

HIGH COURT OF CHHATTISGARH, BILASPUR**WP No.700 of 2006**

Jagat Ram (died) by legal heirs:-

- (a) Mangmoi Wd/o Late Jagat Ram Binjhwar, aged about 65 years, Occupation Cultivation, R/o Village Birkol, P.C. No.24, R.I. Circle Khamharpali, Tehsil Saraipali, Distt. Mahasamund (CG)
- (b) Bishnu Shanker S/o Late Jagat Ram Binjhwar, aged about 38 years, Occupation Cultivation, R/o Village Birkol, P.C. No.24, R.I. Circle Khamharpali, Tehsil Saraipali, Distt. Mahasamund (CG)
- (c) Savitri D/o Late Jagat Ram Binjhwar, aged 28 years, (w/o Dhansai) Occupation Cultivation, R/o Village Chatadei, P.S. Tehsil Sarangarh, Distt. Raipur (CG)
- (d) Ratnavati D/o Late Jagat Ram Binjhwar, aged 40 years, W/o Jilani Binjhwar, R/o Village Ghespali, P.S. & Tehsil Saraipali, Distt. Mahasamund (CG)
- (e) Raimati D/o Jagat Ram Binjhwar, aged about 25 years, (W/o Brijlal Binjhwar) R/o Village Pandripani, P.S. & Tehsil Saraipali, Distt. Mahasamund (CG)

---- Petitioners

Versus

- 1. Chairman Board of Revenue, Chhattisgarh Bilaspur Circuit Court, Raipur (CG)
- 2. Collector, Mahasamund District Mahasamund (CG)
- 3. Sub Divisional Officer (Revenue) Saraipali, District Mahasamund (CG)
- 4. Smt. Shyam Kunwar Wd/o Late Kripa Sindhu, age 48 years, caste Gond (Schedule Tribe), R/o Village Bhukel, P.S. & Tehsil Basna, Distt Mahasamund (CG)
- 5. Chunni Lal S/o Goverdhan Caste Kenvat age 45 years, Occupation Cultivation, R/o Gidha Pali, P.S. & Tehsil Basna, District Mahasamund (CG)

---- Respondents

And

WPC No.3404 of 2007

Nain Singh, Son of Jai Singh aged about 55 years, Caste-Gond, R/o Village Gudiyari, Post Bhukel, Tahsil Basna, District Mahasamund (CG)

---- Petitioner

Versus

- 1. Chairman Board of Revenue, Chhattisgarh, Bilaspur Circuit Court, Raipur (CG)
- 2. State of C.G. through the Collector, Mahasamund, District Mahasamund (CG)
- 3. Sub-Divisional Officer (Revenue), Saraipali, District Mahasamund (CG)
- 4. Smt. Shyam Kunwar Wd/o. Late Kripa Sindhu, aged about 48 years, Caste-Gond (Schedule Tribe), R/o Village Bhukel, P.S. & Tahsil Basna, District Mahasamund (CG)

And

WPC No.3477 of 2007

Safed Kumar S/o Gurudev Singh, aged about 48 years, R/o. Village Khorapali, Tahsil Basna, District Mahasamund (CG)

---- Petitioner

Versus

1. Chairman Board of Revenue, Chhattisgarh, Bilaspur Circuit Court, Raipur (CG)
2. The Collector, Mahasamund, District Mahasamund (CG)
3. Sub-Divisional Officer (Revenue), Saraipali, District Mahasamund (CG)
4. Smt. Shyam Kunwar Wd/o. Late Kripa Sindhu, aged about 48 years, Caste-Gond (Schedule Tribe), R/o Village Bhukel, P.S. & Tahsil Basna, District Mahasamund (CG)

---- Respondents

For Petitioners	:	Mr.S.N.Nande, Advocate in WP No.700 of 2006
For Petitioners	:	Mr.Raghvendra Pradhan, Advocate in WPC Nos.3404/2007 and 3477/2007
For State	:	Mr.Bhaskar Payasi and Mr.Arvind Duvey, P.L.

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board25/7/2017

1. Since common question of law and fact are involved in these three writ petitions, they are heard together and are being disposed of by this common order.
2. Mr.Kripa Sindhu Gond was original holder of the lands situated at Village Bhukel, District Mahasamund, original Petitioner-Jagat Ram purchased the land bearing Kh.No.461/3 area 0.34 acre by registered sale deed dated 22.1.1994, petitioner-Nain Singh purchased the land bearing Kh.No.315 area 0.83 hectare by registered sale deed dated 1.2.1986 and petitioner-Safed Kumar purchased the land bearing Kh.No.168 area 0.23 hectare by registered sale deed dated 28.6.1989 from original land holder Kripa Sindhu. Thereafter, his

widow Smt.Shyam Kunwar filed a complaint to the Sub Divisional Officer (Revenue), Saraipali for reverting back the land, which was dismissed on 16.8.1999. Repeat complaint was made by Smt.Shyam Kunwar to the Sub Divisional Officer (Revenue), Saraipali and this time, the Sub Divisional Officer (Revenue), Saraipali by order dated 15.1.2001 directed the land to be reverted to Smt.Shyam Kunwar. The petitioners preferred appeals before the Collector against that order. The Collector dismissed the appeals, against which, they preferred the revisions, which were also dismissed by the Board of Revenue. Now petitioners-Jagat Ram, Nain Singh and Safed Kumar being aggrieved against the orders of the Sub Divisional Officer (R.) as affirmed by the Collector and the Board of Revenue have filed these writ petitions under Article 227 of the Constitution of India.

