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HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 2616 of 2017

Buddhdev Prasad S/o Late Damodar Prasad Shukla, Aged About 41 Years R/o Block No. 3, Quarter No. Q Road No. 3, Sector-6, Bhilai, Tahsil & District Durg (C.G.)

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Revenue And Disaster Management Department, Mahanadi Bhawan, Mantralaya, New Raipur, Chhattisgarh.

2. Board Of Revenue Chhattisgarh, Bilaspur, (Chhattisgarh)

3. The Commissioner, Bilaspur, Division, Bilaspur Chhattisgarh

4. The Additional Collector, District Janjgir Champa, Chhattisgarh.

5. The Sub Divisional Officer (Sakti), District Janjgir Champa, Chhattisgarh.

6. The Additional Tahsildar, Baradwar, District Janjgir Champa (Chhattisgarh)

7. Champa Bai, W/o Late Damodar Prasad Shukla, R/o Village Sarhar, Tahsil Sakti, District Janjgir Champa, Chhattisgarh.

8. Dushyant Kumar Shukla, S/o Late Damodar Prasad Shukla, R/o Village Sarhar, Tahsil Sakti, District Janjgir Champa, Chhattisgarh.

9. Smt. Anju Kumari, W/o Dushyant Kumar Shukla, R/o Village Sarhar, Tahsil Sakti, District Janjgir Champa, Chhattisgarh.

10. Gopal Prasad Shukla, S/o Late Damodar Prasad Shukla, R/o Village Sarhar, Tahsil Sakti, District Janjgir Champa, Chhattisgarh.

---- Respondents

For Petitioner	:	Shri K.K. Pandey, Advocate.
For Respondents No. 1 to 6	:	Shri Ashish Surana, PL
For Respondent No. 7	:	Shri Deepak Kumar Singh, Advocate.
For Respondents No. 8 to 10	:	Shri K.K. Dewangan, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

30/10/2017

The resondent No. 7 – Champa Bai preferred an appeal under Section 44(1) of the Chhattisgarh Land Revenue Code, 1959 (henceforth "Code, 1959") along with an application for condonation of delay in filing the same before the Sub Divisional Officer (Revenue), Shakti against the mutation order passed by the Additional Tahsildar. The SDO (Revenue), by its order dated 29.6.2015, condoned the delay in filing the appeal and fixed the case of final arguments. Petitioner preferred revision before the Additional Collector there-against. The Additional Collector, by its order dated 18.05.2016, set aside the order dated 29.6.22015 codoning the delay in filing the appeal.

(2) Being aggrieved by order dated 18.05.2016, respondent No. 7 – Champa Bai, preferred an appeal before respondent No. 3- Commissioner. The Commissioner, Bilaspur Division, by its order dated 21.11.2016, allowed the appeal and set aside the order dated 18.05.2016 and restore the order passed by the SDO (R) dated 29.6.2015 condoning the delay in filing the appeal.

(3) The petitioner preferred revision before the Board of Revenue thereagainst. The Board of Revenue, by its impugned order dated 02.08.2017, upheld the order of SDO (Revenue) and Commissioner, Bilaspur but made an observation on merits and set aside the order mutating the name in favour of the petitioner, against which, instant writ petition has been filed questioning the same.

(4) Learned counsel appearing for the petitioner would submit that the Board of Revenue has exceeded its jurisdiction by cancelling the mutation order though this issue is not before the Board of Revenue for

consideration.

(5) On the other hand, counsel for the respondents opposed the writ petition and supported the order impugned.

(6) 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.

(7) Board of Revenue has rightly upheld the order of S.D.O and the Commissioner, Bilaspur Division condoning the delay in filing the appeal. However, also considered the order of mutation passed by the Additional Tahsildar on 16.04.2011, which, in the opinion of this Court, ought to have been decided by the Sub Divisional Officer in appeal as the appeal is pending before the S.D.O. against the mutation order and no *lis* was brought before the Board of Revenue on merit.

(8) Accordingly, the writ petition is allowed in part. Part of order, by which mutation order in favour of the petitioner has been cancelled, is set aside. The matter is remitted back to the SDO (Revenue) for hearing and disposal of appeal against the mutation order in accordance with law after affording due opportunity of hearing to the petitioner and the affected parties in accordance with law expeditioulsy.

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

Sd/-

(Sanjay K. Agrawal)
Judge

D/-