NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Petition (227) No. 4263 of 2008

Liba Ram, S/o. Ramratan Gond (since died)

Shyambai, Wd/o. Late Libaram, aged about 55 years, R/o. Kedarpur, Mission Chowk, Ambikapur, Police Station & Post Ambikapur, Civil & Revenue District Surguja (C.G.)

---- Petitioner

Versus

1. Smt. Jameela Khatun, W/o. Mohd. Nazeem,
2. Deepak Gupta, S/o. Late Shankar Prasad Gupta,
3. Rohit Kumar Gupta, S/o. Late Shankar Prasad Gupta,
4. Shivnath Prasad Gupta, S/o. Birjhu Sao,
5. Smt. Prameela Shrivastava, W/o. Ravi Sahay,
6. Mohd. Gaffar, S/o. Mohd. Sharif,
7. Mohd. Imtiyaz, S/o. Shri Shakur

…... Applicants

All above R/o. Baurapara (Bauripara), Ambikapur, Police Station & Post Ambikapur, Civil & Revenue District Surguja (C.G.)

8. State of Chhattisgarh, thorugh Collector, Surguja, Ambikapur, Civil & Revenue District Surguja (C.G.)

---- Respondents

For Petitioner : Mr. Manoj Paranjpe, Advocate.
For Respondents No.1 to 7 : Mr. P.P. Sahu, Advocate.
For Respondent No. 8 : Mr. Aditya Sharma, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

26/09/2017

(1) The petitioner filed an application under Section 170-B of the M.P./C.G. Land Revenue Code, 1959 (henceforth 'Code') for reversal of the subject land, which was rejected by the Sub Divisional Officer (Revenue), Ambikapur, against which he preferred appeal before the Collector, Ambikapur and the Collector, Ambikapur allowed the appeal and directed reversal of the land.

(2) Respondents No. 1 to 7 preferred revision before the Board of Revenue thereagainst. The Board of Revenue, by its impugned order dated 14th June, 2007, has set aside the order of Collector and restored the order of Sub Divisional Officer (Revenue).

(3) Feeling aggrieved and dissatisfied with the order of Board of Revenue, the petitioner herein preferred writ petition under Article 227 of the Constitution of India questioning the same.

(4) Mr. Manoj Paranjpe, counsel for the petitioner would submit that petitioner is son of Ramratan Gond and his second wife Somari Bai and the land was sold by Ramavtar, Ramesh & Devnath, who were born out of wed-lock of Bundo Bai & Ghurai Chamar, to respondents No. 1 to 7. He submits that Bundo Bai was the daughter of Ramratan Gond & his first wife Daulat Bai. Admittedly, Daulat Bai was the daughter of Budha Gond, who was the member of aboriginal tribe and, therefore, provisions of Section 170-B of the Land Revenue Code is attracted in the present case. He submits that no proper enquiry was conducted by the S.D.O while passing the order dated 8.6.2004 i.e. no opportunity of hearing was given to the petitioner and respondents No. 1 to 7.

(5) On the other hand, Mr. P.P. Sahu, counsel for resondents No. 1 to 7 would submit that since the suit property is originally belong to Daulat Bai and the same was recorded in her name in the revenue records and after her death, Bundo Bai (daughter of Daulat Bai) has inherited the same during the life time of Ramratan Gond itself and, thereafter the Bundo Bai was married to one Ghurai Ram, who was the member of Scheduled Caste and, therefore, the respondents No. 1 to 7 have purchased the land from Ramavtar, Ramesh & Devnath, who were **not** the member of aboriginal tribe and, therefore, provisions of Section 170-B of the Code are not applicable in the present case.

(6) I have heard learned counsel appearing for the parties and considered their rival submissions made hereinabove and also gone through the record with utmost circumspection.

(7) Sub-section 3 of Section 170-B of the Code states as under :-

> "1**70-B. Reversion of land of members of aboriginal tribe which was transferred by fraud.**-
>
> (1) xxx xxxx xxx
>
> (2) XXX XXX XXX
>
> (3) On receipt of the information under sub-section (1) the Sub-Divisional Officer shall make such enquiry as may be deemed necessary about all such transactions of transfer and if he finds that the member of aboriginal tribe has been defrauded of his legitimate right he shall declare the transaction null and void and

pass an order revesting the agricultural land in the transferer and, if he is dead, in his legal heirs.

(8) The Sub Divisional Officer has not made any enquiry as per Section 170-B(3) of the Code, as such, the order of Sub-Divisional Officer is vitiated as no proper enquiry was made by the Sub Divisional Officer about the said transaction, which is mandatory in nature.

(9) In the instant case, Board of Revenue has held that the petitioner has no right, title or interest over the suit property and, therefore, the provisions of Section 170-B of the Code would not be applicable. Though, in the instant case enquiry has been made but it is an *ex parte* enquiry in which, only statement of the petitioner was recorded and no opportunity of cross-examination was afforded to the present respondents, who are purchasers of the suit land. Therefore, it would be expedient to set aside the impugned order passed by the Board of Revenue and the matter is restored to the file of S.D.O. (Revenue) to make detailed enquiry as provided under Section 170-B (3) of the Code in accordance with law within a period of three months from the date of receipt of certified copy of this order. Ordered accordingly.

(10) Accordingly, the writ petition is allowed to the extent indicated hereinabove.

Sd/-

(Sanjay K. Agrawal)
Judge