

HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Petition (227) No. 796 of 2015

1. Bhagwantin Bai Wd/o Derharam, aged about (since dead),
2. Byasu Ram S/o Late Derharam, aged about 45 years, R/o Village Potgaon, Tahsil & District Kanker (C.G.)
3. Jagat ram S/o Late Derharam, aged about 40 years, R/o Village Potgaon, Tahsil & District Kanker (C.G.)
4. Hemlal S/o Late Derharam, aged about 36 years, R/o Village Potgaon, Tahsil & District Kanker (C.G.)

(Applicants)

---- Petitioners

Versus

1. State of Chhattisgarh through Secretary Revenue Department Mahanadi Bhawan, Mantralaya New Raipur, Distt. Raipur, C.G.
2. Board of Revenue, Circuit court Raipur, Distt. Raipur, C.G.
3. Upper Commissioner, Bastar Division Bastar, Distt. Bastar (C.G.)
4. Sub Divisional Officer, (Revenue) North Bastar Kanker, District Kanker (C.G.)
5. Yogendra Kumar S/o Ram Singh Teli, R/o Village Potgaon, Tahsil & District Kanker (C.G.)
6. Murli S/o Ram Singh Teli, R/o Village Potgaon, Tahsil & District Kanker (C.G.)
7. Santram S/o Late Deriha, R/o Village Potgaon, Tahsil & District Kanker (C.G.)

(Non-applicants)

---- Respondents

For Petitioners –Mr. S.K. Dadsena, Advocate.

For Respondents 1 to 4 – Ms. Shobha Kashyap, Deputy Govt. Advocate, on advance notice.

For Respondents 5 to 7 – None, not noticed.

Hon'ble Shri Justice Chandra Bhushan Bajpai

Order on Board

18-11-2015

1. Learned counsel for respondents 1 to 4 submits that as she had received copy of the instant WP(227) and other annexed documents, no fresh notice is required for respondents 1 to 4.

2. Learned counsel for the petitioners submits that as the order passed by the Court below was not a speaking order, neither there is appreciation regarding the application under Section 5 of the Limitation Act, hence, the order passed by the Court below requires interference. Learned counsel for the petitioners further submits that on the face of the order passed by the learned Court below it is without appreciation of the entire facts, hence, the Court below be directed to pass an order afresh after hearing both the parties including the application filed under Section 5 of the Limitation Act, also after due consideration of the entire facts mentioned in the earlier application dated 03-02-2014, specifically para 2, and also regarding the facts mentioned in the application for review under Section 51 of the Land Revenue Code, 1959 (in brevity 'the Code, 1959). Learned counsel further submits that with the facts present for this prayer, no notice are required for respondents 5, 6 and 7 and the matter be disposed of finally even without noticing to respondents 5, 6 and 7.

3. For the prayer submitted by the petitioners, material available in the record perused.

4. From the entire perusal of the record it is obvious that while passing the order dated 03-03-2015 the Court below not appreciated the application for condonation of delay filed under Section 5 of the Limitation Act. It is also clear that the facts mentioned in the earlier application dated 03-02-2014 in para 2 and the facts mentioned in the review petition were not appreciated as required.

5. With this, the impugned order passed by the Court below requires interference. Consequently, the order passed by the Court below dated 03-03-2015 in the matter is hereby set aside. The Court below is directed to restore the matter of review to its original number. The petitioners are directed to remain present in person or through their counsel before the Court below on

06-01-2016. The Court below is further directed to pass an order afresh in the matter in speaking manner as required by law after affording opportunity of hearing to both the parties. The petitioners may file certified copy of this order before the Court below for further hearing.

6. Registry is directed to transmit a copy of the order of this Court to the Court below for compliance.

7. The petition disposed of accordingly.

8. No order as to cost.

9. Certified copy as per rules.

Sd/-
(Chandra Bhushan Bajpai)
JUDGE