

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WP No. 2624 of 2006**

1. Mohammed Yaqub, S/o late Shri Mohammed Rafiq, aged about 90 years,
2. Mohammed Tahir, S/o Mohammed Yaqub, aged about 65 years,

Both resident of Pendra Road (Gaurella) Tahsil Pendra Road, District Bilaspur (CG)

---- Petitioner**Versus**

1. State Of Chhattisgarh, through Secretary, Revenue Department, Govt. of Chhattisgarh, DKS Bhawan, Raipur (CG)
2. Suryodhan Singh @ Bajrangi, S/o Ram Prasad, aged about 48 years, R/o Village Tikerkala, Tahsil Pendra Road, District Bilaspur (CG)

---- Respondent**WP No. 1326 of 2003**

1. Juber Ahmad, aged about 40 years,
2. Amir Ahmad, aged about 36 years,
(both sons of late Atiq Ahmad)
3. Zarina Begum, aged about 60 years, W/o late Atiq Ahmad
4. Tahira Begum, aged about ____ years, W/o late Abrar Ahmad
5. Suhail Ahmad, aged about 5 years, minor, son of late Abrar Ahmad
6. Suheb Ahmad, aged about 1½ years, minor, son of late Abrar Ahmad
(both minors through mother Tahira Begum)

All resident of Pendra Road, Tahsil Pendra Road, District Bilaspur (CG)

---- Petitioner**Versus**

1. State Of Chhattisgarh, through Secretary, Revenue Department, DKS

Bhawan, Raipur (CG)

2. V.K. Dhruve, Additional Collector, Pendraroad, Tahsil Pendraroad, District Bilaspur (CG)
3. G.S. Otti, Naib Tehsildar, Pendraroad, Tahsil Pendraroad, District Bilaspur (CG)
4. Suryodhan Singh @ Bajrangi, S/o Ram Prasad Dhruve, aged about 45 years, R/o Ward No.11, Pendra Road, Tahsil Pendra Road, District Bilaspur (CG)

---- Respondent

For Petitioners : None.

For Respondent/State : Shri PK Bhaduri, Govt. Advocate.

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

24/09/2018 :

1. The petitioners are seeking quashment of order passed by the Additional Collector, Pendra Road and the appellate order passed by the Board of Revenue (Annexure-P/11) whereby the petitioners' appeal has been dismissed.
2. The petitioners were found to be in possession of Government land reserved and used as road, therefore, the Additional Collector, Pendra Road held enquiry and passed an order (Annexure-P/10) on 4.3.2003 deleting the petitioners' names from the Revenue records and directing entry of name of the State Government on the land which was earlier reserved as "Chhote Jhad Ka Jungle".
3. On a reading of the order passed by the Additional Collector, it would appear that the entire village moved a complaint before the State

Government which was referred by the Chief Minister's Secretariat to the Additional Collector for enquiry, whereupon the Additional Collector sought report from Naib Tehsildar and the petitioners were afforded opportunity of hearing. In the Misal Bandobast of the pre-independence period, the land was recorded as "Chhote Jhad Ka Jungle". The petitioners claimed to have purchased the land from Ex.-Malgujar by unregistered sale deed and on that basis, they succeeded in getting their names recorded in the revenue papers. When the petitioners started obstructing the right of way to the cremation ground, the villagers objected their act and moved a complaint, on which it has been found that the petitioners do not hold any right, title or interest over the subject property.

4. On a reading of the order sheets of the Court of Tehsildar, Pendra Road from 11.6.2002 onwards, it appears that the petitioners were present during the proceeding. The Additional Collector eventually found that the petitioners have got recorded their names surreptitiously and fraudulently and similarly, the names of other persons were also recorded whereas on the spot, the petitioners were found to be in possession of the land without there being any right, title or interest.
5. The Board of Revenue has also found that the land belongs to the State Government, as it was recorded as "Chhote Jhad Ka Jungle" i.e. forest land in the Misal Bandobast and recording the names of the petitioners in the revenue record was without any lawful basis.
6. The Supreme Court in **B.K. Muniraju v State of Karnataka and**

Others¹ held thus at para 22 :

“22. It is settled law that a writ of certiorari can only be issued in exercise of extraordinary jurisdiction which is different from appellate jurisdiction. The writ jurisdiction extends only to cases where orders are passed by inferior courts or tribunals or authorities in excess of their jurisdiction or as a result of their refusal to exercise jurisdiction vested in them or they act illegally or improperly in the exercise of their jurisdiction causing grave miscarriage of justice. In regard to a finding of fact recorded by an inferior tribunal or authority, a writ of certiorari can be issued only if in recording such a finding, the tribunal/authority has acted on evidence which is legally inadmissible, or has refused to admit an admissible evidence, or if the finding is not supported by any evidence at all, because in such cases the error amounts to an error of law. It is needless to mention that a pure error of fact, however grave, cannot be corrected by a writ.”

7. I have heard learned State Counsel and perused the record.
8. The finding recorded by the Additional Collector and the Board of Revenue appears to be fully borne out from the record. Ex-Malgujar had no authority to execute the sale deed in favour of the petitioners because the land was recorded as “Chhote Jhad Ka Jungle” i.e. government forest land, therefore, on the said basis, the petitioners could not have recorded their names in the revenue records. The Additional Collector and the Board of Revenue have not committed any error of law or fact while holding that entry of the petitioners' name in the revenue record was wholly illegal.
9. For the same reason, as mentioned above, the order passed by the Tehsildar, Pendra Road on 17.6.2002, 26.6.2002 and the order dated 4.3.2003 and 3.3.2003 passed by the Additional Collector do not suffer

¹ (2008) 4 SCC 451

from any infirmity and the challenge thrown to the said orders are rejected.

10. For the foregoing, both the Writ Petitions being devoid of any substance deserve to be and are hereby dismissed.

11. Consequently, interim orders passed earlier in both the writ petitions stand vacated.

12. Learned State Counsel shall send back record of the Revenue Court.

Sd/-
Judge
(Prashant Kumar Mishra)

Barve