

HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Petition (Art. 227) No.996 of 2015

1. Vijay Kumar Hardel @ Vijay Kumar Hardev, aged about 39 years, S/o Vishnu Kumar Hardel, (Through Attorney - Bhupesh Kumar Hardel; Petitioner No. 2).
2. Bhupesh Kumar Hardel @ Kumar Hardev, aged about 39 years, S/o Vishnu Kumar Hardel.

Both R/o: Shikshak Nagar, Near Nutan Chowk, Bhilai-3, Tahsil: Patan, District Durg, Chhattisgarh.

(Applicants)
---- Petitioners

Versus

1. State of Chhattisgarh, through the Secretary, Revenue Department, Mantralaya, Mahanadi Gate, Naya Raipur, Capitol Complex, P.O.: Raipur, Tahsil: Raipur, Civil & Revenue Distt.: Raipur, Chhattisgarh.
2. Naib Tahsildar, Bhilai 3, Tahsil: Patan, District: Durg, Chhattisgarh.
3. Smt. Salimun Nisha, W/o Mohammed Mokim, aged about 55 years, R/o: 6 H, 34th Street, Sector-6, Bhilai Nagar, Tahsil: Durg, Civil & Revenue District: Durg, Chhattisgarh.
4. Mohammed Abid, S/o Sheikh Ramzan, aged about 45 years, R/o: Camp-1, Bhilai Power House, Tahsil: Durg, Civil & Revenue District: Durg, Chhattisgarh.
5. Rahim Ali, S/o Late Manzur Ali, aged about 36 years, R/o: Behind Mosque, Bhilai- 3, Tahsil: Patan, District: Durg, Chhattisgarh.
6. Mansur Ali, S/o Late Manzur Ali, aged about 34 years, R/o: Behind Mosque, Bhilai-3, Tahsil: Patan, District: Durg, Chhattisgarh.

(Non-applicants)
---- Respondents

For Petitioners: Mr. Rajkamal Singh, Advocate.

For State/Respondents No.1 and 2: -

Mr. Ashish Surana, Panel Lawyer.

For Respondent No.3: Mrs. Salimun Nisha - respondent No.3 in person.

For Respondents No.5 and 6: -

Mr. Chandra Bhushan Kesharwani, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

24/11/2016

1. Application under Section 250 of the Chhattisgarh Land Revenue Code, 1959 (for short 'the Code') filed by Smt. Salimun Nisha was entertained by the revenue officer and by order dated 29-8-2014, the said application was admitted for final hearing while overruling the preliminary objection against which a revision petition was preferred before the Court of Additional Collector, Durg and the said authority by its order dated 20-10-2014 dismissed the revision directing the Tahsildar / Naib Tahsildar to decide the application after giving reasonable opportunity of hearing to the parties. The said order was further assailed before the Commissioner and the Commissioner by its order dated 30-4-2015 dismissed the revision affirming the order of the Tahsildar / Naib Tahsildar. The matter was further taken up before the Board of Revenue in revision and the Board of Revenue also affirmed the order passed by the Naib Tahsildar against which this writ petition under Article 227 of the Constitution of India has been filed.
2. Mr. Rajkamal Singh, learned counsel appearing for the petitioners, would submit that so far as the suit land is concerned, the provisions of Section 250 of the Code are not applicable and the application is barred by limitation, it has been decided by the Naib Tahsildar whereas the competent authority is Tahsildar under Section 250 of the Code and the application is not maintainable.
3. On the other hand, Mr. Ashish Surana, learned Panel Lawyer appearing for the State/respondents No.1 and 2; Mrs. Salimun

Nisha, respondent No.3 appearing in person; and Mr. Chandra Bhushan Kesharwani, learned counsel appearing for respondents No.5 and 6, would support the impugned order.

4. Respondent No.4 is said to be in jail.
5. The order passed by the Tahsildar simply states that the application filed by respondent No.3 is maintainable after overruling the preliminary objection. The Additional Collector, the Commissioner and the Board of Revenue have entertained petitions and confirmed the order passed by the Naib Tahsildar admitting the application under Section 250 of the Code for final adjudication in which I do not find any error of jurisdiction warranting interference under Article 227 of the Constitution of India. However, this writ petition is disposed of by making following directions: -

1. The Collector, Durg will assign the said revenue case to the jurisdictional Tahsildar for hearing and disposal in accordance with law.
2. The question of applicability of the provisions of Section 250 of the Code will be open for the petitioners to be decided by the Tahsildar at the time of final hearing. Likewise, the question of limitation would also be open to be decided at the time of final hearing.
3. All other objections including the issue regarding jurisdiction on the ground that the question of title is pending adjudication before civil court, will be decided by the Tahsildar by its order in accordance with law.

4. The Tahsildar shall hear all the parties and dispose of the matter within six months from the date of receipt of a copy of this order.
5. Parties will be at liberty to lead their evidence.
6. Additional reply / documents may be filed by the parties.
6. No order as to cost(s).

Sd/-
(Sanjay K. Agrawal)
Judge

Soma