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HIGH COURT OF CHHATTISGARH, BILASPUR

WP(227) No.6823 of 2009

Balram Kashyap S/o. Shri J.L. Kashyap, aged about 41 years, R/o Lakhenagar, Raipur, Tahsil & Dist.-Raipur (CG)

----Petitioner

Versus

1. Board of Revenue, Chhattisgarh, Bilaspur, Circuit Court at Raipur (CG)
2. Commissioner, Raipur Division, Raipur (CG)
3. Sub Divisional Officer (Revenue), Raipur (CG)
4. Tahsildar Raipur, Distt.Raipur (CG)
5. Gangadhar Ramtekkar S/o Shobharam, R/o Engineering College Premises, Raipur (CG)
6. Gurupal Singh Bhalla, R/o. Udaya Sahkari Grih Nirman Samity, Tatibandh, Raipur (CG)

---- Respondents

For Petitioner	:	Mr.Raghvendra Pradhan, Advocate
For Res.No.1 to 4	:	Mr.Arun Sao, Dy.A.G.
For Respondent No.5	:	Mr.Hari Agrawal, Advocate

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

29/08/2017

1. The petitioner purchased the land bearing Kh.No.234 area 0.057 hectare situated at village Tatibandh, Distt.Raipur and mutated his name in the revenue record. He made an application for demarcation of the said land. Notice was issued to Uday Grih Nirmal Samiti only and the revenue inspector gave the report of demarcation of Kh.No.234. On the basis of said report, the Tahsildar on 13.3.2008 directed for delivery of possession to the petitioner under

Section 250 of the Chhattisgarh Land Revenue Code, 1959. Respondent No.5 preferred first appeal appeal before the Sub Divisional Officer. The Sub Divisional Officer affirmed the order of the Tahsildar. Against which, respondent No.5 preferred second appeal before the Additional Commissioner, Raipur Division, Raipur, which was allowed and orders of the Tahsildar and the Sub Divisional Officer were set aside, against which, the petitioner preferred the revision before the Board of Revenue. The Board of Revenue affirmed the order passed by the Additional Commissioner. Feeling aggrieved against that order, this writ petition under Article 227 of the Constitution of India has been filed by the petitioner herein.

2. Learned counsel for the petitioner would submit that order passed by the Additional Commissioner as affirmed by the Board of Revenue suffers from jurisdictional error and is liable to be set aside.

3. On the other hand, learned State Counsel and learned counsel appearing for respondent No.5 would support the impugned order.

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

5. The petitioner is said to be purchased the land bearing Kh.No.234 and on his application land was demarcated and order under Section 250 of the Code directing delivery of possession was passed. However, respondent No.5 who was an interested party in the demarcation was not noticed and was not heard. The order of the Tahsildar was affirmed by the Sub Divisional Officer. However, the Additional Commissioner has set aside the orders passed by the Tahsildar and the Sub Divisional Officer, which has been affirmed by the Board of Revenue.

6. Thus, the finding recorded by the Additional Commissioner is the finding of fact based on the material available on record which has been affirmed by the Board of Revenue and the petitioner has already filed substantive civil suit with respect to subject land pending consideration before the jurisdictional civil Court, as such, I do not find any jurisdictional error in the impugned order.

7. Accordingly, the writ petition deserves to be and is hereby dismissed. However, this will not bar in the pending civil suit filed by the petitioner.

Sd/-

(Sanjay K.Agrawal)
Judge

B/-