NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WP227 No. 591 of 2017

1. Radhe Shyam S/o S/o Late Bindeshwari Prasad Gupta, Aged About 59 Years Occupation Advocate, R/o Samta Colony Raipur, District Raipur, Chhattisgarh.

2. Radhe Krishna Gupta S/o Late Bindeshwari Prasad Gupta, Aged About 51 Years Occupation Advocate, R/o Dallil Road, Bhanupratapur, District North Baster Kanker, C.G.

3. Vijay Kumar Gupta, S/o Late Bindeshwari Prasad Gupta, Aged About 55 Years Occupation Advocate, R/o Vivekanand Nagar, Gali No. 2, Dhamtari, District Dhamtari, C.G.

4. Shobha D/o Late Bindeshwari Prasad Gupta, Aged About 53 Years House Wife, R/o C/o Gupta Medical Store Rajapara, Kanker, District North Baster Kanker, C.G.

---- Petitioners

Versus

1. Shailesh Sharma S/o Late Vyas Prasad Sharma, Aged About 45 Years Occupation Businessmen R/o Lattipara, Tahasil Kanker, District Norht Baster Kanker, Chhattisgarh.

2. Board Of Revenue, Through President, Board Of Revenue Bilaspur, Chhattisgarh.

3. Commissioner Baster, Division Jagdalpur, District Baster, Chhattisgarh.

4. The Sub- Divisional Officer, (Revenue), Kanker, District North Baster Kander Chhattisgarh.

5. Tahsildar Kanker, Distrct- North Bastar Kankar, Chhattisgarh.

---- Respondents

For Petitioners : Shri R.K Sharma, Advocate.
For Respondent No. 1 : Shri Awadh Tripathi, Advocate.
For Respondents No. 3 to 5 : Shri Ashish Surana, Panel Lawyer.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

25/09/2017

(1) Learned counsel for the petitioners submits that the petitioners had filed caveat before the Board of Revenue claiming to be heard before passing an

interim order but the Board of Revenue has passed the interim order dated 01.08.2017 without noticing and hearing the petitioner and, therefore, the same may be set aside.

(2) Per contra, counsel for the respondent No. 1 would submit that the Board of Revenue has only statyed the execution of order dated 22.07.2017 passed by Commissioner, Bastar Division, Jagdapur till 16.08.2017 i.e. the date, which was given to the petitioner for his appearance.

(3) I have heard learned counsel appearing for the parties and perused the order impugned with utmost circumspection.

(4) Be that as it may, since the order dated 01.08.2017 has been passed without hearing and noticing to the petitioner; even after filing of caveat aplication, it is highly improper and impermissible in law. Once the caveat application is filed, the Board of Revenue ought to have noticed the petitioner and thereafter the application for interim relied could have been considered and decided, therefore, the interim order dated 01.08.2017 granted by the Board of Revenue is liable to be set aside.

(5) Accordingly, writ petition is allowed. Interim order dated 01.0.2017 is set aside. The matter is remitted back to the Board of Revenue to consider and decide the application for interim relief afresh within a period of ten days from the date of receipt of certified copy of this order after noticing the petitioner in accordance with law.

Sd/-

(Sanjay K. Agrawal)
Judge

D/-