

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 3148 of 2016**

1. Patrika S/o Late Titra, Aged About 41 Years
2. Smt. Santoshi, W/o. Late Omprakash Aged About 32 Years
3. Minor Praveen S/o. Late Omprakash Aged About 12 Years Through Natural Guardian Mother Smt. Santoshi Wd/o. Late Omprakash.,
4. Sanmath S/o Late Titra, Aged About 50 Years
5. Savita D/o. Late Titra, Aged About 45 Years
6. Durga D/o. Late Titra, Aged About 38 Years
7. Hemantin D/o. Late Titra, Aged About 35 Years

All By Caste Satnami,

All R/o. Village Bhopsara, P. H. 34, R Nm Maro, P. S. Tehsil Nawagarh,
District Bemetara (Chhattisgarh)

---- Petitioners

Versus

1. Bhagela S/o. Late Raguvar, Aged About 45 Years
2. Bhagwat, S/o. Late Raguwar, Aged About 42 Years
3. Ramayan S/o. Late Raguvar, Aged About 40 Years
4. Geetaram, S/o. Late Raguvar, Aged About 38 Years

All By Caste Satnami,

All R/o. Village Rohra, P. S. & Tehsil Simga, District Baloda Bazar
Bhatapara (Chhattisgarh).

(age note mentioned in the order impugned)

5. Chandrika S/o. Titra, Aged About 43 Years R/o. Village Bhopsara, P. H. 34,
R Nm Maro, P. S. Tehsil Nawagarh, District Bemetara (Chhattisgarh)
6. The State of Chhattisgarh, Through The Collector, Durg, District Durg
(Chhattisgarh)

---- Respondents

For Petitioners	:	Shri Malay Kumar Bhaduri, Advocate
For Respondents-State	:	Shri Vinod Deshmukh, GA for the State

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

21/12/2016

1. Petitioners are aggrieved by the order passed by the Board of Revenue on 09.11.2016, rejecting their prayer for setting aside the ex-parte order dated 21.06.2016 for the reason that the senior counsel engaged by the petitioner was not available due to personal difficulty and his assisting counsel sought adjournment, which was refused.
2. A reading of the entire order-sheet of the proceedings pending before the Board of Revenue would indicate that when the petitioners remained unserved by ordinary process, notice was issued by registered process and thereafter they were served by publication, however, the petitioners failed to appear on 21.06.2016, therefore, they were proceeded ex-parte. The petitioners appeared on 16.08.2016 and moved application for setting aside the ex-parte order. The application was posted for hearing on 09.11.2016 when the impugned order has been passed after refusing prayer for adjournment made by the assisting counsel.
3. After hearing learned counsel for the petitioners and on perusal of the orders, it would appear that the Board of Revenue has gone hyper-technical to reject the application for setting aside the ex-parte order without passing a reasoned order. Even if, the senior counsel was not available, the Board of Revenue should have insisted the assisting counsel to argue the matter and thereafter order on merits could have been passed after examining the application to find out adequacy of the reason assigned therein for setting

aside the ex-parte order.

4. On due consideration, the order passed by the Board of Revenue on 09.11.2016 being without any reason and thus being in violation of principles of natural justice, deserves to be and is hereby set aside. The matter is remitted back to the Board of Revenue to rehear the parties on application for setting aside the ex-parte order and decide the same in accordance with law.
5. The writ petition stands allowed to the above extent.

Sd/-

Judge

Prashant Kumar Mishra