

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 2975 of 2016**

Smt. Soumya Kashyap W/o Shri Rajiv Kashyap, Aged About 32 Years
R/o Janta Colony Tikrapara Raipur, Pin 493890 Tah & District Raipur
Chhattisgarh Mobile No 3826106308

---- Petitioner**Versus**

1. The Additional Tahsildar Raipur Pin 492001 Tah & Distirct Raipur (C.G.)
2. Zone Commissioner, Zone No. 3 Municipal Corporation Raipur 493890 Tah & District Raipur Chhattisgarh
3. Smt. Parwati Bharati W/o Shri Bhagat Bharti, Aged About 56 Years R/o Bajrang Chowk Tikrapara Raipur 493890 Tah & Distt Raipur (Chhattisgarh)
4. Distirct Superintendent Of Police Raipur Tah & Distirct Raipur Chhattisgarh

---- Respondents

For Petitioners : Shri V.G. Tamaskar, Advocate.

For Respondents No. 1 & 4 : Shri Shashank Thakur, Govt. Advocate.

For Respondent No. 2 : Shri H.B. Agrawal, Sr. Advocate with Smt. Itu Rani Mukherjee, Advocate.

For Respondent No. 3 : Shri Manoj Paranjpe, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board**25/10/2017**

(1) Learned counsel appearing for the petitioner submits that Nayab Tahsildar has passed an order of temporary injunction directing him to maintain status quo with regard to subject property and copy of the order has been supplied to the petitioner on 22.8.2016, which is contrary to law.

(2) Relying upon the judgment of High Court of Madhya Pradesh in the case of **Maya Lalchandani (Mrs.) and Ors. Vs. Board of Revenue and Ors**¹., learned counsel for the petitioner submit that an order in the nature of injunction can be passed only by the Civil Court and Section 32 of the Land Revenue Code does not confer any new power on the Tehsildar to pass an order in the nature of temporary injunction, as Section 32 of the Land Revenue Code only reserves the inherent power of the Revenue Court and nothing more.

(3) Per contra, counsel for the respective respondents would oppose the writ petition and support the order impugned.

(4) 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.

(5) In the case of **Maya Lalchandani** (supra), it was held as under:

“4. After going through the order passed by the learned President, Board of Revenue and taking into consideration the legal provisions, we are of the opinion that the directions issued in paragraph 7 of the order passed by the Board of Revenue cannot be allowed to stand. Section 32 of the Land Revenue Code talks of the inherent powers of the Revenue Authorities while Section 43 talks of applicability of the Code of Civil Procedure. It is to be seen from Section 32 that nothing in the Land Revenue Code shall be deemed to limit or otherwise affect the inherent power of the Revenue Court to make such orders as may be necessary to meet the ends of justice or as may be necessary to prevent the abuse of the process of Court. Section 43 simply provides that unless otherwise expressly provided in the

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Code, the procedure laid down in the Code of Civil Procedure shall, so far as may be, followed in all proceedings under the Code. Section 43 in no case would authorize a Revenue Authority to grant an injunction. Section 43 simply provides that the procedure laid down in the Code of Civil Procedure so far as may be followed in all proceedings under the Code. It is also to be seen from the provision of the Code of Civil Procedure that an injunction can be granted only by civil Court and by none else. Section 32 of the M.P. Land Revenue Code only talks of the inherent powers of the Revenue Courts where they are required to make such order as may be necessary for the ends of justice or to prevent the abuse of the process of the Court. The powers under Section 32 can be exercised within the Code itself and not beyond the Code. If the Revenue Authority does not have the power to grant injunction then the Board of Revenue also could not grant injunction.”

(6) Therefore, inescapable view which has to be drawn is that the order passed by the Tehsildar, which is in the nature of temporary injunction, is without jurisdiction. The impugned order is set aside.

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

Sd/-

(Sanjay K. Agrawal)
Judge

D/-