

HIGH COURT OF CHHATTISGARH, BILASPURWrit Petition No.850 of 2000

(Arising out of order dated 25-11-1999 in Revision Case No.23/A-23/98-99 of the learned Commissioner, Bastar Division, Jagdalpur)

Lichhindar (Dead) Through LRs

1. Chiatra, aged about 55 years, S/o Late Lachhinder
2. Ratiram, aged about 52 years, S/o Late Lachhinder
3. Ratilal, aged about 48 years, S/o Late Lachhinder
4. Baldeo, aged about 45 years, S/o Late Lachhinder

All R/o Village Mulmula, Tahsil and District Kondagaon

---- Petitioners

Versus

1. Board of Revenue, Gwalior, through its Chairman.
2. The Commissioner, Bastar Division, Jagdalpur.
3. The Additional Collector, Jagdalpur, District Bastar.
4. The Additional Collector, Kanker, District Kanker.
5. The Sub Divisional Officer (Revenue), Kondagaon, District Bastar.
6. Deleted (Baisakhu)
7. Lachhindar (Dead) Through LRs

7(A) Chamrin, W/o Late Shri Lachhinder, aged about 50 years,

7(B) Navlu Ram, S/o Late Shri Lachhinder, aged about 25 years,

Both R/o Chimpaband, Tahsil Kondagaon, Distt. Bastar (C.G.)

8. Laxman, S/o Samnath Gond, R/o Village Chimpaband, Tahsil Kondagaon, District Bastar.

---- Respondents

For Petitioners: Mr. Parag Kotecha, Advocate.

For Respondents No.2 to 5 / State: -

Mr. Shashank Thakur, Govt. Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

03/10/2017

1. This writ petition is directed against the order passed by the Commissioner, Bastar Division, Jagdalpur, dated 25-11-1999 by which the learned Commissioner has set aside the order of Additional Collector, Jagdalpur dated 29-6-1999 and restored the order of the Sub Divisional Officer (Revenue), Kondagaon dated 29-7-1998 reverting the land in favour of ab original tribe Pilu, S/o Aaytu Gond.
2. Learned counsel for the petitioners would submit that the order passed by the learned Commissioner is absolutely illegal, as permission to sell the land under Section 165 (6) of the Chhattisgarh Land Revenue Code, 1959 (for short, 'the Code') was granted by the Additional Collector in favour of Chaitram, S/o Lachhinder Koshta and sale was made in favour of Lacchinder on 2-5-1967. He would also submit that suo motu revisional power has been exercised with a delay of eleven years, therefore, the order passed by the Commissioner is liable to be set aside. He relied upon a judgment of the Supreme Court in the matter of **Ranveer Singh (Dead) Through L.Rs. and another v. State of M.P.**¹
3. On the other hand, learned State counsel would oppose the submission and support the impugned order.
4. I have heard learned counsel for the parties and perused the

¹ I.L.R. [2011] M.P., 1

orders impugned.

5. Land admeasuring 8.30 acres was recorded in favour of ab original tribe Pilu. Pilu made an application under Section 165 (6) of the Code to sell the land, before the Collector on 23-1-1967. The Sub Divisional Officer submitted its report to the Collector on 17-4-1967 which the Collector approved on 25-4-1967 permitting sale to Chaitram, but no separate order was passed by the Additional Collector, however, the Sub Divisional Officer on 28-4-1967 held that permission has been granted to Lachhinder. Application under Section 170-B of the Code filed by Pilu was rejected on 20-9-1982 which was reversed by the Collector and the order of the Collector was set aside by the Commissioner and the matter was remanded to the Sub Divisional Officer. The Sub Divisional Officer by order dated 29-7-1998 reverted the land in favour of LRs of Pilu, but that order was reversed by the Additional Collector by order dated 29-6-1999 and the order dated 29-6-1999 was challenged in revision before the Commissioner, Bastar Division, Jagdalpur, but this time, the Commissioner allowed the revision and restored the order of the Sub Divisional Officer (Revenue). The Commissioner has held that permission to sale was made in favour of Chaitram, S/o Lachhinder Koshta, whereas the sale deed has been registered in favour of Lachhinder. Report of the Sub Divisional Officer dated 17-4-1967 would show that the Collector has approved and granted permission to sell the land to Chaitram, S/o Lachhinder, but the Collector did not issue any order separately and the Sub Divisional Officer by its order dated 28-4-1967 held that permission was

granted to Pilu to sell the land in favour of Chaitram whereas, the Collector has granted permission on 25-4-1967 for selling the land in favour of Chaitram, S/o Lachhinder Koshta. When the Additional Collector has not issued any order, on what basis, the Sub Divisional Officer issued such order is not clear from the record. The application was made by Pilu for sale of land of 7.85 acres, whereas the recommendation was made by the Sub Divisional Officer for sale of 8.30 acres of land for a consideration of ₹ 1,500/- only. Again there is no basis as to for what reason the area of land has been increased from 7.85 acres to 8.30 acres. This has also impressed the Commissioner to hold that the sale is not bona fide. In sum and substance, the Commissioner was not satisfied with the order of the Additional Collector setting aside the order of the Sub Divisional Officer reverting the land and ultimately set aside the order of the Additional Collector. I do not find any illegality in the order of the Commissioner holding the transaction not to be bona fide and upholding the order of the Sub Divisional Officer reverting the land in favour of LRs of Pilu and I do not consider it a fit case to exercise the jurisdiction under Article 227 of the Constitution of India, as such, the writ petition deserves to be dismissed.

6. So far as exercise of suo motu revisional jurisdiction is concerned, parties are in litigation since 1982 and have contested the case on merits. It is not the case where the Collector has reversed the order of the Sub Divisional Officer only on the ground of delay in exercising suo motu revisional jurisdiction. Therefore, merely because there is delay in taking-up the matter under suo motu

revisional jurisdiction, as the land of ab original tribe admeasuring 8.30 acres was sold only by paying a consideration amount of ₹ 1,500/-, I do not find any ground to interfere. The writ petition is accordingly dismissed. However, the petitioners shall pay a cost of ₹ 5,000/- to the private respondents.

Sd/-
(Sanjay K. Agrawal)
Judge

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