NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 1908 of 2016

- Shri Ramji Pandey S/o Late Shri Sidhynath Pandey, Aged About 65 Years R/o Village Jjga, Tahsil Udayapur, Police Station Udaypur, District Surguja Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through Secretary, Revenue Department, Mahanadi Bhawan, Mantralaya, Capital Complex, New Raipur District Raipur Chhattisgarh
2. Board Of Revenue, Through Its President, Board Of Revenue, Chhattisgarh Bilaspur Chhattisgarh
3. The Commissioner, Surguja, Division Ambikapur, District Surguja Chhattisgarh
4. Collector, Surguja Ambikapur, District Surguja Chhattisgarh
5. Sub Divisional Officer, Revenue Ambikapur, District Surguja Chhattisgarh

---- Respondent

For Petitioner — Shri Manoj Paranjpe, Advocate
For Respondent-State — Shri Arun Sao, Dy. AG

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

01/08/2016

1. The petitioner would call in question the order passed by the Board of Revenue, Chhattisgarh rejecting his revision application, which in-turn was preferred to assail the order passed by the

Commissioner, Surguja Division on 12.04.2016 and the order dated 26.11.2015 passed by the Collector, Surguja.

2. One Sufaldas Mahant, an ex army man, was alloted 5 acres of land vide lease dated 14.07.1973. The said Sufaldas Mahant later on migrated to Uttar Pradesh and settled there allegedly leaving the subject land in the possession of the present petitioner. On an application moved by the petitioner, the Additional Tahsildar, Ambikapur mutated the petitioner's name in the revenue record as owner of the land. The matter was re-opened by the Naib Tahsildar, Udaypur and vide orders dated 21.06.2002 and 30.07.2002, the earlier order of 13.03.1984 was recalled and it was directed that in absence of Sufaldas Mahant, the land be recorded as government land.

3. Being aggrieved by the said order of the Naib Tahsildar, Udaypur, the petitioner preferred an appeal before the Sub Divisional Officer (Revenue) [for short 'the SDO (R)], Ambikapur, which was allowed by order dated 30.06.2003. After the said order was passed, the villagers of Village Jajga moved an application before the Collector, Surguja seeking an enquiry into the matter. The Collector, Surguja obtained reports from the Naib Tahsildar, Udaypur and SDO (R), Ambikapur, which were submitted on 27.09.2013 and 22.09.2014 and thereafter the Collector, Surguja initiated *suo moto* revisional proceedings and noticed the petitioner. In the said *suo moto* revisional

proceedings, the Collector passed an order on 26.11.2015 and set aside the order passed by the Additional Tahsildar, Ambikapur on 13.03.1984 and directed that the subject land be recorded in the name of the State Government in the revenue record. Challenging the order passed by the Collector, Surguja, the petitioner moved before the Commissioner, Surguja Division, who passed the order on 12.04.2016 and rejected the petitioner's appeal. It is this order of the Commissioner which has been affirmed by the Board of Revenue.

4. It is argued that once an order was passed by the Additional Tahsildar, Ambikapur, the same could not have been reopened by the Naib Tahsildar, Udaypur, who passed the orders on 21.06.2002 and 30.07.2002. It is also argued that these orders having been set aside by the SDO (R), Ambikapur on 30.06.2003 and the said order having attained finality, the Collector, Surguja could not have initiated *suo moto* revisionary proceedings after long lapse of time.

5. Referring to the law laid down by the Supreme Court in **Jt. Collector, Ranga Reddy Dist. & Anr. etc. v. D. Narsing Rao & Ors. etc. etc.**, it is argued that the orders passed by the Collector, Commissioner and Board of Revenue deserve to be set aside, as the same have been passed after long lapse of time.

6. Learned State counsel would oppose the petition on submission

that the land has neither been allotted nor settled in favour of the petitioner by any instrument having validity in law, therefore, the order has rightly been reviewed and the land has rightly been recorded in the name of the government.

7. True it is that after long lapse of time, *suo moto* revisional power is ordinarily not exercised, however, when the petitioner has no right, title or interest in the property and there is no allotment or permission in his favour by the Government to occupy the land, the Additional Tahsildar, Ambikapur had no authority to record the petitioner's name as owner of the land. When the act is *void ab initio*, the same has to be corrected to protect the interest of the society through the superior revenue authorities. If the kind of action undertaken by the Additional Tahsildar, Ambikapur is protected and its cognizance is avoided, the lands belonging to the government in remote areas would be settled/mutated in favour of persons only on the basis of long possession depriving the State of its ownership over the land. If such actions are ignored, it will wreck havoc at the hinter lands and the Revenue Officer of the rank of Patwari or Tahsildar would confer undue benefit to the citizens, who are not entitled for it under any law.

8. In the matter of **Jt. Collector, Ranga Reddy Dist.** (supra) relied by the petitioner, the name of predecessors or the petitioner were mentioned in the revenue papers more than 5 decades back. The lands were purchased by some of the parties by a registered sale

deed and they were regularly paying land revenue since 1954. The *suo moto* revisionary power was exercised in 2005 after 5 decades and in such facts of the case, it was observed by the Supreme Court that allowing the exercise would lead to anomalous position leading to uncertainty and complications seriously affecting the rights of the parties, which were settled long back. In the case at hand, there is no document of title in favour of the petitioner. The Tahsildar recorded his name only on the basis of possession, which could not have been done, therefore, it is not a case where title devolved on a person is sought to be *suo moto* revised, but it is a case where illegal benefit was conferred by a revenue officer of the State without there being any semblance of right, title or interest in favour of the petitioner. The judgment of the Supreme Court is thus distinguishable on facts.

9. In the matter of **Executive Officer, Antiyur Town Panchayat v. G. Arumugam (dead) by Legal Representatives**[1] while considering the power of the Court to condone the delay in filing the appeal/petition, it has been observed that if because of the inaction/delay of the Government Officers, the matter is not heard on merits, it will cause enumerable harms to the government.

10. Admittedly, the petitioner has not been alloted the subject land by issuing any order or executing any instrument in his favour. He may have occupied the land under permission from the previous

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allottee but no document was executed even by the said allottee in petitioner's favour. The Additional Tahsildar, Ambikapur recorded the petitioner's name as owner of the land only on the basis of his statement that he is in long cultivating possession.

11. It is settled law that mutation of name in revenue record is for fiscal purposes and title is not created in favour of any individual merely by recording the name in the revenue records, therefore, the Collector, Commissioner and Board of Revenue have not committed any error of law in correcting the mistake.

12. For the foregoing, writ petition being bereft of any substance, deserves to be, and is hereby dismissed.

Sd/-

JUDGE

PRASHANT KUMAR MISHRA

Nirala