

HIGH COURT OF CHHATTISGARH, BILASPUR

WP No. 5 of 2000

- 1. Venkatram
- 2. Brijlal
- 3. Shankar Lal

(All sons of Ram Prasad Jaiswal, cultivators of mouza-Gandadih,  
near Bhakhara, Teshil Dhamtari, District Raipur

---- Petitioner

Versus

- 1. State of Chhattisgarh, Through Collector, Dhamtari
- 2. Additional Collector, Raipur
- 3. SDO, Dhamtari
- 4. Tahsildar, Dhamtari
- 5. Ram lal S/o Visahuram, cultivator of mouza Gandadih,  
near Bhakhara, Tehsil Dhamtari, District Raipur.
- 6. Smt. Rambha Bai widow of Kejuram
- 7. Tukaram S/o Kejuram

(Sl. No.6 & 6 both residents of mouza Gandadish, near Bhakhara,  
Tehsil Dhamtari, District Raipur

---- Respondent

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For Petitioner  
For Respondent/State

None present  
Mr. Adhiraj Surana, Dy. G.A.

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Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

17/12/2015

The petitioners have called in question the order passed by the SDO (Revenue), Dhamtari on 29.04.1993 and the Appellate Order passed by the Additional Collector on 16.03.1990 in the proceedings under Section 170-B of the C.G. Land Revenue Code, 1959 (in short "the Code").

(2) The subject land belong to one Kejuram Gond. He moved an application before the jurisdictional Collector for permission to sell land in favour of Visahuram. The permission was granted on 24.02.1968 and thereafter, the sale-deed was registered in favour of Visahuram on 04.05.1973.

(3) After insertion of Section 170-B in the Code, the petitioner was issued show cause notice under Section 170-B of the Code on the ground that the land earlier belonged to Tribal Holder, however, the petitioner had not submitted the return stating as to how he came to be in possession of the land. After hearing all the parties, the SDO (Revenue) passed the final order on 28.03.1989 holding that the petitioner has committed fraud while purchasing the land from Tribal Holder, therefore, the subject transaction deserves to be declared void and the land deserves to be reverted back to the Tribal Holder. The order has been affirmed in appeal by the Additional Collector, Raipur vide order dated 16.03.1990.

(4) No one appears for the petitioners, when the matter was taken up for hearing. Since this is a petition of the year 2000 and is pending for last about 15 years, this Court proceeded to dispose of the petition

with the assistance of learned State Counsel.

(5) Mr. Surana, learned Dy. G.A. for the State, would submit that the petitioner has not annexed the copy of the order passed by the SDO (Revenue), Dhamtari on 28.03.1989. He would also submit that the appellate order was passed on 16.03.1990, however, the petitioner did not prefer the writ petition with quite promptitude and this petition is delayed by more than 10 years. He would further submit that the SDO (Revenue) has not passed the order merely on petitioner's default in submitting the return but the order was passed after recording evidence of the parties.

(6) A perusal of the order sheet of the proceedings before the SDO (Revenue) would clearly indicate that the statement of the petitioner was recorded on 16.02.1989 and thereafter, statement of Ramlal was recorded on 16.03.1989, therefore, it cannot be said that the petitioner was not afforded any opportunity of hearing by the SDO and the order has been passed only on the basis of non submission of return.

(7) In the matter of **B.K. Muniraju Vs. State of Karnataka and others, (2008) 4 SCC 451**, the Supreme Court has held thus in para 22 :

22. It is settled law that a writ of certiorari can only be issued in exercise of extraordinary jurisdiction which is different from appellate jurisdiction. The writ jurisdiction extends only to cases where orders are passed by inferior courts or tribunals or authorities in excess of their jurisdiction or as a result of their refusal to exercise jurisdiction vested in them or they act illegally or improperly in the exercise of their



“24. ... If there is inordinate delay on the part of the petitioner in filing a writ petition and such delay is not satisfactorily explained, the High Court may decline to intervene and grant relief in the exercise of its writ jurisdiction.”

Emphasis was laid on the principle of delay and laches stating that resort to the extraordinary remedy under the writ jurisdiction at a belated stage is likely to cause confusion and public inconvenience and bring in injustice.

**16.** Thus, the doctrine of delay and laches should not be lightly brushed aside. A writ court is required to weigh the explanation offered and the acceptability of the same. The court should bear in mind that it is exercising an extraordinary and equitable jurisdiction. As a constitutional court it has a duty to protect the rights of the citizens but simultaneously it is to keep itself alive to the primary principle that when an aggrieved person, without adequate reason, approaches the court at his own leisure or pleasure, the court would be under legal obligation to scrutinise whether the lis at a belated stage should be entertained or not. Be it noted, delay comes in the way of equity. In certain circumstances delay and laches may not be fatal but in most circumstances inordinate delay would only invite disaster for the litigant who knocks at the doors of the court. Delay reflects inactivity and inaction on the part of a litigant — a litigant who has forgotten the basic norms, namely, “procrastination is the greatest thief of time” and second, law does not permit one to sleep and rise like a phoenix. Delay does bring in hazard and causes injury to the lis.”

(10) Applying the well settled principles of law to the facts of the present case and for the reasons mentioned herein-above, the writ petition deserves to be and is hereby dismissed on merits as well as on the ground of delay and laches.

Sd/-

Judge

(Prashant Kumar Mishra)

fter placing reliance upon various decisions, the  
Supreme Court in  
Shiba Shankar Mohapatra and Others v. State of  
Orissa and

Others

<sup>1</sup>

held that a person aggrieved by an order promoting a junior over his head should approach the Court at least within 6 months or at the most a year of such promotion.

4.

In

S.S. Balu and Another v. State of Kerala and Others

<sup>2</sup>

it has been held by the Supreme Court that even the relief is claimed on the principle of parity, the same is not admissible when the petition suffers from delay and laches.

5.

Delay has always been considered vital in service matters especially with regard to promotion. In P.S. Sadasivaswamy v. State of Tamilnadu

<sup>3</sup>

the Supreme Court has held that it would be a sound and wise exercise of discretion under Article 226 that the Court should not entertain claims regarding seniority after an approximate period of six months from the date of cause of action to prevent clogging the dockets of the Court and which would impede the work of the Court in considering legitimate grievances timely.

6.

Considering the above said well settled principles, without expressing any opinion on the merits of the case, the writ petition is dismissed on the ground of delay and laches.

Sd/-

Judge

Prashant Kumar Mishra

Gowri

1

(2010) 12 SCC 471

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(2009) 2 SCC 479

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(1975) 1 SCC 152

