**NAFR**

# HIGH COURT OF CHHATTISGARH, BILASPUR

**WP227 No. 875 of 2015**

1. Md. Yusuf Ali S/o Shri Sarfuddin Ali, Aged About 62 Years R/o Bazaar Chowk, Dongargaon, Distt. Rajnandgaon, (Chhattisgarh)

2. Smt. Shanti Bai Gupta, W/o Shri Chotelal Gupta, Aged About 70 Years R/o Bazaar Chowk, Dongargaon, District Rajnandgaon (Chhattisgarh)................(Applicant)

**---- Petitioner**

**Versus**

1. Leelaben (Died) Through Lrs:-

   **1. (a)** Manoj Kumar Patel, S/o Late Shri Jayanti Bhai Patel

   **1. (b)** Deepak Kumar Patel, S/o Late Shri Jayanti Bhai Patel

   **1. (c)** Leel Bai Patel, D/o Jayanti Bhai Patel

   All R/o Kamathi Line, Rajnandgaon, Distt. Rajnandgaon, (Chhattisgarh)

2. Shobha Devi Bhattad, R/o Bazaar Chowk, Dongargaon, Tahsil And District Rajnandgaon (Chhattisgarh)................(Non-Applicant)

3. Sub Divisional Officer, (R) Dongargaon, District Rajnandgaon (Chhattisgarh )...............(Non-Applicant)

4. Chhattisgarh Board Of Revenue, Bilaspur (Chhattisgarh )............... (Non-Applicant)

**---- Respondent**

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| For Petitioners | Shri V. C. Ottalwar, Advocate and Shri Pallav Mishra, Advocate |
| For Respondent-State | Shri S. Majid Ali, PL |
| For Respondent No.1 | Shri V. K. Sharma, Advocate |

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**Hon'ble Shri Justice Prashant Kumar Mishra**

**Order On Board**

**09/08/2016**

1. The property involved in the present proceedings was owned by one Jeevan Lal Soni. On account of recoverable dues against Jeevan Lal Soni, the Sales Tax Department initiated recovery proceedings, wherein the subject property was attached and thereafter it was put to auction. In the said auction proceedings, the respondent No.1 purchased the property in the year 1993. After execution of the sale deed in his favour by the Recovery Officer, he applied for handing over possession of the property and thereafter moved before the Tahsildar, Dongargaon under Section 250 read with Section 38 of the Chhattisgarh Land Revenue Code, 1959 (henceforth 'the Code, 1959').

2. The application preferred by the respondent No.1 was dismissed for want of prosecution on 28.05.2005 and his application for restoration was dismissed by the Tahsildar, Dongargaon on 06.09.2011. Appeal preferred by the respondent No.1 before the Sub Divisional Officer (Revenue), Dongargaon [henceforth 'the SDO' (R)'] was allowed and the matter was remitted back to the Tahsildar, Dongargaon for passing orders on merits. Petitioners' revision petition before the Additional Collector, Rajnandgaon was dismissed and thereafter their revision application was also dismissed by the Commissioner, Durg Division on 11.09.2014. Against this order, the petitioners preferred revision application before the Board of Revenue, Bilaspur which has been dismissed by the impugned order.

3. Perusal of the papers filed with the return would demonstrate that when the matter was remitted back by the SDO (R), Dongargaon to the Tahsildar, Dongargaon for deciding the matter on merits, the Tahsildar, Dongargaon passed order on 25.10.2014 and 10.11.2014 (Annexure-R-1/7) allowing the application preferred by the respondent

No.1 and directing the petitioners herein to deliver back possession.

4. In view of the above, since proceedings under Section 250 read with Section 38 of the Code, 1959 has attained finality at the level of Tahsildar, the present writ petition against the orders passed in the restoration proceedings is no longer maintainable.

5. Accordingly, the writ petition is dismissed, however, the petitioner would be at liberty to challenge the order passed by the Tahsildar, Dongargaon on 25.10.2014/10.11.2014 before the Higher Court, in accordance with law.

Sd/-

JUDGE

PRASHANT KUMAR MISHRA

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