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HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Petition (Art. 227) No.771 of 2013

Baisahu Ram (Died), Through LRs:
(Non-applicant)

1.(a) Smt Ganga Devi, W/o Late Baisahu Ram, aged about 55 years, Caste Panika, R/o Mahuapara, Ward No. 12, Post, P.S. & Tehsil Surajpur, Revenue & Civil District Surajpur (C.G.)

1.(b) Bahadur Dewangan, S/o Late Baisahu Ram, aged about 40 years, Caste Panika, R/o Mahuapara, Ward No. 12, Post, P.S. & Tehsil Surajpur, Revenue & Civil District Surajpur (C.G.)

1.(c) Geeta Dewangan, D/o Late Baisahu Ram, aged about 35 years, Caste Panika, R/o Mahuapara, Ward No. 12, Post, P.S. & Tehsil Surajpur, Revenue & Civil District Surajpur (C.G.)

1.(d) Leeta Dewangan, D/o Late Baisahu Ram, W/o Satpal, aged about 32 years, Caste Panika, R/o Mahuapara, Ward No. 12, Post, P.S. & Tehsil Surajpur, Revenue & Civil District Surajpur (C.G.)

1.(e) Sunita Dewangan, D/o Late Baisahu Ram, W/o Ramkumar, aged about 30 years, Caste Panika, R/o Qt.r No. 853, Chopda Colony, School Line Bishrampur, Post, P.S. Bishrampur, Tahsil Surajpur, Revenue & Civil District Surajpur (C.G.)

1.(f) Rakesh Dewangan, S/o Late Baisahu Ram, aged about 27 years, Caste Panika, R/o Mahuapara, Ward No. 12, Post, P.S. & Tehsil Surajpur, Revenue & Civil District Surajpur (C.G.)

---- Petitioners

Versus

1. Khelavan Singh, S/o Devman Ram, aged about 45 years, Caste Kanwar, R/o Manpur, Post, P.S. & Tehsil Surajpur, Revenue & Civil District Surajpur (C.G.)
(Applicant)

2. Tehsildar Surajpur, Revenue & Civil District Surajpur (C.G.)

3. Collector Surajpur, Revenue & Civil District Surajpur (C.G.)

---- Respondents

For Petitioners: Mr. Surfaraj Khan, Advocate.
For Respondent No.1: Mr. Ravi Maheshwari, Advocate.
For Respondents No.2 & 3/State: -
Mr. Arvind Dubey, Panel Lawyer.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

24/07/2017

1. This writ petition emanates from the order dated 29-5-2013 passed by the Tahsildar, Surajpur in Revenue Case No.309/Ba-121/2012-13 by which he has passed order restraining the present petitioners from constructing on the suit property.

2. Learned counsel for the petitioners submits that the Tahsildar has passed order on 29-5-2013 granting temporary injunction for which he has no jurisdiction, therefore, the order passed by the Tahsildar is without jurisdiction and without authority of law. He relies upon a decision of the High Court of Madhya Pradesh in the matter of **Maya Lalchandani (Mrs.) and others v. Board of Revenue and others**[1] in which the M.P. High Court has 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 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

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> 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."

3. Order to grant injunction is surely vested in the jurisdictional civil court, revenue courts cannot grant order of injunction. Therefore, the order passed by the revenue authority granting temporary injunction restraining construction following the principle of law laid down in the matter of **<u>Maya Lalchandani</u>** (supra), is without jurisdiction and without authority of law. Therefore, the order impugned dated 29-5-2013 passed by the Tahsildar, Surajpur in Revenue Case No.309/Ba-121/2012-13 is hereby quashed. However, respondent No.1 is at liberty to initiate proceeding before the jurisdictional civil court in accordance with law.

4. The writ petition is allowed to the extent indicated herein-above. No order as to costs.

Sd/-
(Sanjay K. Agrawal)
Judge

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