

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CONT No. 54 of 2018**

1. Shantanu Prasad S/o Late Gangaram Aged About 62 Years,
2. Bhuminath S/o Late Gangaram Aged About 56 Years.

Both are R/o Village Jamdi, Tahsil And District Surajpur, Civil
And Revenue District Surajpur, Chhattisgarh.

---- Petitioner**Versus**

1. Smt. Jyoti Singh Sub Divisional Officer (Revenue), Bhaiyathan,
District Surajpur, Chhattisgarh.
2. Himawati D/o Late Gangaram Aged About 48 Years R/o Village
Jamdi, Tahsil And District Surajpur, Chhattisgarh.

---- Respondent

For Petitioners	Shri Ankur Agrawal, Advocate.
For Respondents	None.

Hon'ble Shri Justice Prashant Kumar Mishra**Order On Board****09/02/2018**

1. Heard.
2. It is argued that the order passed by SDO Revenue Bhaiyathan, District Surajpur on 29. 11. 2017 (Annexure C-5) is in disobedience of the order passed by this Court in WPC No. 3149 of 2016.
3. After hearing learned counsel for the applicant, the

argument appears to be misconceived. WPC No. 3149 of 2017 was a writ petition assailing the order passed by the Board of Revenue allowing the revision application preferred by respondent Himawati to set aside the order passed by Additional Commissioner, Ambikapur and maintaining the order passed by Additional Collector, Ambikapur directing mutation of the name of respondent Himawati. While dismissing the petitioner's writ petition, it was observed by this Court that any order of mutation shall remain subject to the decree which may eventually be passed by the Civil Court.

4. It is highlighted that since the civil suit has been dismissed for want of prosecution, now the order of mutation does not survive, as there is no decree in favour of respondent Himawati.
5. The observation made in Para 4 of the order passed in writ petition that the mutation shall remain subject to the decree which may be passed by the Civil Court is not a positive or affirmative direction to the parties to do or not to do any particular act or refrain from doing any particular act.
6. If after dismissal of the civil suit for want of prosecution, the petitioner approached the SDO Revenue, Bhaiyathan which has not passed any order in petitioner's favour, it remains open for the petitioner to prefer an appeal against the order

(Annexure C-5). It is informed to this Court that such appeal has already been preferred before the superior Revenue Court.

7. If that be so, the Appellate Court shall decide the matter in accordance with law. However, no case for issuing notice in this contempt petition is made out.
8. The contempt petition is accordingly dismissed.

Sd/-

Judge
Prashant Kumar Mishra

Akhilesh