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HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 100 of 2016

1. Gend Ram Satnami S/o Atma Ram, Aged About 32 Years Caste Satnami, R/o Village Narsinghpur, P.S. & Tahsil Pandariya, District Kabirdham, (Chhattisgarh)

2. Rohit Satnami, S/o Atma Ram, Aged About 28 Years By Caste Satnami, R/o Village Narsinghpur, P.S. & Tahsil Pandariya, District Kabirdham, (Chhattisgarh)

---- Petitioners

Versus

1. Board Of Revenue Circuit Court, Raipur, District Raipur, (Chhattisgarh)

2. Additional Commissioner Durg, Division Durg (Chhattisgarh)

3. Sub Divisional Officer (R) Pandariya, District Kabirdham, (Chhattisgarh)

4. Tahsildar Pandariya, District Kabirdham, (Chhattisgarh)

5. Sarojani Bai, D/o Dukalha Satnami, Aged About 23 Years R/o Narsinghpur, P.S. & Tahsil Pandariya, District Kabirdham, (Chhattisgarh)

---- Respondents

For Petitioners	:	Shri FS Khare, Advocate
For Respondents-State	:	Shri RK Gupta, Dy. AG for the State

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

15/01/2016

1. Petitioner is aggrieved by the order passed by the Board of Revenue (for short 'the Board') on 9-12-15, whereby the Board has allowed revision application preferred by respondent No.5 Sarojani Bai to direct inclusion of her name in the revenue record pertaining to lands bearing Khasra No.4/3, area 3.55 acres and Khasra No.55, area 0.44 acres, situated at village Narsinghpur, Tehsil Pandariya, district Kabirdham.

2. Facts of the case, briefly stated, are that the revenue records of the above said lands jointly recorded the name of the petitioners and respondent No.5 as the holders. By application dated 14-7-09, corrections were made in the revenue record by deleting the name of respondent No.5 on the ground that she has relinquished her share in favour of the petitioners. In the year 2013, respondent No.5 moved an application under Section 110 of the Chhattisgarh Land Revenue Code, 1959 (for short 'the Code, 1959') for reentering her name as co-sharer on the ground that earlier her consent was obtained by wrongly informing her that there shall be a partition of holdings, however, the same was in fact a deed of relinquishment, which had no legal value because the same was not registered in accordance with the requirement of Indian Registration Act, 1908 (for short 'the Act, 1908').

3. On the said application the Tehsildar reopened the issue of correction of record and directed for recording the name of respondent No.5. The Sub Divisional Officer (R) dismissed the appeal preferred by the petitioners, however, the Second Appeal preferred by them was allowed by the Additional Commissioner. It is this order of the Additional Commissioner which was assailed before the Board at the instance of respondent No.5. While allowing the revision application, the Board has referred to the law laid down by the Supreme Court in the matter of **Commissioner of Income-tax, West Bengal, Calcutta Vs. Juggilal Kamalapat {AIR 1967 SC 401}** to conclude that a deed of relinquishment pertaining to land of value of Rs.100/- or more should necessarily be registered, otherwise the same is not admissible or enforceable, therefore, reopening of the matter renders substantial justice to the respondent No.5.

4. In the case at hand, there is no denial of the fact that the instrument which was acted upon in favour of the petitioners for deleting the name of

respondent No.5 was not a registered instrument although the same was a deed of relinquishment of her share in the land in favour of the petitioners. Moreover, the explanation offered by respondent No.5 that while obtaining her signature on the instrument, it was duly informed to her that the same is a instrument of relinquishment appears to be incorrect in view of the recitals made by the Tehsildar in the Namantarna Panji, wherein it was observed that “on account of giving the land by respondent No.5 in partition to the petitioners”. Thus, the revenue authorities colluded with the petitioners to make an entry on purported consent of respondent No.5 as if the instrument was a deed of partition. Thus, the Board has not committed any illegality in observing that respondent No.5 was misled while obtaining her consent.

5. True it is that the Board has also observed that the Tehsildar should not have allowed the application because it may be a case of review under Section 51 of the Code, 1959 for which a sanction from the higher revenue authority was required, however, in a case like the present one, where the illegality committed by the petitioners in collusion with the then Tehsildar or Patwari is writ large and the deletion of the name of respondent No.5 from the revenue record was palpably arbitrary, illegal and by keeping her in dark about the nature of the instrument on which her signature was obtained,the present is not a fit case for interference in exercise of writ jurisdiction under Article 226 of the Constitution of India.

6. For the above stated reasons, this Court finds no substance in the petition. Accordingly, the writ petition stands dismissed.

Sd/-

Judge
Prashant Kumar Mishra

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