0-563/8 jdok 1-

262 gs0 fLFkr xzke efu;k rglhy i`Fohiqj dk mHk; i{k dh mifLFkfr esa lhekadu fd;k tkosA c- oknxzLr Hkwfe ls ysdj 'kkldh; jkLrs dh Hkwfe fdl losZ dze kad dk Hkkx gS rFkk orZeku esa Md.jkLrs dh Hkwfe dh fLFkfr D;k g SA Taking into consideration that the subject matter of suit in question relates to the declaration sought by the respondents/plaintiffs qua land bearing Khasra No. 568/1 and 568/3, village Mania, Tahsil Prithvipur and that without getting the same demarcated the issues arising for adjudication cannot be resolved despite of evidence led by both the parties, the trial court is well within its jurisdiction in directing for demarcation of subject land. As Rule 9 of Order 26, Code of Civil Procedure, 1908 empowers the Court for the purpose of elucidating any matter in dispute to issue a commission to such person as it thinks fit directing him to make such investigation and to report thereon to the Court.

As no case is made out for interference, petition fails and is hereby dismissed. No costs.

(SANJAY YADAV) JUDGE Vivek Tripathi

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