

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (227) No.469 of 2009**

State of Chhattisgarh Through the Secretary, Deptt. Of
Commercial Tax (Registration) D.K.S. Bhawan, Raipur

----Petitioner**Versus**

Smt. Nirmala Agrawal, W/o Laxminarayan Agrawal, Tamer Para,
Durg, General Power of Attorney Holder on behalf of Smt. Asha
Rani @ Asha Lata, D/o Krishna Agrawal, R/o Pensilvenia, America

---- Respondent

For Petitioner	:	Mr.P.K.Bhaduri, G.A.
For Respondent	:	None present though served

Hon'ble Shri Justice Sanjay K. Agrawal**Order on Board****09/11/2016**

1. The Board of Revenue by its impugned order set aside the order of the Collector of Stamps, Durg dated 7.7.2006 holding that the respondent herein was not served while passing the order dated 7.7.2006 and therefore, set aside the order in toto.
2. Mr.P.K.Bhaduri, learned counsel appearing for the petitioner would submit that if the order is set aside on the ground of non-affording opportunity of hearing, the course available to the Board of Revenue was to remand back the matter to the Collector of Stamps for passing the order after giving an opportunity of hearing to the petitioner after setting aside the impugned order, but instead of that the Board of Revenue has set aside the order in toto, which is bad in law.

3. I have heard learned counsel for the petitioner and perused the order impugned.
4. The fact remains that the Board of Revenue found that the Collector of Stamps passed the order dated 7.7.2006 behind the back of the respondent in violation of principles of natural justice and therefore, the Board of Revenue would have allowed the appeal in part and would have restored the proceeding before the Collector of Stamps for hearing and disposal in accordance with law on merits, but could not have allowed the appeal in toto.
5. Accordingly, the order impugned is set aside. Matter is remitted to the Collector of Stamps, Durg, who shall notice both the parties including the respondent herein also after giving an opportunity and to pass the order afresh in accordance with law on merits. It is made clear that this Court has not expressed any opinion on merits of the case. .
6. The writ petition is allowed to the extend indicated hereinabove. No order as to cost(s).

Sd/-
(Sanjay K.Agrawal)
Judge

B/-