

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 1266 of 2016

1. Kunna Singh S/o Rai Singh, Aged About 50 Years R/o Village Gummatola (Wrongly Mentioned As Gummatoli), Tahsil Pendraroad, District Bilaspur, (Chhattisgarh)
2. Bhav Singh, S/o Heeralal, Aged About 65 Years R/o Village Gummatola (Wrongly Mentioned As Gummatoli), Tahsil Pendraroad, District Bilaspur, (Chhattisgarh)

---- Petitioners

Versus

1. State Of Chhattisgarh Through The Secretary, Revenue And Disaster Management Department, Mahanadi Bhawan, Mantralaya, New Raipur, (Chhattisgarh)
2. The Additional Commissioner, Bilaspur Division, Bilaspur, (Chhattisgarh)
3. The Additional Collector, Pendraroad, District Bilaspur, (Chhattisgarh)
4. The Sub Divisional Officer (Revenue), Pendraroad, District Bilaspur, (Chhattisgarh)
5. Babulal Singh, S/o Gokul Singh, Aged About 61 Years R/o Village Gummatola, (Wrongly Mentioned As Gummatoli), Tahsil Pendraroad, District Bilaspur, (Chhattisgarh)

---- Respondents

For Petitioners	:	Shri Dharendra Prasad Mishra, Advocate
For State	:	Shri Satish Gupta, Govt. Advocate

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

Order

11/05/2016

1. This petition under Article 226 of the Constitution of India has been preferred against order dated 5.3.2016 (Annexure P-1) by which the Additional Commissioner has allowed the revision of respondent- Babulal Singh, setting

aside the order of remand passed by the Additional Collector, Pendra Road.

2. Learned counsel for the petitioners argued that the learned Addl. Commissioner exceeded its jurisdiction in setting aside a well reasoned order of remand passed by the Additional Collector by assuming disputed facts as admitted one and by holding that the provision of Section 170-B of the C.G. Land Revenue Code, 1959 could not be invoked to inquire into allegation of fraud in respect of those transactions of sale-purchase which had taken place prior to 2.10.1959. It is submitted that the land belong to forefather of the petitioners, who is a tribal. Their forefather was illegally and fraudulently deprived of his property. Without there being any permission of the then competent authority i.e. Dy. Commissioner (Revenue) as required under the provision of the Central Provinces Land Alienation Act, 1916, the land was fraudulently recorded in the year 1954-55 in favour of one Tej Pratap and later on, the fraud continued even after coming into force of Land Revenue Code, 1954, which was repealed by the Land Revenue Code, 1959.
3. The learned revisional Court has taken into consideration the material on record which is not in dispute, which shows that the land recorded in the name of one Tej Pratap S/o Lal Khushhal Singh since 1954-55. Thus even prior to coming into force of the present Land Revenue Code w.e.f. 2.10.1959, the land was recorded in the name of persons other than the predecessor of the petitioners. Learned revisional Court has taken into consideration that the respondent placed on record number of revenue records namely khasra B-1, misal bandobast of 1927-28, records of rights, rin pustika, documents relating to payment of water tax and land revenue, which all show that even prior to coming into force of MP Land Revenue Code 1959 w.e.f. 2.10.1959, the land always remained recorded in the name of Tej Pratap and, thereafter, it devolved upon his successor including respondent- Babulal. In order to come to the conclusion that in respect of the transaction prior to 2.10.1959, provision of Section 170-B of the Code cannot be invoked nor any inquiry could be made, reliance has been placed on number of decision of M.P. High Court as also judgment of this Court in the case of *Gangaram Vs. Board of Revenue* in W.P No.1982 of 2004 decided on 9.4.2012.
4. In view of above, no jurisdictional illegality is committed to hold that provisions

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under Section 170-B of the Land Revenue Code, 1959 are not attracted and no inquiry could be made in respect of those transactions. Therefore, no fault can be found with the impugned order.

5. The petition, therefore, deserves to be dismissed and is accordingly dismissed.

Sd/-
(Manindra Mohan Shrivastava)
Judge

Praveen