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HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 3005 of 2016**

- Lalsingh S/o Late Shri Tulasa Singh, Aged About 75 Years R/o Gandhi Nagar, Pariya Colony Amalidih, P.S. New Rajendra Nagar, Civil & Revenue Distirct Raipur Chhattisgarh Through Power Of Attorney Holder Abdul Wahid S/o Shri A Samad Aged About 53 Years, R/o Piyush Colony Amalidih, P.S. New Rajendra Nagar, Civil & Revenue District Raipur Chhattisgarh

---- Petitioner**Versus**

1. State of Chhattisgarh Through The Secretary, Revenue Department Mantralaya Mahanadi Bhawan, Capital Complex, New Raipur, District Raipur Chhattisgarh
2. Commissioner, Raipur Division, District Raipur Chhattisgarh
3. Collector, Raipur Distirct Raipur Chhattisgarh
4. Smt. Mehatarin Bai W/o Shri Beersingh Sahu, Aged About 60 Years R/o Village Sarora, Thana & Tahsil Dharsiva, Civil & Revenue District Raipur Chhattisgarh
5. Madhusudan Mishra, S/o Rambharosa Mishra, Aged About 50 Years R/o Prayag Kunj Borya Road, Bajrang Chowk Santoshi Nagar, Raipur, Civil & Revenue District Raipur Chhattisgarh

---- Respondents

For Petitioner	:	Shri Sunil Sahu, Advocate
For Respondents-State	:	Shri UNS Deo, GA for the State

Hon'ble Shri Justice Prashant Kumar Mishra**Order On Board****11/01/2017**

1. The matter is listed in default for the reason that the petitioner was not a party before the Board of Revenue yet he has preferred this writ petition.
2. It appears, one Iqbal Singh executed an agreement to sale in favour of respondent Madhusudan Mishra. On his failure to execute the sale deed

Madhusudan Mishra preferred civil suit No.23A/2002, wherein the decree was passed on 16.01.2004 by the Court of 9th ADJ (FTC) Raipur, directing the present petitioner to execute the sale deed in favour of Madhusudan Mishra. Respondent No.4 Smt. Mehatarin Bai was a party in the civil suit, therefore, she preferred a first appeal which is pending consideration before this Court, however, the petitioner chose to suffer the decree and has not preferred any appeal against the decree passed by the civil Court.

3. In the present proceedings for mutation of the name of Smt. Mehatarin Bai in the revenue records pertaining to the subject property the Board of Revenue has allowed her revision application to set aside the order dated 24.10.2012 passed by the Additional Commissioner, Raipur Division, Raipur, whereby the Additional Commissioner has reviewed its earlier order dated 15.09.2011. By the said order dated 15.09.2011, the Additional Commissioner had allowed the appeal preferred by Smt. Mehatarin Bai to hold that the plaintiff Madhusuda Mishra has not executed the decree passed by the civil Court, therefore, his name cannot be mutated in the revenue record. The Additional Commissioner therefore set aside the order of mutation passed in favour of Madhusudan Mishra. This order was subsequently reviewed by the Additional Commissioner and the order of mutation in favour of Madhusuda Mishra was declared valid.
4. Since the petitioner was a party in the civil suit yet he has not preferred the first appeal before this Court, therefore, he has acquired with the decree passed against him and has no locus to prefer this writ petition. Moreover, as observed by the Board of Revenue, in the pending first appeal No.66/2005 wherein the petitioner is a party, the High Court has already passed an interim order staying the registration of sale deed in favour of Madhusudan Mishra, therefore, for this reason also, till the said interim order

passed by the High Court is operative, name of Madhusudan Mishra cannot be mutated.

5. For the foregoing, the office objection is fully justified and the writ petition is not maintainable. It is accordingly dismissed as not maintainable.

Sd/-

Judge

Prashant Kumar Mishra

Ashu