

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 436 of 2016

1. Pushpa Devi Agrawal Wd/o Prem Chand Agrawal, Aged About 56 Years R/o Behind Shankar Mandir Ward No. 12, Shankar Nagar, Kurud, Police Station & Post Kurud, Civil And Revenue District Dhamtari Chhattisgarh
2. Vikas Agrawal, S/o Late Prem Chand Agrawal, Aged About 37 Years R/o Behind Shankar Mandir Ward No. 12, Shankar Nagar, Kurud, Police Station & Post Kurud, Civil And Revenue District Dhamtari Chhattisgarh
3. Vinay Agrawal S/o Late Prem Chand Agrawal, Aged About 36 Years R/o Behind Shankar Mandir Ward No. 12, Shankar Nagar, Kurud, Police Station & Post Kurud, Civil And Revenue District Dhamtari Chhattisgarh
4. Smt. Seema Devi , W/o Shri Naresh Kedia, Aged About 41 Years R/o Behind Shankar Mandir Ward No. 12, Shankar Nagar, Kurud, Police Station & Post Kurud, Civil And Revenue District Dhamtari Chhattisgarh
5. Smt. Bindiya Agrawal W/o Shri Ganesh Agrawal, Aged About 36 Years R/o Behind Shankar Mandir Ward No. 12, Shankar Nagar, Kurud, Police Station & Post Kurud, Civil And Revenue District Dhamtari Chhattisgarh
6. Smt. Deepa Agrawal D/o Late Premchand Agrawal, Aged About 32 Years R/o Behind Shankar Mandir Ward No. 12, Shankar Nagar, Kurud, Police Station & Post Kurud, Civil And Revenue District Dhamtari Chhattisgarh

---- Petitioners

Versus

1. Yashwant Kumar Agrawal S/o Haricharan Agrawal, Aged About 49 Years R/o Kurud, Police Station & Post Kurud, Civil And Revenue District Dhamtari Chhattisgarh
2. Commissioner, Raipur Division, Raipur District Raipur Chhattisgarh
3. Sub Divisional Officer, Kurud, District Dhamtari Chhattisgarh

---- Respondents

For Petitioners	:	Shri Manoj Paranjpe, Advocate
For Respondent No.1/caveator	:	Shri Ankur Agrawal, Advocate
For Respondents No. 2 & 3	:	Shri R.K. Mishra, Dy.A.G., on advance copy

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

Order On Board

16/02/2016

Looking to the nature of controversy, with the consent of learned counsel appearing for the parties, the matter is finally heard and disposed off in following term:

1. The Board of revenue has recorded a finding that without proper opportunity of hearing to respondent, the order of mutation was passed. It has also been recorded that it was a case of review jurisdiction.
2. In view of the finding which have been recorded by the Board of Revenue, the proper course of action would have been to remand the matter for consideration of Tahsildar. The order proceeds on an assumption though erroneous that it was a case of exercise of review jurisdiction under Section 51 of the Land Revenue Code.
3. The application for mutation was filed on the basis of subsequent event of alleged oral partition. This required appropriate hearing after issuing notices to all the parties. In view of the finding that appropriate opportunity of hearing was not afforded to other party before passing final order, the matter was remanded to Tahsildar, it being not a case of review.
4. In view of the above, I am inclined to issue direction to the effect that the entire case is remanded to the Tahsildar, who shall now issue notices to all the affected parties, allow them to lead evidence in support of their claim and pass fresh order in the matter of claimed mutation.

Sd/-
(Manindra Mohan Shrivastava)
Judge