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HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (C) No.1865 of 2017**

1. Geetaram S/o Shri Ram Lal, Aged About 37 Years R/o Village Jarhagaon Tahsil & District Mungeli, Chhattisgarh.
2. Bhagchand, S/o Shri Ayodhya Prasad, Aged About 39 Years R/o Village Jarhagaon Tahsil & District Mungeli, Chhattisgarh.

---- Petitioners**Versus**

1. State Of Chhattisgarh Through Secretary, Department Of Panchayat Mahanadi Bhawan, New Mantralaya Raipur District Raipur Chhattisgarh.
2. The Commissioner, Bilaspur, District Bilaspur (Chhattisgarh)
3. The Collector, Mungeli District Mungeli (Chhattisgarh)
4. Sub Divisional Officer (Revenue), Mungeli District Mungeli (Chhattisgarh)
5. Smt. Samywanti (Sarpanch), Gram Panchayat Jarhagaon Tahsil & District Mungeli (Chhattisgarh)
6. Panchayat Secretary, Gram Panchayat Jarhagaon Tahsil & District Mungeli (Chhattisgarh)

---- Respondents

For Petitioners : Mr. Dheerendra Pandey, Advocate
 For State/Res. No.1 to 4: Mr. Ashish Surana, Panel Lawyer
 For Res.No.5 & 6 : Mr. Sunil Sahu, Advocate

Hon'ble Shri Justice Sanjay K. Agrawal
Order On Board

23/10/2017**(1)** Heard.

(2) This writ petition is directed against the order dated 23.03.2017 passed by the Additional Commissioner, Bilaspur Division, Bilaspur by which the revision filed by the respondents No.5 & 6 has been allowed and orders passed by the Sub Divisional Officer (Revenue), Mungeli

and Collector, Mungeli have been set-aside.

(3) Learned counsel appearing for the petitioners would submit that the impugned order passed by the Additional Commissioner, Bilaspur Division, Bilaspur is unsustainable and bad in law and, therefore it is liable to be set aside.

(4) Learned counsel appearing for the respective respondents would support the impugned order and oppose the submission made by the learned counsel for the petitioners.

(5) I have heard learned counsel appearing for the parties, considered their rival submission made herein above and also gone through the impugned order with utmost circumspection.

(6) The learned Additional Commissioner, Bilaspur has clearly recorded a finding that the petitioners' application for grant of lease to the subject tank for ten years was allowed by Gram Panchayat and agreement was entered into between the petitioners and respondents No.5 & 6 on 26.12.2014, but as per clause-V of the agreement the petitioners were required to deposit the first installment before execution of lease deed and second installment was required to be deposited in the month of June, but the petitioners did not deposit any amount before execution of the agreement. The then office bearers in order to extend undue benefit to the petitioners executed lease deed in favour of the petitioners even though no due installment was deposited by the petitioners and the lease agreement was entered into between the parties and the possession was handed over to the petitioners of the subject tank and further the Additional Commissioner found that in

such a condition, the execution of the agreement for grant of lease is *prima facie* illegal, as it is breach of terms on which subject tank was granted in favour of the petitioners.

(7) With the aforesaid finding, the Additional Commissioner has allowed the revision petition and set-aside the orders of the Sub Divisional Officer (Revenue), Mungeli and Collector, Mungeli. The finding recorded by the Additional Commissioner is based on material available on record, as the petitioners have failed to deposit due amount of the installments that was required to be deposited prior to the date of execution of agreement and continuing in the possession of the subject tank. I do not find any jurisdictional error in the impugned order.

(8) Consequently, the writ petition deserves to be and is accordingly dismissed. No order as to costs.

Sd/-

(Sanjay K. Agrawal)
Judge

L/-