NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WP (227) No.420 of 2015

Abdul Haleem Khan S/o Late Abdul Hakeem Khan Aged About 62 Years R/o Akbar Khan Lane, In Front Of Mission Hospital, Police Station & Post Civil Lines, Bilaspur, Civil & Revenue District Bilaspur, (Chhattisgarh)

---- Petitioner

Versus

1. Aamna Begam And Ors. W/o Late Rahim Khan Aged About 68 Years
2. Fatima Begam D/o Late Rahim Khan Aged About 46 Years
3. Khalida D/o Late Rahim Khan Aged About 44 Years
4. Aadila D/o Late Rahim Khan Aged About 42 Years
5. Sajida D/o Late Rahim Khan Aged About 40 Years
6. Masood S/o Late Rahim Khan Aged About 38 Years
7. Shakira D/o Late Rahim Khan Aged About 36 Years
8. Imran S/o Late Rahim Khan Aged About 35 Years
9. Rahman S/o Late Rahim Khan Aged About 32 Years
10. Aashiya D/o Late Rahim Khan Aged About 30 Years
11. Rashida D/o Late Rahim Khan Aged About 27 Years
12. Sadika D/o Late Rahim Khan Aged About 25 Years
13. Salman Khan S/o Late Rahim Khan Aged About 22 Years

Respondents No.1 to 13 are R/o. Akbar Bada, June Line, Police Station & Post Civil Lines, Bilaspur, Civil and Revenue District Bilaspur (CG)

14. State Of Chhattisgarh Through Collector, Bilaspur, Civil & Revenue District Bilaspur, Chhattisgarh
15. Board Of Revenue, Bilaspur, Through Its President Board Of Revenue Bilaspur, Civil & Revenue District Bilaspur, Chhattisgarh

---- Respondents

For Petitioner : Mr.Manoj Paranjape, Advocate
For Res.No.1 to 13 : Mr.D.C. Verma, Advocate
For State : Mr.Ashish Surana, P.L.

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

09/11/2016

1. The Board of Revenue has passed an order dated 30.6.2010 and order passed in Revenue Case No.75/99 was set aside and directed the Sub Divisional Officer, Mungeli to record the name of the petitioner in the land in dispute.

2. Against which, review application was filed by respondents No.1 to 13 herein before the Board of Revenue on 8.4.2015. The Board of Revenue by order dated 30.4.2015 admitted the review application, issued the notice to the petitioner, called the records and fixed the case on 14.5.2015. On 14.5.2015 the case was fixed for final hearing on 12.6.2015.

3. Against which, this writ petition under Article 227 of the Constitution of India has been filed by the petitioner.

4. Learned counsel for the petitioner would submit that the Board of Revenue has entertained the review application, which was hopelessly barred by limitation. Order was passed by the Board of Revenue on 30.6.2010 and in the review application, without filing an application for condonation of delay and without hearing the petitioner, the imputed orders have been passed.

5. On the other hand, learned counsel for respondents No.1 to 13 would submit that respondents No.1 to 13 were not made party by the petitioner before the Board of Revenue, therefore, they were not aware of the order passed by the Board of Revenue on 30.6.2010. Therefore, it has rightly been entertained.

6. I have heard learned countless appearing for the parties and perused the documents appended with the petition.

7. The fact remains that order was passed on 30.6.2010 in which respondents No.1 to 13 were not made party, but they have filed the review application on 8.4.2015, which was hopelessly barred by limitation. The application for condonation of delay was not filed though the review application is admittedly barred by limitation.

8. The only course open to respondents No.1 to 13 was to file an application for condonation of delay and after hearing both the parties on that application, the Board of Revenue could have passed the order considering the grounds raised in the application for condonation of delay, but that has not been done.

9. Section 51 of the Chhattisgarh Land Revenue Code, 1959 (hereinafter called as “Code”) deals with review of ordes passed by the revenue authorities, which reads as under:-

> “**51. Review of orders**.- (1) The Board and every Revenue Officer may, either on its /his own motion or on the application of any party interested review any order passed by itself/himself or by any of its/his predecessors in office and pass such order in reference thereto as it/he thinks fit:
>
> Provided that-
>
> (i) if the Commissioner, Settlement Commissioner, Collector or Settlement Officer thinks it necessary to review any order which

he has not himself passed, he shall first obtain the sanction of the Board, and if an officer subordinate to a Collector or Settlement Officer proposes to review any order, whether passed by himself or by any predecessor, he shall first obtain the sanction in writing of the authority to whom he is immediately subordinate;

(i-a) no order shall be varied or reversed unless notice has been given to the parties interested to appear and be heard in support of such order;

(ii) no order from which an appeal has been made, or which is the subject of any revision proceedings shall, so long as such appeal or proceedings are pending be reviewed;

(iii) no order affecting any question of right between private persons shall be reviewed except on the application of a party to the proceedings, and no application for the review of such order shall be entertained unless it is made within ninety days from the passing of the order.

(2) No order shall be reviewed except on the grounds provided for in the Code of Civil Procedure, 1908 (V of 1908).

(3) For the purposes of this section the Collector shall be deemed to be the successor in office of any Revenue Officer who has left the district or who has ceased to exercise powers as a Revenue Officer and to whom there is no successor in the district.

(4) An order which has been dealt with in appeal or on revision shall not be reviewed by any Revenue Officer subordinate to the appellate or revisional authority."

10. Section 53 of the Code deals with application of limitation, which reads as under:-

> "**53. Application of limitation Act**.- Subject to any express provision contained in this Code the provision of the Indian Limitation Act, 1908 (IX of 1908), shall apply to all appeals and applications for review under this Code."

11. Since review application was admittedly barred by limitation as it was not filed within 90 days from 30.6.2010, the Board of Revenue could have directed respondents No.1 to 13 to file an application for condonation of delay and after deciding the delay application, the revision could have been heard on the question of admission. That has not been done by the Board of Revenue.

12. Consequently, the impugned orders dated 30.4.2015 and 14.5.2015 are set aside. Respondents No.1 to 13 are directed to file an application for condonation of delay within 30 days from the date of appearance before the Board of Revenue. The Board of Revenue shall hear the parties on the application for condonation of delay and shall pass the orders accordingly.

13. The writ petition is allowed to the extent indicated hereinabove. No order as to cost(s).

Sd/-

(Sanjay K Agrawal)
Judge

B/-