

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 1308 of 2016

Tejbhan Singh S/o Late Dayal Singh, Aged About 45 Years Caste Gond, R/o Village Tikarkala, (Jogidongri), Tahsil Pendraroad, District Bilaspur Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Revenue And Disaster Management Department, Mahanadi Bhawan, Mantralaya, New Raipur Chhattisgarh
2. The Additional Collector, Pendraroad, District Bilaspur Chhattisgarh
3. The Sub Divisional Officer, (Revenue), Pendraroad, District Bilaspur Chhattisgarh
4. Ashiya Begum W/o Late Ahmad Hussain, Caste Muslim, R/o Village Gorela, Tahsil Pendraroad, District Bilaspur Chhattisgarh
5. Anish Ahmad S/o Ahmad Hussain, Caste Muslim, R/o Village Gorela, Tahsil Pendraroad, District Bilaspur Chhattisgarh
6. Sagir Ahmad S/o Ahmad Hussain, Caste Muslim, R/o Village Gorela, Tahsil Pendraroad, District Bilaspur Chhattisgarh

---- Respondents

For Petitioner	:	Shri Dharendra Prasad Mishra, Advocate
For State	:	Shri Ramakant Mishra, Dy.A.G.

S.B.:Hon'ble Shri Justice Manindra Mohan Shrivastava

Order

13/05/2016

Heard on admission.

1. This petition under Article 226 of the Constitution of India has been preferred against order dated 21.3.2016 (Annexure P-1) passed by the Additional Collector, Pendra-Road by which petitioner's appeal has been dismissed.

2. Assailing correctness and validity of the impugned order passed by the Additional Collector, learned counsel for the petitioner argued that the dismissal of the appeal on the ground that issue involved in the case has already been decided by another order dated 11.4.1997 in respect of the same land, is illegal and suffers from serious error of jurisdiction inasmuch as the Additional Collector failed to see that transaction involving transfer of land from the hand of tribal to non-tribal was vitiated by fraud practiced upon forefathers of the petitioner. The land since time immemorial belonged to petitioner's father Dayal Singh Gond and under various fraudulent transaction, the land was recorded in the name of non-tribals without there being any valid purchase of the land by so called predecessor in title of respondents. It is argued that the claim of the respondents that there was no legal impediment in making an inquiry into bonafide of so called sale of the land in favour of Sarju Panika, was a fraudulent transaction and it was not permissible under the law without prior permission under the law. No sale consideration passed. The land was mortgaged and it was fraudulently recorded in the name of so called predecessor.
3. Facts which are not in dispute, as reflected from the impugned order, show that long back in the year 1964-65, Dayal Singh executed sale deed in favour of Sarju Panika. Dayal was father of the appellant. An application under Section 170-B of the Land Revenue Code was made to the SDO and an order was passed on 11.4.1997 holding that no fraud was practised. The inquiry was in respect of the contiguous land as in dispute in the present case. In that case, the dispute was between the appellant on one hand and Anish Ahmed & Sagir Ahmed on the other hand. In that case, the SDO (R) held an inquiry under Section 170-B of the Code. The allegation of fraud was inquired into and it was held that transaction of sale between Dayal Singh & Sarju Panika did not involve any fraudulent transaction. At the time when the transaction was made, Panika was a scheduled tribe. The transaction was found to be bonafide as between Dayal Singh and Sarju Panika.
4. The order dated 11.4.1997 (Annexure P-3) attained finality. The petitioner, however, again preferred an application under Section 170-B of the Code in respect of the another piece of land on similar allegations alleging fraudulent transaction of so called sale between his father Dayal Singh and respondent stating that his father was deprived of his property by fraudulent means. The SDO

made an inquiry and found that there was no element of fraud.

5. In the result, there is no jurisdictional error in the impugned order. The petition deserves to be dismissed and is accordingly dismissed.

Sd/-
(Manindra Mohan Shrivastava)
Judge

Praveen