

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WP227 No.633 of 2015**

Umend S/o Bondu Yadav Aged About 60 Years R/o Village Baghdumar,
Patwari Halka No. 26, Tahsil Damdha, District Durg (Chhattisgarh).

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

1. State Of Chhattisgarh Through The Secretary, Department Of Revenue, Mahanadi Mantralaya, Naya Raipur, Post Office & Police Station Naya Raipur, District Raipur (Chhattisgarh)
2. Board Of Revenue, Chhattisgarh, Through Its President, Bilaspur {circuit Court Raipur} (Chhattisgarh).
3. Commissioner, Raipur Division, Raipur (Chhattisgarh)
4. Collector, Durg, District Durg (Chhattisgarh).
5. Sub Divisional Officer (Revenue), Durg, Dist. Durg (Chhattisgarh).
6. Tahsildar, Damdha, Dist. Durg (Chhattisgarh)
7. Anil Jethani S/o V.L. Jethani R/o Bhilai- 3, Tahsil Patan, Dist. Durg (Chhattisgarh)

---- **Respondent**

For Petitioner	:	Ms. Sunita Jain, Advocate
For Respondent/State	:	Shri Manish Nigam, Panel Lawyer
For Respondent No.7	:	Ms. Madhu Nisha Singh, Advocate

Order On Board**25/08/2015**

This petition is directed against order dated 25-05-2015 passed by the Board of Revenue affirming the order of the Commissioner and Collector rejecting petitioner's application for grant of permission to sell agricultural land held by him as Bhoomiswami.

2. Submission of learned counsel for the petitioner is that the land in dispute was initially allotted to the petitioner on lease basis and later on, Bhoomiswami

right was conferred on the petitioner. There are no allegations that the petitioner did not pay proper land revenue. There are no allegations or any other kind of dispute relating to bhoomiswami rights of the land in question. The application was moved by the petitioner bonafide for sale of part of the land because the petitioner found that the land is not yielding good crop and more or less, it has become barren land. The Tahsildar also gave a report to this effect. However, the Collector on conjecture and surmises has rejected the application and therefore, this petition has been filed.

3. Learned State counsel submits that the land could not be sold without the permission of the competent authority as required under Section 165(7)(b) of the C.G. Land Revenue Code, 1959 (In short "the Code"). The Collector disputed the bonafides of the transactions on the ground that the land was allotted to the petitioner being landless person to carry out agricultural activity and earn his livelihood but the petitioner now wants to sell the land stating that he is intending to purchase another land of smaller area. Therefore, the reasons assigned for rejection of application cannot be said to be irrelevant or extraneous.

4. The petitioner being bhoomiswami of the land in question is not in dispute. Admittedly, bhoomiswami right has been conferred on the petitioner. The petitioner intends to sell the land. True it is that the land cannot be sold without the permission of the competent authority as required under sub section 7(b) of Section 165 of the Code, at the same time, rejection of the application should be on the basis of some cogent reasons like non-payment of revenue or any other reason, which adversely affects the use of the land. The reason assigned by the petitioner for seeking permission is that the petitioner intends to purchase another piece of land elsewhere. Contention of the petitioner is that

the land is unfertile one and not yielding expected crops, is not without any basis and is supported by the report of the Tahsildar placed on record as Annexure P-5. The petitioner has constructed his house on a part of land. Therefore, in these circumstances, ordinarily, permission should be granted and reasons, which have been assigned by the Collector to reject the application of the petitioner are too trivial so as to warrant rejection of the application. Merely because, the land is adjacent to the main road, that itself cannot be made a ground to reject the application for grant of permission.

5. In view of above analysis, in the considered opinion of this Court, the reasons which have been assigned for rejection of the petitioner's application for grant of permission is not relevant. Therefore, the impugned order suffers from apparent error and requires to be interfered with.

6. Accordingly, the petition is allowed. The impugned order passed by the Board of Revenue is set aside. The petitioner's application for grant of permission shall be considered as having been allowed.

Sd/-
Manindra Mohan Shrivastava
Judge