

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 2347 of 2015

1. Sirpat S/o Jodhiram, Aged About 63 Years R/o Village Chamenda, Tahsil Nagri, Civil And Revenue District Dhamtari, (Chhattisgarh)

---- Petitioner

Versus

1. Additional Commissioner (Revenue), Raipur, District Raipur, (Chhattisgarh)
2. State Of Chhattisgarh, Through: Collector, Dhamtari, District Dhamtari, (Chhattisgarh)
3. Sub Divisional Officer, (Revenue) Nagri, District Dhamtari, (Chhattisgarh)
4. Tahsildar, Dhamtari, District Dhamtari, (Chhattisgarh)
5. Superintendent Land, Land Record, Dhamtari, District Dhamtari, (Chhattisgarh)
6. Prabhuram, S/o Halal, Caste Gond, R/o Village Chamenda, Tahsil Nagri, District Dhamtari, (Chhattisgarh)

---- Respondent

For Petitioner	Shri C.R. Sahu, Advocate
For Respondent/State	Ms. K. Tripti Rao, Panel Lawyer

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

04/01/2016

Heard learned counsel for the parties.

1. Challenge in this petition under Article 226 of the Constitution of India is to the order dated 19.10.2015 passed by the Board of Revenue, whereby the petitioner's revision application has been dismissed.
2. Facts of the case, briefly stated, are that the father of the respondent No.6 owned agricultural land spreading over 8 different khasra numbers at Village Chamenda, R.I. Circle Sihava, Tahsil Nagri, District Dhamtari. After the bandobast, area of total khasra numbers were recorded as 3.56 Hectares, out of which Khasra No.155, area of 0.397 Hectare was reduced and mentioned as 0.05 Hectare. The area left over was recorded in the name of the petitioner. Respondent No.6, therefore, moved an application for correction of land records before the Superintendent (Land Records), Dhamtari (for short 'the SLR'). The said SLR obtained a report from the Revenue Inspector (for short 'the RI'), which was submitted on 19.08.2010 and 20.12.2010 to the effect that 3 fields of Khasra No.155 has wrongly been recorded by including the same in Khasra No.176, which has been renumbered as Khasra No.176/1, area of 1.13 Hectare in the name of the petitioner and Khasra No.176/2, area of 0.32 Hectare was recorded in the name of the respondent No.6.

3. The SLR issued notice to the petitioner and after providing opportunity of hearing passed an order on 31.05.2011 directing correction of record of Khasra No.155 along with Khasra No.176/2, area of 0.05 Hectare and 0.32 Hectare respectively in the name of the respondent No.6 and for recording the name of the petitioner at Khasra No.176/1, area of 1.13 Hectare. Petitioner's appeal before the Sub Divisional Officer (Revenue), Nagri, District Dhamtari (for short 'the SDO') was allowed vide order dated 19.09.2011, however, the second appeal preferred by the respondent No.6 before the Additional Commissioner, Raipur Division, Raipur, was allowed on 23.08.2013 and against which the petitioner's revision application has been dismissed by the Board of Revenue by order dated 19.10.2015.
4. It is contended that there was no mistake in making entries in the revenue records at the time of bandobast, therefore, the authorities have wrongly exercised the jurisdiction for directing correction of record.
5. A reading of the orders passed by the SLR, Additional Commissioner, Raipur Division and the Board of Revenue, would indicate that the orders are passed on the report of the RI, which, in turn, was based on the Khasra papers of the year 1972-73 to 1976-77 and the record of rights in Form B-1 of the year 1979-80. Khasra No.155 (old khasra No.32/5) was having

an area of 0.397 Hectare, however, at the time of bandobast, the area was wrongly reduced as 0.05 Hectare even though there was no order to that effect in the bandobast proceeding. The reduced area (the area which was not included in the Khasra No.155) was added in Khasra No.176 belonging to the petitioner. Thus, the original area of Khasra No.176, which was 1.13 Hectare was increased up to 1.45 Hectare. At the time of preparing the report, the RI verified about the ownership and possession from the villagers to which they accorded consent that the said 3 fields having area of 0.32 Hectare wrongly included in Khasra No.176 in the name of the petitioner, in fact, belongs to the respondent No.6.

6. Learned counsel for the petitioner raised an argument that the petitioner was not afforded an opportunity of hearing by the RI inasmuch as he was not called at the spot at the time of preparation of report, therefore, there is violation of principles of natural justice.
7. Perusal of the order passed by the SLR would indicate that the petitioner was issued notice by the said authority, wherein he had objected to the report of the RI, however, there is no submission before any of the revenue authorities that the petitioner was not present at the time of preparation of report by the RI.

8. Unnumbered para 3 in the 2nd page of the order passed by the SLR has noted the argument raised by the respondent No.6 herein that the petitioner was present at the time of inspection by the RI. There is no counter or rejoinder to the said submission, therefore, it cannot be accepted, at this stage, that the petitioner was not noticed. Even otherwise, the petitioner has failed to demonstrate existence of any legally permissible procedure by which he is entitled to own the area of Khasra No.155, as it originally was before bandobast.
9. Since 3 revenue authorities have concurrently found in favour of the respondent No.6, this Court does not find any substance in this petition in view of the settled legal position that writ Court should ordinarily not interfere with the finding of fact concurrently recorded by the subordinate authorities.
10. The Supreme Court in **B.K. Muniraju v. State of Karnataka and Others**¹, held thus :

22. It is settled law that a writ of Certiorari can only be issued in exercise of extraordinary jurisdiction which is different from appellate jurisdiction. The writ jurisdiction extends only to cases where orders are passed by inferior courts or tribunals or authorities in excess of their jurisdiction or as a result of their refusal to exercise jurisdiction vested in them or they act illegally or improperly in the exercise of their jurisdiction causing grave miscarriage of justice. In regard to a finding of fact

¹ (2008) 4 SCC 451

recorded by an inferior tribunal or authority, a writ of Certiorari can be issued only if in recording such a finding, the tribunal/ authority has acted on evidence which is legally inadmissible, or has refused to admit an admissible evidence, or if the finding is not supported by any evidence at all, because in such cases the error amounts to an error of law. It is needless to mention that a pure error of fact, however grave, cannot be corrected by a writ.

11. As a sequel, the writ petition, *sans substratum*, is liable to be and is hereby dismissed at the motion stage itself.

Sd/-

Judge

Prashant Kumar Mishra

Gowri