

C.F. 308 ✓ 8

Single Bench

IN THE HON'BLE HIGH COURT OF CHHATTISGARH
AT BILASPUR

W.P.(C) No. ¹⁷³⁷ Of 2013

PETITIONERS
APPELLANTS
PLAINTIFFS

- :1) Ghasiram, S/o. Mohanlal, aged about 57 years, Head of the Hindu Undivided Family consisting of four brothers and widow mother
- :2) Babulal S/o. Sunderlal aged about 72 years,
- :3) Mewalal, S/o. Haraprasad, aged about 65 years, representing as the Head of H.U.F. which consists of brother's widow Shanti Bai, Son Chandradhar, Daughter Ganga Bai

All of them by Caste Brahmin Residents of Village Bodari, Tehsil Bilha District Bilaspur (C.G.)

Versus

RESPONDENTS

- :1) State of Chhattisgarh through Collector, Bilaspur (C.G.)
- :2) Sub Divisional Officer (Revenue) Bilha, District Bilaspur (C.G.)
- :3) Tehsildar, Bilha, District Bilaspur (C.G.)
- :4) Haraprasad, S/o. Motilal aged about 53 years, by Caste Dhuri, Resident of Village Bodari, Tehsil Bilha District Bilaspur (C.G.)



DEFENDANT
No.1

DEFENDANT
No.2

DEFENDANT
No.3

- :5) Jagdish Prasad, S/o. Jugal Prasad, Satnami, Resident of Village Dhodki, Tehsil Bilha District Bilaspur (C.G.)
- :6) Abdul Hussain, S/o. Shakir Hussain, Resident of Khaparganj, Tehsil and District Bilaspur (C.G.)

WRIT PETITION UNDER ARTICLES 226, 227 & 215 OF
THE CONSTITUTION OF INDIA FOR ISSUANCE OF
PREROGATIVE DIRECTION FROM THIS HON'BLE HIGH
COURT AND TO SET AT NAUGHT THE DECISION AS A
COURT OF RECORD

HIGH COURT OF CHHATTISGARH : BILASPUR**W.P. (C) No.1737 of 2013****PETITIONERS**

Ghasiram & others

Versus

RESPONDENTS

State of Chhattisgarh & others

Single Bench : Hon'ble Shri Justice Prashant Kumar Mishra

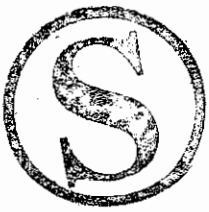
Present :- Shri SL Kurmi, Advocate for the petitioners.
Shri A. Pandey, PL for the State.
Shri Sushil Dubey, Advocate for respondents No.4 to 6.

ORAL ORDER

(Passed on this 26th Day of February, 2015)

Heard learned counsel for the parties.

1. The petitioners have preferred this writ petition seeking relief of mutation of their name in the revenue records, delivery of possession and permanent injunction.
2. Petitioners claim to be the owner of a tank situated in Khasra No.75/2 (old Khasra No.82), admeasuring 1.54 Acre situated at village Bodri.
3. Admittedly, the petitioners had earlier preferred a suit for declaration, permanent injunction as also for mandatory injunction to the effect that the judgment and decree dated 4-10-1993, passed in Civil Suit No. 7-A/1992 is not binding upon them and further that the transfer of subject tank by the defendant No.1 Haraprasad in favour of defendants No.2 & 3 Jagdish Prasad and Abdul Hussain respectively, is not binding on them. They also prayed for declaration that the suit tank belongs to their joint family and they are in possession ever since the time of their ancestors.
4. The said suit was dismissed by the trial Court, however, both the parties preferred appeals. While plaintiffs/petitioners were aggrieved by the dismissal of their suit, the defendants/present respondents No.4 to 6 were aggrieved by the decree and finding, wherein it was found by the



trial Court that the said defendants have obtained the judgment and decree dated 4-10-1993 in Civil Suit No.7-A/1992 by committing fraud.

5. The first appellate Court dismissed both the appeals and thereafter this Court also dismissed Second Appeal Nos.412/07 & 260/07 by a common order dated 2-8-2010.
6. The High Court having already dealt with the issue concerning a dispute purely of civil nature, the present writ petition is not maintainable, however, a perusal of the return filed by the respondents, as well as the findings recorded by this Court in the Second Appeal would indicate that a Public Interest Litigation bearing WP No.600/1998 preferred by one Chetan Das Ahuja was disposed of by the High Court of Madhya Pradesh expressing hope and trust that the Collector and Tehsildar shall take necessary action in the matter.
7. When the earlier decree passed against the State has already been set aside, it is for the concerned Collector, Tehsildar and Sub-Divisional Officer to recover possession, correct the revenue record mentioning the name of the State as owner of the property and remove possession of any individual, who is found to be in possession of the property. The State is also expected to put the land in proper government use. Learned State counsel shall inform the concerned Sub-Divisional Officer, Tehsildar and Collector about the observation made by this Court.
8. Respondent No.2 Sub-Divisional Officer (Revenue), Bilha, district Bilaspur is directed to submit compliance report before this Court within a period of two months.
9. With the direction aforesaid, the writ petition is dismissed.

Sd/-
Prashant Kumar Mishra
Judge