3. Mr.S.N.Nande, learned counsel appearing for the petitioners in WP No.700 of 2006, would submit that the original petitioner having purchased the land by registered sale deed dated 22.1.1994 whereas Section 170-B (1) of the Chhattisgarh Land Revenue Code, 1959 (hereinafter called as 'Code') would not be applicable as the said provision is applicable to the transaction entered into with effect from 2.10.1959 to 24.10.1980 and information was required to be notified up to 23.10.1982. Since the provision itself is not applicable, the orders of the Sub-Divisional Officer (R.) as affirmed by the Collector and the Sub Divisional Officer deserve to be quashed.
4. Mr.Raghvendra Pradhan, learned counsel appearing for the petitioners in WPC Nos. 3404 of 2007 and 3477 of 2007, adopted the arguments advanced by Mr.Nande and prays for similar relief.

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

6. In order to decide the dispute raised at the Bar, it would be appropriate to notice Section 170-B (1) of the Code which reads as under:-

“170-B. Reversion of land of members of aboriginal tribe which was transferred by fraud.-

(1) Every person who on the date of commencement of Madhya Pradesh Land Revenue Code (Amendment) Act, 1980 (hereinafter referred to as the Amendment Act of 1980) is in possession of agricultural land which belonged to a member of a tribe which has been declared to be an aboriginal tribe under sub-section (6) of section 165 between the period commencing on the 2nd October, 1959 and ending on the date of the commencement of Amendment Act, 1980 shall, within two years of such commencement, notify to the Sub-Divisional Officer in such form and in such manner as may be prescribed, all the information as to how he has come in possession of such land.”

7. A careful perusal of Section 170-B (1) of the Code would show that person in possession on the date of commencement of the Amendment Act of 1980 i.e. 24.10.1980 of the agricultural land belonging to a member of aboriginal tribe is required to notify to the Sub Divisional Officer within two years from 24.10.1980 in the manner prescribed that how he came into possession of such land.

8. The question as to the applicability of Section 170-B of the Code was referred to a Division Bench on account of diversion view. The question referred to a Division Bench was as under:-

“Whether the provision of Section 170-B of the Chhattisgarh Land Revenue Code, 1959 inserted vide M.P. Amendment Act No.15 of 1980 with effect from 24-12-1980, are applicable in respect of transactions prior to commencement of Chhattisgarh Land Revenue code, 1959, involving transfer / acquisition of right by non-tribal

over a land which, before such acquisition of title or interest or transfer, belonged to a member of tribe who has been declared to be an aboriginal tribe under sub section (6) of Section 165 of the C.G. Land Revenue Code, 1959?”

9. The Division Bench of this Court in Yadram (Dead) through LRs.

Smt.Yamuna Bai and others Vs. State of C.G. & others¹

answered the reference and clearly held that Section 170-B of the Code covers the transaction made between 2.10.1959 till 24.10.1980.

It was observed as under:-

“17. In the present case, law is amended with limited retrospective effect. Plain reading of Section 170-B of the Code as amended covers the transaction made between 2-10-1959 till 24-10-1980 and not the transaction made prior to 2-10-1959. The language of Section 170-B of the Code is plain and unambiguous and it is not permissible to deploy rules of interpretation to attribute any other meaning to the words used by the legislature, that those which naturally flow from it. If the plain words of Section 170-B of the Code are interpreted in such as way as to assign its meaning other than what is written in it, that is, if the Section is read to apply to transactions done prior to 2-10-1959 despite specific stipulation in the Section that it will apply to transactions done on and after 2-10-1959, then such an interpretation will create new obligations and duties distributing the vested rights which, normally, should not be done by resorting to interpretation. Therefore, on the face of the plain and unambiguous wording of Section 170-B of the Code, we are unable to subscribe to any view other than the one that it is restricted in its application to the transactions done between 2-10-1959 and 24-10-1-1980 only.

19. In view of the legal opinion we have formed regarding the applicability of Section 170-B of the Code, we answer the question referred that the provisions of Section 170-B of the Code and Act No.15 of 1980 (with effect from 24-10-1980) will apply in respect of transaction involving transfer / acquisition of right by a non-tribal over a land, before such acquisition of title or interest or transfer, belonged to member of tribe who has been declared to be an aboriginal under sub-section (6) of Section 165 of the Code from the commencement of the Chhattisgarh Land Revenue Code, 1959 i.e. 2-10-1959 till commencement of the Amendment Act, 1980 i.e. 21-10-1980.”

¹ 2015(5) C.G.L.J. 402 (DB)

10. Applying the principle of law laid down by this Court in **Yadram** (supra), if the facts of the present case are examined, it would appear that in the present case the petitioners have purchased the suit land much after the expiry of two years from the date of commencement of amending Act on 24.10.80 i.e. 22.1.1994, 1.2.1986 and 28.6.1989 respectively and therefore, the provisions of Section 170-B (1) of the Code are not attracted and mandated in Section 170-B (1) of the Code and the judgment of a Division Bench of this Court in **Yadram** (supra). Therefore, it is held that the revenue authorities have legally erred in directing the reversion of the lands in favour of legal representative of original land holder Late Kripa Sindhu Gond.

11. As a fallout and consequence of the aforesaid discussion, the writ petitions are allowed and the impugned orders passed by the Sub Divisional Officer (R.), Saraipali, Collector, Mahasamund and the Board of Revenue, Bilaspur, Circuit Court, Raipur are hereby quashed leaving the parties to bear their own cost (s).

Sd/-

(Sanjay K. Agrawal)
Judge

B/-