

HIGH COURT OF CHHATTISGARH, BILASPUR

WRIT PETITION (PIL) No. 25 of 2015

Samast Gramvasi, Gram B. K. Bahara Post- B.K. Bahara, P.S. Bhimkhoj (Khallari), Tehsil- Bagbahara, Revenue & Civil District- Mahasamund (Chhattisgarh), Represented By Punit Ram Sahu, S/o Late Shri Brijlal Sahu, Aged About - 44 Years, R/o. Village & Post- B.K. Bahara, P.S. Bhimkhoj (Khallari), Tehsil- Bagbahara, Revenue & Civil District- Mahasamund (Chhattisgarh).

---- **Petitioner**

Versus

1. State Of Chhattisgarh S/o Through : Secretary, Department Of Revenue & Disaster Management, Mantralaya, Capital Complex, Mahanadi Bhawan, Naya Raipur, Revenue & Civil District Raipur (Chhattisgarh)
2. The Secretary, Board Of Revenue, Revenue Board Of Chhattisgarh, Mungeli Naka Road, Bilaspur, Revenue & Civil District- Bilaspur (Chhattisgarh).
3. Commissioner, Raipur Division, Revenue & Civil District- Raipur (Chhattisgarh).
4. The District Collector, Mahasamund, Revenue & Civil District- Mahasamund (Chhattisgarh)
5. The Tehsildar, Tehsil- Bagbahara, Revenue & Civil District- Mahasamund (Chhattisgarh).
6. Sub - Divisional Officer (Revenue), Tehsil- Bagbahara, Revenue & Civil District- Mahasamund (Chhattisgarh)
7. Kishore Chand Agrawal S/o. Late Shri Sankat Mochan Lal Agrawal
8. Harish Chandra Agrawal S/o. Late Shri Sankat Mochan Lal Agrawal
9. Smt. Sulochana Bai Agrawal W/o. Late Shri Sankat Mochan Lal Agrawal

Respondents No. 7 to 9 are R/o. Village & Post- B.K. Bahara, Patwari Circle No. 117/64, Tehsil- Bagbahara, (Earlier Mahasamund), Revenue & Civil District- Mahasamund (Chhattisgarh)

10. Shakuntala Bai Agrawal D/o Late Shri Sankat Mochan Lal Agrawal W/o. Chandravanshi Lal Agrawal, R/o. Baniyapara, Post & Tehsil - Raipur, Revenue & Civil District- Raipur (Chhattisgarh)

11. Suman Bai Agrawal (Now dead)

12. Gayatri Bai Agrawal D/o. Late Shri Sankat Mochan Lal Agrawal
W/o. Late Kamal Narayan Agrawal, R/o. Aryan Traders, Near
Kankali Hospital, Post & Tehsil- Raipur, Revenue & Civil District-
Raipur (Chhattisgarh)

13. Sudha Bai Agrawal D/o. Late Shri Sankat Mochan Lal Agrawal
W/o. Late Jitendra Kumar Agrawal, R/o. Post & Tehsil- Sirpur
Kagaz Nagar, Revenue & Civil District- Adilabad (Telangana)
(Earlier- Andhra Pradesh.)

---- Respondents

For Petitioner	: Shri Surfaraj Khan, Advocate
For State	: Shri Y.S. Thakur, Additional Advocate General
For Respondents No. 7,9 &10	: Shri H.B. Agrawal, Senior Advocate with Ms. Prabha Sharma, Advocate

Hon'ble Shri Thottathil B. Radhakrishnan, Chief Justice

Hon'ble Shri Sharad Kumar Gupta, Judge

Order On Board

Per Thottathil B. Radhakrishnan, Chief Justice

25/07/2017

1. This writ petition is filed raising an issue as to whether the tank in question has vested in the State Government.
2. Today, we have heard the learned counsel for the petitioner, learned Additional Advocate General and learned Senior counsel for contesting respondents.
3. As is discernible from the order minuted by this Court on 21/07/2016, there was a proceeding with the Board of Revenue of Madhya Pradesh, under Section 225 of the Land Revenue Code, which then governed the field. That copy of that decision is

available, but no action taken consequent thereto is apparently seen. As per the order dated 21/07/2016 this Court had directed that the Court should be informed as to what happened after an order of remand was made by the Commissioner, Raipur on 17/12/1980. The unfortunate scenario is that the said file is missing from the Government office. But that situation should not end this litigation in stalemate because the matters sought to be adjudicated relates to the availability or otherwise of a water point as a tank for the use by the local inhabitants.

4. In terms of Section 251 of the M.P. Land Revenue Code, 1959 the State Government has to take an ultimate call on the question as to whether there is vesting of any particular tank in the Government. We are of the view that having regard to the missing of the files, it is appropriate that the Board of Revenue conducts requisite inquiry into the issue in hand and decide as to whether the tank in question has vested in the State Government. The private respondents who claim right over the said tank on the basis of the earlier orders of the Government or other statutory authorities will be at liberty to place their pleadings and materials before the Board of Revenue. The petitioner will also be entitled to place pleadings and materials before the Board of Revenue. We clarify that the Board of Revenue may adopt any procedure it deems appropriate on the very peculiar facts and circumstances of the case in hand. Let the Board of Revenue initiate due action within a period of two

months from the date of receipt of copy of this judgment and upon the petitioners and the private respondents placing any pleadings by way of representations at that end. The final decision shall be taken by the Board of Revenue after adverting to and considering all relevant materials and giving appropriate opportunity of hearing to the parties concerned. Without entering on the merits of the rival contention touching the nature of the land or in tank in question as also right to property, the writ petition is ordered directing that aforesaid be done. Since the direction given to the Board of Revenue through this judgment is necessitated owing to the missing of files it is appropriate that the Board of Revenue takes a decision *de novo* notwithstanding any previous decision by any authority, including the Board of Revenue.

5. The writ petition is ordered accordingly.

Sd/-

(Thottathil B. Radhakrishnan)
Chief Justice

Sd/-

(Sharad Kumar Gupta)
Judge