

HIGH COURT OF CHHATTISGARH, BILASPURWrit Petition (C) No.6014 of 2007

1. Naresh Kumar, S/o Manglu Yadav, aged about 55 years,
2. Pundas, S/o Bansidas Satnami, aged about 42 years,
3. Bajaraha, S/o Dhaniram Dhobi, aged about 50 years,
4. Mohit, S/o Sadhe Satnami, aged about 55 years,
5. Bhagat, S/o Dau Satnami, aged about 55 years,

All are R/o Village Nagpura, P.S. Hirri, Sub Tah. Saragaon, Distt. Bilaspur (C.G.)

---- Petitioners

Versus

1. State of Chhattisgarh, through the Secretary, Department of Revenue, Dau Kalyan Singh Bhawan, Raipur (C.G.)
(Applicant)
2. The Collector, Distt. Bilaspur (C.G.)
3. The Additional Collector, Distt. Bilaspur (C.G.)
4. The Sub Divisional Officer, Mungeli, Distt. Bilaspur (C.G.)
5. The Naib Tahsildar, Pathariya, Distt. Bilaspur (C.G.)
6. Shanta Bai, W/o Late Muralidhar Rao, aged about 75 years,
(Non-applicant)
7. Pranjali Kale, W/o Pramod Kale, aged about 40 years,
8. Mukti Ottalwar, S/o Late Murlidhar Rao, aged about 37 years,
9. Bajanatri, S/o Murlidhar Rao, aged about 32 years,

Respondent No.6 to 9 are R/o Village Nagpura, Up Tahsil Saragaon, P.S. Hirri, Distt. Bilaspur (C.G.), At present R/o Tilak Nagar, Bilaspur (C.G.)

---- Respondents

For Petitioners: Mr. Bharat Rajput, Advocate.

For State/Respondents No.1 to 5: -

Mr. Arun Sao, Deputy Advocate General.

For Respondents No.6 to 9: -

Mr. Malay Shrivastava, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

31/10/2017

1. The petitioners are challenging the order dated 6-9-1986 passed by the Additional Collector, Bilaspur, whereby permission for review of order dated 28-9-1972 has been accorded and also challenging the order dated 13-6-1988 passed by the Sub Divisional Officer, Mungeli whereby the order dated 28-9-1972 has been reviewed.
2. Learned counsel for the petitioners would submit that the order dated 6-9-1986 and the order dated 13-6-1988 are unsustainable and bad in law. He would rely upon a decision of the M.P. High Court in the matter of **Rammulal and others v. State of M.P.**¹ and a decision of the Supreme Court in the matter of **State of Gujarat v. P. Raghav**².
3. Learned State counsel would support the impugned orders.
4. In a proceeding initiated under the provisions of the Madhya Pradesh Ceiling on Agricultural Holdings Act, 1960 against respondent No.6 and after following the due procedure of law, vide order dated 28-9-1972, the competent authority declared 8.23 acres of land as excessive and above the ceiling limits under the Act of 1960 and directed the same to be vested with the State Government. However, on account of complaint of tampering, the Additional Collector passed the impugned order dated 6-9-1986 according permission for review of order dated

¹ 1990 RN 407

² AIR 1969 SC 1297

28-9-1972 which was reviewed by the Sub Divisional Officer and the order was passed on 13-6-1988 by the Sub Divisional Officer-cum-competent officer modifying the mistake of area of land to be vested in the Government which has been challenged in the writ petition.

5. During this period, respondents No.6 to 9 preferred Civil Suit No.34-A/1989 for declaration and permanent injunction with regard to the subject land which has been decreed in favour of respondents No.6 to 9 by judgment and decree dated 23-2-1993 and in appeal preferred by the petitioners herein that judgment and decree have been affirmed by the Additional District Judge, Mungeli, by judgment dated 2-2-2007 dismissing the appeal. Apart from this, thereafter, the petitioners preferred Civil Suit No.50-A/2006 with regard to the subject land which has been dismissed on 2-12-2006 and Civil Revision No.190/2006 has also been dismissed.
6. Since the judgment and decree passed in favour of respondents No.6 to 9 herein had already attained finality after dismissal of appeal and the petitioners' civil suit and civil revision have also been dismissed and that has attained finality, therefore, the writ petition as framed and filed challenging the orders dated 6-9-1986 and 13-6-1988 is not maintainable and is accordingly dismissed, in view of the aforesaid finding. No order as to cost(s).

Sd/-
(Sanjay K. Agrawal)
Judge