

HIGH COURT OF CHHATTISGARH, BILASPUR

WP227 No. 255 of 2015

Chandrika S/o Late Anandi Aged About 50 Years Caste Panika R/o Village
Chungadi, Tehsil Bhaiyathan, District Surguja Now District Surajpur Chhattisgarh

---- Petitioner

Versus

1. Raghunath S/o Late Mahesh Aged About 65 Years Caste Panika R/o Village
Chungadi, Tehsil Bhaiyathan, District Surguja Now District Surajpur Chhattisgarh
2. Basant S/o Late Anandi Aged About 55 Years R/o Village Chungadi, Tehsil
Bhaiyathan, District Surguja Now District Surajpur Chhattisgarh
3. Shanker D/o Late Anandi Aged About 50 Years Caste Panika R/o Village
Chungadi, Tehsil Bhaiyathan, District Surguja Now District Surajpur Chhattisgarh
4. Sub Divisional Officer (Revenue) Surajpur (Now Bhaiyathan), District Surajpur
Chhattisgarh
5. The District Collector Surajpur, District Surajpur Chhattisgarh
6. Commissioner (Revenue) Surguja Division Ambikapur Surguja Chhattisgarh
7. Board Of Revenue Chhattisgarh Bilaspur Chhattisgarh Through Chairman
8. State of Chhattisgarh, through the Secretary, Revenue Department, Mahanadi
Bhawan, Mantralaya, New Raipur (CG)

---- Respondents

Shri S.A. Ansari, counsel for the petitioner/s.

None for respondents 1 to 7 though served.

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

07/04/2016

This petition has been filed by the petitioner aggrieved by order dated 26/02/2015 passed by the Board of Revenue whereby the revision of the petitioner has been dismissed affirming the order passed by the Subordinate Court.

2. Learned counsel for the petitioner submits that the mutation entries made way back in the year 1996 were corrected on 28/07/2010 ignoring that the name

of the petitioner remained recorded since long in the revenue records. It is also submitted that there is no proper consideration of prayer for condonation of delay in filing appeal. The appeal was filed after long delay after several decades. Therefore, the same was liable to be dismissed.

3. The Revenue Courts, including the Board of Revenue, have recorded concurrent finding that upon settlement, *patta* was granted in favour of Mahesh and after his death, while mutating names of LRs of Mahesh, name of legal representative of Ganesh was also mutated, without holding proper enquiry, without inviting objections by notices and without hearing. It was also held that prior to 1976, there was no jurisdiction vested with Revenue Inspector to carry out any change / mutation and therefore, the order passed in the year 1968 was without jurisdiction *void ab initio*.

4. Learned counsel for the petitioner submits that he is in *de facto* possession of the land in dispute under his own title since long.

5. In view of the concurrent findings of the Revenue Courts, this Court finds no grounds for interference with the order impugned. However, if the petitioner has any claim based on title and possession, his remedy lies in filing suit for seeking declaration and injunction.

Sd/-
(Manindra Mohan Shrivastava)
Judge