

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No. 242 of 2016**

Kamla Bai W/o Shyamsundar, Aged About 72 Years R/o Village Gadahabhata,
P.H.No. 31, Circle And Tahsil Basna, District Mahasamund, (Chhattisgarh)

---- Appellant**Versus**

1. Ram Govind S/o Dadhiwaman, Aged About 62 Years R/o Village Gadahabhata,
P.H. No. 31, Circle And Tahsil Basna, District Mahasamund, (Chhattisgarh)
2. Board Of Revenue, Circuit Court, Raipur, District Raipur, (Chhattisgarh)
3. Additional Commissioner, Raipur Division, Raipur, (Chhattisgarh)
4. Sub Divisional Officer, Revenue, Saraipali, District Mahasamund, (Chhattisgarh)
5. Tahsildar, Basna, District Mahasamund, (Chhattisgarh)

---- Respondents**And****Writ Appeal No. 254 of 2016**

Ram Govind S/o Dadhiwaman, Aged About 62 Years R/o Village Gadahabhata,
P. H. No. 31, Circle And Tahsil Basna, District Mahasamund, (Chhattisgarh)

---- Appellant**Versus**

1. Kamala Bai W/o Shyamsundar, R/o Village Gadahabhata, P.H. No. 31, Circle
And Tahsil Basna, District Mahasamund, (Chhattisgarh)
2. Board Of Revenue, Circuit Court, Raipur, (Chhattisgarh)
3. Additional Commissioner, Raipur Division, Raipur, (Chhattisgarh)
4. Sub Divisional Officer, Revenue, Saraipali, District Mahasamund, (Chhattisgarh)
5. Tahsildar, Basna, District Mahasamund, (Chhattisgarh)

---- Respondents

For Appellant-Kamla Bai	: Shri Adil Minhaz, Advocate.
For Appellant-Ram Govind	: Shri Raghavendra Pradhan, Advocate.
For Respondent/State	: Shri Y.S.Thakur, Deputy Advocate General.

Hon'ble Shri Deepak Gupta, Chief Justice
Hon'ble Shri Sanjay K. Agrawal, J.

Judgment on Board

Per Deepak Gupta, Chief Justice

29/08/2016

1. The Appellant/Petitioner-Ram Govind had filed a petition under Article 227 of the Constitution of India in which he had complained that the order of Board of Revenue to the extent that Petitioner-Kamla Bai had not been given an opportunity of hearing, was not correct. The learned Single Judge disposed of this writ petition in the following terms:

"9. In view of above consideration, I am not inclined to interfere with impugned order. However, it would be in the interest of justice to direct both the parties to examine the process server and witnesses of so-called notice. Both the parties would be at liberty to cross-examine the aforesaid witnesses. The Tahsildar, after examination of witnesses, record a finding of service of notice. If it is found that the notice was properly served on respondent-Kamla Bai, the order passed by the Tahsildar regarding mutation shall stand. However, if it is found that the notice was not served, the Tahsildar shall hear both the parties and then pass a fresh order on the mutation proceedings. Records of the Court below be remitted forthwith."

2. The aforesaid order is an order passed totally in exercise of the powers vested in the Single Judge under Article 227 of the Constitution of India. This order has no element of Article 226.
3. The proviso to Section 2(1) of the Chhattisgarh High Court (Appeal to Division Bench) Act, 2006 reads as under:

"2. Appeal to the Division Bench of the High Court from a judgment or order of one judge of the High Court made in exercise of original jurisdiction. - (1) An appeal shall lie from a judgment or the order passed by one Judge of the High Court in exercise of original jurisdiction under Article 226 of the Constitution of India, to a Division Bench comprising of two Judges of the same High Court:

Provided that no such appeal shall lie against an interlocutory order or against an order passed in exercise of supervisory jurisdiction under Article 227 of the Constitution of India."

4. The proviso clearly states that no appeal shall lie against an interlocutory order passed in exercise of supervisory jurisdiction under Article 227 of the Constitution.
5. We are not commenting on the correctness of the order that has been passed in exercise of supervisory jurisdiction under Article 227 of the Constitution and therefore, the remedy to the Appellants lie somewhere else and not before this Court.
6. In view of above, the appeals are dismissed only on the ground that they are not maintainable.

Sd/-
(Deepak Gupta)
CHIEF JUSTICE

Sd/-
(Sanjay K. Agrawal)
Judge