

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**W.P. (227) No. 191 of 2017**

1. Ramgulam, S/o Lakhan, aged about 50 years,
2. Surajlal, S/o Ramnarayan, aged about 45 years,

Both are by Caste Panika, R/o Village Aasandih, Police Station and Tahsil Wadraf Nagar, District Balrampur- Ramanujganj (C.G.)

---- Petitioners**Versus**

1. State of Chhattisgarh, Through: the Secretary, Revenue Department, Mantralaya, Mahanadi Bhawan, Naya Raipur, District Raipur (C.G.)
2. Board of Revenue, Chhattisgarh Bilaspur, District Bilaspur (C.G.)
3. Additional Commissioner, Surguja Division, District Surguja-Ambikapur (C.g.)
4. The Sub-Divisional Officer (Revenue), Wadraf Nagar, District Balrampur, Ramanujganj (C.G.)
5. Additional Collector, Ramanujganj, District Balrampur, Ramanujganj (C.G.)
6. The Tahsildar, Wadraf Nagar, District Balrampur-Ramanujganj (C.G.)
7. Smt. Sahodari, W/o Chhotu Panika, aged about 52 years, R/o Village Aasandih, Police Station and Tahsil Wadraf Nagar, District Balrampur-Ramnujganj (C.G.)

---- Respondents

For Petitioners:	Mr. Pushpendra Kumar Patel, Advocate.
For State:	Mr. S. Majid Ali, Panel Lawyer.

Hon'ble Shri Justice Sanjay K. Agrawal**Order On Board****17/03/2017**

- (1) The petitioners preferred first appeal against the order of Tahsildar directing mutation dated 22.08.2004 before the Sub Divisional

Officer (Revenue) under Section 44(1)(a) of the C.G. Land Revenue Code, 1959 (henceforth "Code, 1959"). That appeal was allowed by the Sub Divisional Officer on 24.4.2007. Smt. Batasi, respondent therein preferred second appeal under Section 44(2)(i) of the Code before the Additional Collector, Ramanujganj, District Sarguja.

(2) Additional Collector, Ramanujganj, by its order dated 8.4.2008, allowed the appeal and set aside the order dated 24.4.2007 passed by Sub Divisional Officer.

(3) The petitioners preferred appeal (third) before the Commissioner, Revenue Division, Sarguja, which was dismissed holding no jurisdiction.

(4) The petitioner again preferred revision before the Board of Revenue, that has also been dismissed, against which the instant writ petition under Article 227 of the Constitution of India has been filed questioning the same.

(5) I have heard learned counsel appearing for the parties and considered their rival submissions made therein and also perused the order impugned with utmost circumspection.

(7) The petitioner rightly preferred first appeal under Section 44 (1) (a) of the Code, 1959 against the order dated 22.08.2004 passed by the Tahsildar directing mutation before the S.D.O. (Revenue). Against the order of S.D.O. (Revenue), second appeal was preferable before the Commissioner under Section 44 (2)(i) of the Code, 1959, which the respondent did not prefer and erroneously prefer second appeal before the Collector, Rajnandgaon; and Additional Collector, Ramanujganj allowed the second appeal on 8.4.2008.

(8) Against the order of Collector, in fact petitioner preferred third appeal, which was also dismissed as not maintainable. Board of Revenue also dismissed the revision preferred by the petitioner holding that the revision is not maintainable.

(9) The Collector has entertained second appeal in contravention with the provisions contained in Section 44 (2)(i) of the Code, 1959. In fact against that order, no appeal is maintainable and the remedy of the petitioner is to file revision before the Board of Revenue, Raipur, which he did not prefer and preferred third appeal before the Commissioner, thus, it has rightly been dismissed but the Board of Revenue could have considered the matter in its proper perspective, and against the order of Collector, definitely revision under Section 50 of the Land Revenue Code would be maintainable and, therefore, impugned order passed by the Board of Revenue deserves to be and is hereby set aside. However, the petitioners are at liberty to challenge the order dated 8.4.2008 before the Board of Revenue in a duly constituted revision, in accordance with law.

(10) Accordingly, the writ petition is allowed to the extent indicated above.

Sd/-

(Sanjay K. Agrawal)
Judge

D/-