

HIGH COURT OF CHHATTISGARH, BILASPUR

WP227 No. 694 of 2015

1. Surajmal Sonwani S/o Shri Dhabaha, Aged About 75 Years (Wrongly Mentioned As Soniwani), R/o Naahachandi, Tahsil Abhanpur, Civil And Revenue District Raipur Chhattisgarh

---- Petitioner

Versus

1. Omprakash Sonwani S/o Babulal, R/o Village Nahnachandi, Tahsil - Abhanpur, Civil And Revenue District Raipur Chhattisgarh
2. Lay Prakash Sonwani, S/o Late Babulal, R/o Village Nahnachandi, Tahsil - Abhanpur, Civil And Revenue District Raipur Chhattisgarh
3. Gyanprakash Sonwani S/o Late Babulal, R/o Village Nahnachandi, Tahsil - Abhanpur, Civil And Revenue District Raipur Chhattisgarh
4. Chandraprakash Sonwani, S/o Late Babulal, R/o Village Nahnachandi, Tahsil - Abhanpur, Civil And Revenue District Raipur Chhattisgarh
5. State Of Chhattisgarh, Through The Collector Bilaspur Chhattisgarh

---- Respondents

For Petitioner.
For Respondent/State.

: Shri Malay K. Bhaduri, Advocate.
: Shri Satish Gupta, Govt. Advocate.

Order On Board

05/10/2015

Heard on admission.

1. This petition under Article 227 of the Constitution of India is directed against the order dated 30.06.2015 by which the appeal before the Board of Revenue on 26.10.2010 has been reviewed and the review petition was allowed.
2. Learned counsel for the petitioner submits that while under taking review of the earlier

order passed by it, the Board of Revenue has exceeded its jurisdiction. Review jurisdiction could be exercised only when there was an apparent error. On the face of the records, this power has been used to reconsider the entire issue. Earlier, the Board of Revenue recorded finding of fact that mother is also one of the share holder of the property and therefore out of 76.26 acres of lands, her share is liable to be taken into consideration while considering the land in excess of the permissible limit as per the provisions contained in Section 2 (Chha) of the Agriculture Ceiling Act, 1974.

3. Review jurisdiction has been exercised by the Board of Revenue on the finding that upon death of Dhabha, father of Surajmal and Babulal, a partition of property has already taken place as between Surajmal and Babulal by a registered deed of partition, which has been admitted by all the parties and there is no dispute. In that partition Surajmal received 76.26 acres of land. As he was minor at that time, his estate was being represented by his mother.

The aforesaid facts are not in dispute. In such a situation the only obvious conclusion was that the entire land admeasuring at 76.26 acres belonged to Surajmal alone and not his mother. In the order under challenge before the Board of revenue, without disputing the factum of partition through a registered deed of partition, there was committed apparent illegality in holding that out of 76.2 acres land, mother was also entitled to her share to the extent of 22.27 acres of land. When the partition has already taken place and it was not in dispute, there was no occasion that other share holders would be entitled to partition.

4. While entertaining review petition, this apparent error was taken into consideration by the Board of Revenue. The impugned order does not transgress limits and bounds of its jurisdiction, therefore, no grounds for interference by this Court is made out.

5. The petition is accordingly, dismissed.

Sd/-

Manindra Mohan Shrivastava

Judge