

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 2504 of 2016**

Order Reserved On : 05/10/2016

Order Passed On : 11/01/2017

- Govind Prasad Soni S/o Late Shri Ishwar Prasad Soni, Aged About 55 Years R/o M.I.G.-17, SADA, Darri, Jamnipali, Tahsil Katghora, District Korba, (Chhattisgarh)

----- Petitioner**Versus**

1. State Of Chhattisgarh Through The Secretary, Revenue And Disaster Management Department, Mahanadi Bhawan, Mantralaya, New Raipur, (Chhattisgarh)
2. The Sub- Divisional Officer (Revenue), Champa, District Janjgir Champa, (Chhattisgarh)
3. The Tahsildar, Champa, District Janjgir Champa, (Chhattisgarh)
4. Hutas Prasad Soni, S/o Gangaprasad Soni, Aged About 72 Years R/o Village Umreli, Tahsil Kartala, District Korba, (Chhattisgarh)
5. Neelmani Soni, S/o Late Ishwar Prasad Soni, Aged About 51 Years Caste- Sonar And R/o Village Umreli, Tahsil Kartala, District Korba, (Chhattisgarh)
6. Baijnath (Wrongly Mentioned In Memo Of Appeal) Soni, S/o Late Ishwar Prasad Soni, Aged About 49 Years By Caste- Sonar And R/o Village Umreli, Tahsil Kartala, District Korba, (Chhattisgarh)
7. Suresh Kumar Soni, S/o Late Ishwar Prasad Soni, Aged About 45 Years By Caste- Sonar And R/o Village Umreli, Tahsil Kartala, District Korba, (Chhattisgarh)
8. Amrika Prasad Soni, S/o Late Ishwar Prasad Soni, Aged About 53 Years By Caste- Sonar And R/o Village Umreli, Tahsil Kartala, District Korba, (Chhattisgarh)
9. Pushpa Soni, D/o Late Ishwar Prasad Soni, Aged About 47 Years By Caste- Sonar And R/o Village Umreli, Tahsil Kartala,

District Korba, (Chhattisgarh)

10. Chandrika Prasad Soni, W/o Late Dinbandhu Soni, Aged About 54 Years D/o Late Ishwar Prasad Soni, By Caste Sonar And R/o Village Umreli, Tahsil Kartala, District Korba, (Chhattisgarh)
11. Umashankar Soni, S/o Late Dinbandhu Soni, Aged About 37 Years By Caste- Sonar And R/o Village Umreli, Tahsil Kartala, District Korba, (Chhattisgarh)
12. Devika Soni, D/o Late Dinbandhu Soni, Aged About 28 Years By Caste- Sonar And R/o Village Umreli, Tahsil Kartala, District Korba, (Chhattisgarh)

----- Respondent

For Petitioner : Shri Rahul Mishra, Advocate.
 For Respondent/State : Shri Shashank Thakur, Govt. Advocate.

Hon'ble Shri Justice Prashant Kumar Mishra

C A V Order

1. In this petition under Article 226 of the Constitution of India, the petitioner has called in question the order dated 14.9.2015 passed by the Tehsildar, Champa whereby the Tehsildar has recalled its earlier order dated 4.7.2015.
2. It appears, respondent No.4 Hutas Prasad Soni moved an application for mutation of his name in the revenue records, which was allowed vide order dated 29.6.2015, as reflected from the order sheet of the said date, however, the main order was passed separately, which has not been annexed with this writ petition. Thereafter, the petitioner moved another

application on 4.7.2015 under Section 52 read with Section 32 of the CG Land Revenue Code, 1959 (for short 'the Code'), which was allowed on the same date without noticing the other party, resultantly, the earlier order dated 29.6.2015 was recalled. On both the occasions, the Tehsildar observed that the matter is closed and file be sent to the record room. On 11.8.2015, the Tehsildar once again re-opened the matter and sought permission from the Sub Divisional Officer (Revenue) for review of the order dated 4.7.2015. The Sub Divisional Officer (Revenue), in turn, granted permission to the Tehsildar to review the order dated 4.7.2015, pursuant to which the impugned order dated 14.9.2015 has been passed and the order dated 4.7.2015 was recalled observing that the revenue records be corrected on the basis of earlier order passed on 29.6.2015.

3. It is argued by the petitioner that the Tehsildar has passed the impugned order without providing opportunity of hearing to the petitioner, therefore, the same is illegal. It is also argued that against the order dated 4.7.2015 respondent No.4 had preferred an appeal before the Sub Divisional Officer (Revenue), Champa vide Annexure-P/2, therefore, during the pendency of the said appeal, Tehsildar should not have reviewed the order dated 4.7.2015.

4. Per contra, learned State Counsel would argue that the

petitioner has remedy of preferring an appeal or revision under the Code, therefore, the writ petition is not maintainable.

5. It is unfortunate that firstly on 4.7.2015 and thereafter on 14.9.2015, the Tehsildar reopened the matter to pass different orders in the absence of opposite party. This is palpably illegal also for the reason that having closed the file and deposited the same in the record room, the Tehsildar picked up the case as if the proceedings are alive in perpetuity.
6. It is also to be seen that the petitioner, instead of preferring an appeal against the order dated 29.6.2015, proceeded to move an application under Section 52 read with Section 32 of the Code before the Tehsildar which was not maintainable because the same amounted to review of the order passed by the Tehsildar. Instead of seeking permission to review, the Tehsildar allowed the application and set aside its order dated 29.6.2015.
7. By the impugned order, the Tehsildar has revived its earlier order dated 29.6.2015, however, copy of the separate order as mentioned in the order sheet dated 29.6.2015 recorded by the Tehsildar has not been made part of record of this writ petition, therefore, the writ petition is vague being half baked without giving full particulars and documents.
8. Therefore, in the circumstances, this Court deems it

appropriate to dispose of the writ petition relegating the petitioner to prefer an appeal or revision before the jurisdictional superior revenue Court to challenge the order dated 29.6.2015. The petitioner may prefer appeal or revision, as the case may be, within a period of one month from today. Till the petitioner's appeal or revision is decided by the superior revenue Court, status quo in respect of mutation and possession over the property shall be maintained by the parties.

Sd/-
Judge
(Prashant Kumar Mishra)

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