NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Petition (C) No. 1247 of 2014

1. Jai Singh, S/o Late Laxman Singh Rathore, a/a 54 years;
2. Nohar Singh, S/o Late Laxman Singh Rathore, a/a 60 years;
3. Gir war Singh, S/o Late Laxman Singh Rathore, a/a 57 years;
4. Top Singh, S/o Late Laxman Singh Rathore, a/a 50 years;

All R/o Village Sardha, Tehsil and P.S. Lormi, District Mungeli (C.G.) Post Sardha, Tehsil Lormi, District Mungeli (C.G.)

---- Petitioners

Versus

1. State of Chhattisgarh Through Secretary, Department of Revenue and Disaster Management, Mahanadi Bhawan, New Raipur, District Raipur;
2. Collector, Mungeli (C.G.)
3. Sub Divisional Officer (Revenue), Lormi, District Mungeli (C.G.)

--- Respondents

For Petitioners : Smt. Hamida Siddiqui, Advocate.
For Respondents/State : Shri Ratan Pusty, Govt. Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

30/07/2018

1. The Tehsildar, Lormi, passed an order dated 25.02.2013 directing mutation of the subject land in the name of petitioner under Section 110 of the Land Revenue Code, 1959 (henceforth “Code, 1959”). Sub Divisional Officer (Revenue), Lormi, by its order dated 5.6.2014, while exercising the power of review jurisdiction under Section 51 of the Code, 1959, set aside the order of mutation passed by Tahsildar, Lormi dated 25.02.2012, against which instant writ petition has been filed questioning the same.

2. Learned counsel appearing for the petitioner would submit that under Section 51 of the Code, 1959, power to review lies with the revenue authority, who has passed the original order subject to permission from the higher revenue authority. He submits that the original order of mutation was passed by the Tahsildar, as such, the Sub Divisional Officer (Revenue) could not have exercised the power of review to review the order passed by the Tahsildar, therefore, the order impugned is liable to be set aside.

3. On the other hand, counsel for the State would support the impugned order.

4. I have heard learned counsel appearing for the parties and perused the order impugned with utmost circumspection.

5. It is correct to say that power of review in respect of the order dated 25.02.2013 was only with the Tahsildar, who has passed the original order of mutation. In case, he is of the view that the order ought to have reviewed, he can obtain permission from the higher revenue authority i.e. Sub Divisional Officer (Revenue),

6. In the present case, Sub Divisional Officer (Revenue), Lormi himself has exercised the power of review, which is in teeth of provisions contained in Section 51 of the Code, 1959, therefore, the impugned order is liable to be set aside.

7. Accordingly, the impugned order dated 5.6.2014 passed by Sub Divisional Officer (Revenue) is set aside. The matter to remitted to the Sub Divisional Officer, who shall firstly consider the grant of permission for reviewing the order passed by the Tahsildar, and if he will find the answer in affirmative, he will send the matter to the Tahsildar, Lormi for further needful action.

8. It is made clear that this Court has not expressed any opinion on the merits of the matter and the authority concerned is free to decide the case of the petitioner on its own merit in accordance with law.

9. The writ petition is allowed to the extent indicated hereinabove.

Sd/-

(Sanjay K. Agrawal)
Judge

D/-