NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 3002 of 2016

1. Itwar Singh S/o Shri Suraaj Singh, aged about 35 years,

2. Shiv Singh, S/o Shri Suraaj Singh , Aged About 25 Years

3. Suraaj Singh, S/o Late Shri Pawan Singh, Aged About 65 Years

4. Sujmat Bai, D/o Shri Suraaj Singh, Aged About 23 Years

All are Legal Representative Of Late Smt. Chainkunwar and all are R/o Village Nunera, Police Station & Tahsil Katghora, Civil & Revenue District Korba, (Chhattisgarh)

---- Petitioner

Versus

1. Sumer Singh S/o Shri Dileshwar Singh, Aged About 60 Years R/o Village Nunera, Police Station & Tahsil Katghora, Civil & Revenue District Korba, (Chhattisgarh)

2. The Revenue Board Bilaspur, Chhattisgarh, Through The President, Civil & Revenue District Bilaspur, (Chhattisgarh)

3. The Additional Commissioner, Bilaspur, Division Bilaspur, Civil and Revenue District Bilaspur (CG)

4. The Sub Divisional Officer (Rev.), Katghora, Civil & Revenue District Korba, (Chhattisgarh)

---- Respondent

For Petitioners Mr. Paras Mani Shrivas, Advocate
For Respondent /State Mr. A.S. Kachhwaha, Addl. AG

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

7/12/2016

1. Heard.

2. Challenge in this petition is to the order passed by the Board of Revenue, Chhattisgarh, Bilaspur on 07.10.2016 dismissing the Revision Application preferred by the petitioners, who are the legal representatives of late Smt. Chainkunwar, against the order passed by the Additional Commissioner, Bilaspur Division on 22.04.2010.

3. The parties are litigating for mutation of their names in the revenue record.

4. The land was originally owned by Bhanwar Sai S/o Prem Sai . After his death, it allegedly devolved upon late Bhudhwara Bai Wd/o Bhanwar Sai and his three daughters Chatkunwar, Rathkunwar and late Chainkunwar. In the year 1995, respondent No.1 Sumer Singh raised dispute for reaping the harvest on the ground that he has purchased the land from Bhudwara Bai and got it mutated in his name vide order dated 30.06.1983 passed by the Revenue Inspector. Since the name of Chainkunwar was recorded in the revenue record after the death of Budhwara Bai, she preferred an appeal against the order dated 30.06.1983. The SDO(R) passed an order on 31.01.1998, allowing the appeal preferred by Chainkunwar and setting aside the order passed by the Revenue Inspector on 30.06.1983. The SDO(R) directed the Revenue Inspector to pass fresh order after inviting objections.

5. Challenging the said order of SDO(R), an appeal was preferred by respondent No.1-Sumer Singh before the Additional Commissioner, in which, it was found that Sumer Singh has purchased the land from Budhwara Bai by registered sale-deed

dated 03.02.1981. It was observed by the Additional Commissioner that before mutating the name of Sumer Singh, proclamation was issued, but no objections were received, therefore, the procedure for effecting mutation was followed and there is no illegality committed by the Revenue Inspector. The Additional Commissioner while setting aside the order passed by the SDO(R) on 31.01.1998, allowed the appeal preferred by Sumer Singh vide order dated 22.04.2010, maintaining the order passed by the Revenue Inspector. This order of Additional Commissioner has been affirmed by the Board of Revenue by its impugned order.

6. I have heard learned counsel for the petitioners and perused the record.

7. While dismissing the petitioners' Revision application, the Board of Revenue has observed that Budhwara Bai has sold the land in favour of respondent No.1- Sumer Singh on 03.02.1981, to which, the petitioners have not objected nor they preferred any civil suit for cancellation of the sale-deed. The name of Sumer Singh was mutated on 30.06.1983 on the basis of registered sale-deed. It was also found by the Board of Revenue that the name of Sumer Singh was validly mutated after issuing proclamation and inviting objections, therefore, the SDO(R) has passed an illegal order on 31.01.1998, which has rightly been set-aside by the Additional Commissioner.

8. The issue concerning mutation is pending since last 33 years as the initial order of Revenue Inspector was passed on

30.06.1983.

9. In order to give quietus to the proceedings, this Court would not interfere in this petition under Article 226 of the Constitution of India. However, if the petitioners so desire, they may prefer a civil suit for declaration of their title over the suit land, which shall be considered in accordance with law. In any such suit, it shall remain open for the respondents to raise plea of limitation.

10. The wit petition stands dismissed, subject, however to the above observations.

Sd/-

Judge

(Prashant Kumar Mishra)

Shyna