NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 704 of 2017

1. Bhagwati Bai W/o Late Babulal, Aged About 72 Years R/o Village Kharmora, Tahsil & Distt. Korba (Chhattisgarh)

2. Smt. Usha, W/o Late Laxmi Narayan, Aged About 42 Years R/o Village Kharmora, Tahsil & Distt. Korba (Chhattisgarh)

3. Satya Narayan, S/o Late Babulal, Aged About 38 Years R/o Village Kharmora, Tahsil & Distt. Korba (Chhattisgarh)

4. Jai Narayan, S/o Late Babulal, Aged About 36 Years R/o Village Kharmora, Tahsil & Distt. Korba (Chhattisgarh) **---- Petitioners**

Versus

1. Jhalkan S/o Shiv Prasad Dewangan, Aged About 65 Years R/o L. I. G. 45, Maharana Pratap Nagar, Korba, Tahsil And Distt. Korba (Chhattisgarh)

2. State Of Chhattisgarh, Through The Collector, Korba (Chhattisgarh)
---- Respondents

For Petitioners	:	Mr. Ravindra Agrawal, Advocate.
For State/respondent No.2	:	Mr. Sangharsh Pandey, Dy. G.A.

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

24/03/2017

Heard.

1. This petition, under Article 226 of the Constitution of India, is preferred against order dated 01.02.2017 of the Board of Revenue, by which, the Board of Revenue in exercise of its revisional jurisdiction has set aside all the orders and proceedings passed by the various revenue authorities in the matter of disputed land with regard to mutation.

2. Learned counsel for the petitioners submits that the land in dispute was initially granted by way of Government lease to the husband of the petitioner No.1 in the year 1974-1975. The petitioners No.2 to 4 are the daughter and sons of late Babulal. It is stated that in the year 1979-80,

Babulal was conferred Bhumiswami rights under the provision of Chhattisgarh Land Revenue Code. After his death in the year 2008, his legal heirs applied for mutation of their names, which was allowed by the Revenue Authorities and in the year 2010-2011, on petitioners' application the purposes of use of the land was also diverted. Later on, respondent No.1 filed an appeal against the order of mutation before the Sub-Divisional Officer (Revenue) on the ground that he has purchased the land in dispute by way of registered sale deed from Babulal in the year 1997. The Sub-Divisional Officer(Revenue) dismissed the appeal. Thereafter when second appeal was filed before the Commissioner, the Commissioner passed an order, by which, the Commissioner set aside the orders and directed land to be recorded in the name of the Government. This was assailed by respondent No.1 by filing revision before the Board of Revenue and the Board of Revenue, by impugned order, while setting aside the order of the Commissioner, Sub-Divisional Officer (Revenue) has also set aside the order of mutation, which is illegal. He submits that mutation having taken place in favour of the petitioners way back in the year 2008, respondent No.1/Jhalkan ought have challenged that order of mutation by filing of appeal in the year 2012 on whatsoever ground that was available to him under the law.

3. During the course of argument, learned counsel for the petitioners could not dispute that Babulal had executed a sale deed in favour of respondent No.1/ Jhalkan way back in the year 1997. It was duly registered also.

4. Whether by the said sale deed, title validly passed in favour of respondent No.1/Jhalkan could not be examined by the revenue authorities. But the revenue authorities will have to decide on the issue of mutation one way or the other taking into consideration all the aspects of the matter including registered sale deed executed by Babulal in favour of respondent No.1/Jhalkan. In that view of the matter, in my opinion, the Board of Revenue has not committed any jurisdictional error while passing order in exercise of his revisional jurisdiction.

5. It is stated, at the bar, by learned counsel for the petitioners that respondent No.1 has now applied for mutation of his name on the basis of registered sale deed in his favour, executed earlier by Babulal in the year 1997. It will be open for the petitioners to raise their own objection and claim that in place of respondent No.1, the name of the petitioners, should

be mutated. The revenue authorities, before whom, such application is pending, shall take appropriate decision and if the petitioners are aggrieved, they may take recourse to appropriate remedy as may be available to him under the law.

6. With the aforesaid observations, the petition is disposed off.

Sd/-
(Manindra Mohan Shrivastava)

J U D G E

Rekha