

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No. 186 OF 2015**

1. Pushpa Tiwari W/o Basant Tiwari, Aged 45 years,
2. Lata Tiwari W/o Kishnagopal Tiwari, Aged about 42 years,
3. Nita Patnaik W/o Rajesh Patnaik, Aged about 40 years

All Petitioners No. 1 to 3 R/o Itwaribazar, Raigarh, P.S. Kotwali, Tahsil and District Raigarh (Chhattisgarh).

---Applicants**Versus**

1. State of Chhattisgarh, Through Collector, Raigarh, P.S. Chakradhar nagar, Tahsil & District Raigarh (Chhattisgarh).
2. Fathechand Patel S/o Balmkund Patel, Aged 56 years, Occupation Agriculture, R/o village Bajinpalli, Raigarh, P.S. Tahsil & District Raigarh (Chhattisgarh).

---Non-applicants

For Applicants	: Mr. Sourabh Sharma and Mr. Tarkeshwar Nande, Advocates
For Non-applicant No.1	: Mr. Siddharth Rathore, Dy. Govt. Advocate
For Non-applicant No.2	: Mr. Manoj Kumar Sinha, Advocate

Hon'ble Shri Justice Sanjay K. Agrawal**Order on Board****09/07/2015**

1. With the consent of learned counsel for the parties, the matter is heard finally.
2. In an application under Sections 145 & 146 of the Cr.P.C. initiated by applicants herein, the trial Magistrate by its preliminary order dated 22/02/2013 held that applicants in possession of suit land and disposed off that application. The order dated 22/02/2013 was challenged by non-applicant No. 2 herein by way of revision. In the revision application, non-applicant No. 2 also filed copy of *Khasra Panchshala* along with application

for taking documents on record and that was taken on record and the order dated 22/02/2013 was set aside and Sub-Divisional Magistrate was directed to hear afresh in accordance with law on its own merit.

3. Against the said order, this revision has been filed stating *inter alia* that the order passed is unsustainable and bad in law.

4. Mr. Sourabh Sharma and Mr. Tarkeshwar Nande, learned counsel appearing for the applicants would submit that learned Additional Session Judge committed illegality in granting revision after taking additional documents on record.

5. Mr. Siddharth Rathore Dy. Govt. Advocate appearing for the applicant No. 1 and Mr. Manoj Kumar Sinha, learned counsel appearing for the non-applicant No.2 would submit that documents being relevant and necessary for just and expeditious disposal of revision, that has been taken on record and matter has been remanded for fresh consideration on merit.

6. I have heard learned counsel appearing for the parties.

7. A bare perusal of the record would reveal that the copy of *Khasra Panchshala* was filed along with an application for taking documents on record during the pendency of the revision application, that document was taken and order has been set-aside relying upon those documents and the matter has been sent to the revisional Court for fresh disposal in accordance with law.

8. It is well settled law that application for taking additional evidence/document on record should be decided at the time of final hearing i.e. after hearing the revision on merits. The reason is, if the revisional Court comes to a conclusion that it would exercise its power taking the additional

evidence on record then it is incumbent upon the revisional Court to stay the delivery of judgment and record the reasons for admitting the application and to give an opportunity to the other side for rebuttal. In the case in hand, the revisional Court straightway allowed the application for taking document on record and thereafter, remanded the matter to the Sub-Divisional Magistrate for hearing on merits. Such a course is wholly impermissible. The impugned order is set-aside and the revisional Court is directed to hear the revision as well as the application afresh, in accordance with law.

9. The revision as well as the application for taking document on record are hereby restored to its original numbers for hearing and disposal, in accordance with law. The revisional Court is directed to dispose off the revision within three months from the date of receipt of certified copy of this order.

10. Accordingly, the revision stands disposed off. No order as to costs.

Sd/-
(Sanjay K. Agrawal)
JUDGE

Tiwari