

SINGLE BENCH

C. & L. 10/

(4)

IN THE HON'BLE HIGH COURT OF CHHATTISGARH
AT BILASPUR

W.P. (U/A 227) No. 4756 /2008

PETITIONERS
RESPONDENTS

/1] Ved Kunwar, D/o. Late Jhamru (Jhagru), Aged about 62 years, R/o. Village Majhawani, P.H.No. 6, Tahsil Kota, District Bilaspur (CG)

/2] Smt. Sushma, W/o. S.K. Soni, Aged about 40 years,

/3] Smt. Surja Bai (Suraj Bai) Wd/o. Mahadev Soni, Aged about 90 years,

/4] Sohmanand, S/o. Sadanand Siddhashram,

Petitioner no. 2, 3 & 4 are resident of village Belgahana, Tahsil Kota, District Bilaspur (CG)

VERSUS

RESPONDENTS
APPLICANT

/1] Nand Kishor Pandey, Aged near about 72 years, S/o. Late Pyarelal Pandey, R/o. village Belgahana, Tahsil Kota, District Bilaspur (CG)

/2] State of Chhattisgarh, Through: Sub-Divisional Officer (P.W.D), Sub-Division No.3, Bilaspur, Tahsil & District Bilaspur (CG)

...Respondent/respondent no-2

WRIT PETITION UNDER ARTICLE 227 OF THE
CONSTITUTION OF INDIA



P.R. No. 486268
Presented by Vikram Doshi
dated 26/8/08
RECEIVED-COPY
26/8/08
Clerk to A.G. BILASPUR

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25/2/15

HIGH COURT OF CHHATTISGARH, BILASPUR

W.P. (227) No. 4756 of 2008

PETITIONERS

Ved Kunwar and others

Versus

RESPONDENTS

Nand Kishor Pandey and another

Shri Manoj Paranjpe, counsel for the petitioners.

Shri Ravish Verma, counsel for the respondent No.1.

Shri Ashutosh Pandey, P.L. for the State/respondent No.2.

SINGLE BENCH : HON'BLE SHRI PRASHANT KUMAR MISHRA, J.

ORAL ORDER

(29/01/2015)

This petition under Article 227 of the Constitution of India arises out of the order passed by Board of Revenue, Chhattisgarh allowing the revision application preferred by respondent No.1 and maintaining the order passed by Sub Divisional Officer (Revenue) Kota on 26/06/2002.

2. The issue pertains to mutation of name of the petitioner on an area ad-measuring 1.90 acres allegedly purchased by petitioners No. 2, 3 and 4 from petitioner No.1 Ved Kunwar by registered sale-deed dated 21/06/2001.

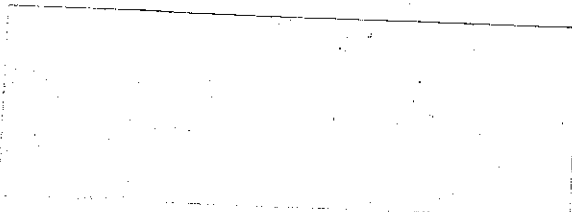
3. Facts of the case briefly stated are that original owner Jhagru Ram had 5.35 acres of land bearing Khasra No. 11/4 at village Majhwani, P.H. No. 6, R.I. Circle Ratanpur, Tahsil Kota. The said Jhagru Ram sold 3.35 acres of land to respondent No.1 Nand Kishore Pandey by registered sale-deed dated 12/04/1984. On mutation of name of Nand Kishore Pandey his land was allotted Khasra No. 11/6. After death of Jhagru Ram his legal heir, petitioner No.1 Ved Kunwar moved an application for mutation which was allowed on 24/04/1998 over the remaining 2 acres of land. On 21/06/2001 petitioner No.1 Ved Kunwar executed a registered sale-deed in favour of petitioner

No.2, 3 and 4 for an area 1.90 acres, out of remaining 2 acres of land which was recorded in her favour.

4. Challenging the order of mutation passed on 24/04/1998 respondent No.1 Nand Kishore Pandey preferred an appeal before the Sub Divisional Officer (Revenue) Kota on 20/06/2001 which was allowed by the said Sub Divisional Officer on 26/02/2002. Challenging the said order petitioner No.1 preferred an appeal before the Additional Collector, Bilaspur which was allowed on 28/02/2007. It is this order of Collector which has been set-aside by the Board of Revenue in a revision petition filed by respondent No.1, thereby setting aside the order passed by the Collector and maintaining the order passed by the Sub Divisional Officer, as a result, the order of mutation in favour of petitioner No.1 made on 24/04/1998 has been set-aside.

5. Since the dispute appears to be about availability of land on the spot and whether the suit land is part of Khasra No. 11/4 or 11/6, this Court passed an order on 02/09/2014 directing the Sub Divisional Officer (Revenue) Kota to get the land demarcated clearly identifying as to whether the land available on the spot is part of Khasra No. 11/6 or 11/4 and to indicate as to the area acquired by the State was part of Khasra No. 11/4 or 11/6. Sub Divisional Officer (Revenue) Kota has filed a report together with an inquest (Panchnama) mentioning that the land available on the spot is part of Khasra No. 11/6.

6. Learned counsel for the petitioners would argue that the demarcation has not been carried out properly and moreover in the order passed by the Additional Collector it has been mentioned that no land out of Khasra No. 11/4 was acquired as compensation was never paid.





7. In the Panchnama filed along with report it is mentioned that in course of demarcation a copy of sale-deed dated 12/04/1982 for 2 acres of land executed by Jhagru Ram S/o Butu Ram in favour of State of M.P. through SDO, PWD (B&R) was presented. Copy of the sale-deed has not been annexed with the report or the Panchnama.

8. Considering the material available and since disputed questions of facts are involved as also for the reason that Shri Paranjpe is challenging the correctness of demarcation report which can only be done by leading evidence in a duly constituted Civil Suit, this Court, while declining to interfere with the impugned order, deems it appropriate to dispose of this writ petition with liberty to the petitioners to prefer a Civil Suit in accordance with law to establish their title. In any such suit, the respondent would be at liberty to raise all legal objections including objection regarding maintainability of the suit.

Sd/-
Prashant Kumar Mishra
Judge