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**HIGH COURT OF CHHATTISGARH, BILASPUR****WPC No. 2831 of 2016**

- Dev Kumari W/o Anand Lal Aged About 53 Years R/o Village- Pandari, Tahsil- Wardrafnagar, District- Balrampur, Chhattisgarh, Civil District- Surguja At Ambikapur, Revenue District- Balrampur, Chhattisgarh

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

1. The State Of Chhattisgarh Through The Secretary, Department Of Revenue, Mantralaya, Mahanadi Bhawan Naya Raipur, District Raipur, Chhattisgarh
2. The Board Of Revenue, Chhattisgarh, At Bilaspur, Bilaspur, Chhattisgarh
3. Additional Commissioner, Surguja Division, District- Surguja At Ambikapur, Chhattisgarh
4. The Sub Divisional Officer, Wardrafnagar District- Balrampur, Chhattisgarh
5. The Tahsildar, Wardrafnagar, District- Balrampur Ramanujganj, Chhattisgarh
6. Manohar Lal S/o Late Budhai Ram Aged About 64 Years
7. Ram Prasad S/o Late Budhai Ram Aged About 62 Years

Respondent No. 6 & 7 are R/o Village- Pandari, Tahsil- Wardrafnagar, District- Balrampur, Chhattisgarh

**---- Respondents**


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| For Petitioner        | : | Shri AK Prasad, Advocate             |
| For Respondents-State | : | Shri RK Mishra, Dy. AG for the State |

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**Hon'ble Shri Justice Prashant Kumar Mishra****Order On Board****16/11/2016**

1. Petitioner's late husband Anand Lal executed a sale deed in her favour for the entire land belonging to the joint family of which Budhai Ram was one of the co-sharer. Budhai Ram preferred a suit for declaring the sale deed as null and void to the extent of his share as also for partition, however, the suit

was dismissed as abated because after death of Budhai Ram his legal heirs failed to implead themselves.

2. Challenging the mutation in favour of petitioner, Budhai Ram had preferred an appeal before the Sub-Divisional Officer (R), Wadrafnagar, which was allowed vide order dated 27.02.1992, against which petitioner preferred an appeal before the Additional Commissioner, Surguja which was dismissed on 16.03.2012 , against which the revision application has been dismissed by the Board of Revenue by the impugned order.
3. A perusal of the order passed by the Board of Revenue would indicate that the main ground on which the order of mutation in favour of the petitioner was set aside was non-issuance of notice to Budhai Ram which is mandatory under Rule 27 of the Mutation Rules framed under Section 110/111 of the Chhattisgarh Land Revenue Code, 1959. Once it is found that the mutation was directed without noticing Budhai Ram or his legal heirs, the Board of Revenue should have remitted the matter back to the Tehsildar for deciding the mutation application preferred by the petitioner on merits after hearing both the parties, however, the Sub-Divisional Officer (R), the Additional Commissioner and the Board of Revenue set aside the order of mutation without sending the matter back to the Tehsildar for deciding afresh.
4. In view of the above, the order passed by the Board of Revenue is modified to the extent that upon setting aside of the order of mutation made by the Tehsildar in petitioner's favour, the Tehsildar shall reopen the application preferred by the petitioner and decide the same on its own merits after issuing notice and giving opportunity of hearing to respondents No.6 & 7. Let the Tehsildar complete the fresh proceedings at the earliest

preferably within a period of six months from the date of appearance of respondents No. 6 & 7.

5. Accordingly, the writ petition stands disposed of.

Sd/-

Judge  
Prashant Kumar Mishra

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