

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (C) No. 1802 of 2014**

Ramji Lal Shrivastava S/o Shri Dhani Lal Shrivastava Aged About 70 Years R/o Kanya Parisar Road Village Bisunpur Tah Ambikapur Distt. Surgja C.G.

---- **Petitioner****Versus**

1. State Of Chhattisgarh through The Principal Secretary, Department Of Revenue, Thana Naya Raipur, Secretariat Maha Nadi Bhawan, Raipur C.G.
2. The Collector Surguja, P.S. Ambikapur, Civil & Revenue Distt. Surguja C.G.

---- **Respondents**

For Petitioner:-

Shri RP. Agrawal, Senior Advocate along with Shri Anuj Agrawal and Shri Vikram Dixit, Advocates.

For Respondents/State:-

Shri Jugal Kishore Gilda, Advocate General.

Hon'ble The Chief Justice**Hon'ble Shri Justice P. Sam Koshy****Order On Board****Per Navin Sinha, Chief Justice****18/08/2015**

1. In this writ application, the Petitioner challenges the validity of sub-sections (6-a) to (6-f) of Section 165 of the Chhattisgarh Land Revenue Code (hereinafter referred to as 'the Code') as being ultra virus Clause-5 (1) of the Fifth Schedule to the Constitution of India.
2. Learned Senior Counsel for the Petitioner submits that he is not a non-tribal. The question of his taking permission from the Collector for sale of his lands to another non-tribal simply does not arise. The requirement for him to obtain concurrence of the Collector under the Code is a superfluous exercise contrary to the constitutional mandates. Thus, the challenge to the provisions

of the Code.

3. Learned Advocate General points out that the Petitioner has already applied to the Collector for grant of permission on 21.4.2013. The Collector has asked for a report upon the same on 29.4.2013. The Tahsildar in turn, on 1.5.2013, has called for a report from the Halka Patwari. Directions may be given to the Collector to dispose the Petitioner's application in accordance with law.

4. Having considered the rival submissions, we are of the considered opinion that the challenge to the virus of the relevant provisions of the Code is premature at this stage. The Petitioner himself has opted to exercise the statutory option first and has filed an application before the Collector on which, action has already been initiated.

5. Leaving the larger question open for consideration at an appropriate stage, if necessary, the Writ Petition is disposed with a direction to the Collector to dispose the Petitioner's application for grant of permission in accordance with law. Needless to state that if the Collector proposes to reject the request, he is statutorily bound to give reasons in writing.

6. Let the Collector pass such appropriate final orders as he may deem fit and proper within a maximum period of four months from the date of receipt of production of copy of the present order before him, provided the Petitioner himself cooperates.

7. The Writ Petition is disposed.

Sd/-
(Navin Shiha)
CHIEF JUSTICE

Sd/-
(P. Sam Koshy)
JUDGE

