

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**WPC No. 794 of 2017**

Rameshwar Yadav S/o Late Bhagbali Yadav, Aged About 30 Years R/o Village Uslapur, Alka Avenue, Police Station Chakarbhatha, Tahsil Takhatpur, Up Tahsil Sakri, District Bilaspur (Chhattisgarh).

**---- Petitioner**

**Versus**

1. State Of Chhattisgarh Through The Secretary, Revenue And Disaster Management Department, Mahanadi Bhawan, Mantralaya, New Raipur (Chhattisgarh).
2. The Collector, Bilaspur, District Bilaspur (Chhattisgarh).
3. The Sub Divisional Officer ( Revenue ), Kota, District Bilaspur (Chhattisgarh).
4. The Tahsildar, Kota, District Bilaspur (Chhattisgarh).
5. Ashwani Miri S/o Ramadhar Miri, Aged About 36 Years R/o Village Kharjhiti, Police Station & Tahsil Kota, District Bilaspur (Chhattisgarh), At Present Resident Of Ward No. 4, Devhariya Para, Kargi Road, Kota P. S. & Tahsil Kota, District Bilaspur (Chhattisgarh).

**---- Respondents**

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Shri Bharat Rajput, counsel for the petitioner/s.  
Shri D.R.Minj, Dy.G.A. for the State / respondents 1 to 4 on advance copy.

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**Hon'ble Shri Justice Manindra Mohan Shrivastava**

**Order On Board**

**06/04/2017**

Heard on admission.

The order dated 08/08/2016 passed by the Sub-Divisional Officer, Revenue, Kota is under challenge by the petitioner on various grounds.

2. Learned State counsel, however, raises objection to the maintainability of the petition by submitting that the order is appealable, therefore, the petitioner has an alternative remedy of appeal.

3. According to learned counsel for the petitioner, the Sub-Divisional Officer, Revenue has passed an order in excess of jurisdiction, in as much as, he himself has decided the issue. Therefore, the petition may be entertained even though the petitioner has an alternative remedy.

4. After hearing learned counsel for the parties and going through the order dated 08/08/2016, I do not think that the Sub-Divisional Officer himself decided the issue. Only for the limited purpose of finding out whether a case of grant of sanction as a superior officer to Tahsildar in the matter of review, as envisaged under Section 51 of the Land Revenue Code, observations have been made. These observations cannot be treated as decision of the issue itself.

5. Therefore, in my considered opinion, the order cannot be said to be without jurisdiction or palpably illegal. Opportunity of hearing was duly afforded to the petitioner and order was passed after hearing the petitioner. Therefore, I do not consider it to be a fit case where the Writ Court should entertain without insisting upon exhaustion of alternative remedy of appeal under Section 34 of the Land Revenue Code.

Sd/-  
**(Manindra Mohan Shrivastava)**  
**Judge**