

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WP227 No. 679 of 2015

Ajay Sharma S/o Shri Bhimsen Bhardwaj, Aged About 44 Years R/o Gourishankar Mandir Road, Raigarh, Police Station City Kotwali Raigarh, District Raigarh Chhattisgarh(Non- Applicant No. 2)

---- Petitioner

Versus

1. The Registrar Public Trust Cum Sub Divisional Officer (Revenue) Raigarh District Raigarh Chhattisgarh.
2. Sitaram Vishwakarma S/o Hari Krishna, Aged About 46 Years R/o Beladula, Raigarh, Tahsil & District Raigarh Chhattisgarh. (Applicant)
3. Seth Kirodimal Charitable Trust, Through The Chairman, Ramesh Moda S/o Purushottam Das Moda, R/o Gaddi Chowk, Raigarh Chhattisgarh. (Non - Applicant No. 1)

---- Respondents

For Petitioner	:	Shri A.V. Shridhar, Advocate
For Respondent No.1/State	:	Ms. Tripti Rao, Panel Lawyer
For Respondent No.2	:	Shri Chandresh Shrivastava, Advocate
For Respondent No.3	:	None appears though served

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

Order On Board

14/03/2016

Heard.

1. This petition deserves to be allowed on the short ground that respondent No.1-Registrar Public Trust-cum-Sub Divisional Officer (Revenue) does not have jurisdiction to pass any order of interim nature under the statutory scheme of C.G. Public Trust Act, 1951 (in short "*the Act of 1951*") which is evident from bare reading of the relevant provision reproduced herein below:

“26. Application to Court for directions:- (1) If the Registrar on the application of any person interested in the public trust or otherwise is satisfied that-

(a) the original object of the public trust has failed,

(b) the trust property is not being properly managed or administered;
or

(c) the direction of the Court is necessary for the administration of the public trust:

he may, after giving the working trustee an opportunity to be heard, direct such trustee to apply to Court for directions within the time specified by the Registrar.

(2) If the trustee so directed fails to make an application as required, or if there is no trustee of the public trust or if for any other reason, the Registrar considers it expedient to do so, he shall himself make an application to the Court.”

2. The statutory scheme only empowers the Registrar to require the trustee to move proper application before the Court for direction and upon failure, to himself apply to the Court and nothing more.
3. Learned counsel for the respondents could not point out to the Court any other provision contained in the Act of 1951 empowering the Registrar to pass an order of the interim nature as has been passed and impugned in this petition.
4. Learned counsel for respondent No.2 brings to the notice of this Court that earlier the petitioner had filed a suit wherein prayer for interim relief was rejected and was maintained in appeal also. Later on, he was permitted to withdraw the suit with liberty to file afresh. He also brings to the notice of this Court that earlier when the Board of Revenue had passed an order, it was challenged before this Court, successfully culminating in order dated 29.7.2015 passed in WP227 No. 224 of 2014. On these facts, he submits that the petitioner ought to have approached the Civil Court only.

5. The issue raised in this petition is purely of jurisdiction, which does not require inquiry into any facts. The petition is in the nature of one under Article 226 & 227 of the Constitution of India which confers constitutional jurisdiction on the High Court to keep the authority within its bounds. The petitioner has sought to invoke the certiorari supervisory jurisdiction of the High Court on the sole submission that the Registrar had no authority under the law to pass interim order and his authority is confined only to make an inquiry requiring the trustee to make application before the Court and on his failure, he himself may move an application before the Court. The issue being purely of jurisdiction, the other pending proceedings or orders passed do not come in the way of exercising supervisory jurisdiction of this Court. This is more so when the issue of jurisdiction has not been decided in any collateral proceedings.
6. In the result, the petition is allowed. Impugned order to the extent it passes interim order is set aside as being null and void. This order shall not come in the way of Registrar in taking appropriate steps and passing orders in the matter within the precinct of his power conferred under Section 22 of the Public Trusts Act, 1951.

Sd/-
(Manindra Mohan Shrivastava)
Judge