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HIGH COURT OF CHHATTISGARH, BILASPUR
MCC No. 79 of 2018

(Arising out of order dated 14.09.2017 passed in Writ Appeal No.305 of 2017 by the learned Division Bench)

1. Chandra Prakash Surya S/o Sadhram Surya Aged About 36 Years R/o Village Mahmand, Police Station Torwa, Tehsil Bilaspur, Revenue And Civil District Bilaspur, Chhattisgarh
2. Nagendra Rai S/o Chandrika Prasad Rai Aged About 48 Years R/o Village Mahmand, Police Station Torwa, Tehsil Bilaspur, Revenue And Civil District Bilaspur, Chhattisgarh

---- Petitioner

Versus

1. State of Chhattisgarh through Secretary, Panchayat and Rural Administration Department, Mahanadi Bhawan, Naya Raipur, Revenue and Civil District Raipur, Chhattisgarh
2. Collector Bilaspur, Revenue And Civil District Bilaspur, Chhattisgarh.
3. Sub Divisional Officer (Revenue) Bilaspur, Revenue And Civil District Bilaspur, Chhattisgarh
4. Sub Divisional Officer (Revenue) Bilha, Revenue And Civil District Bilaspur, Chhattisgarh
5. Zila Panchayat Bilaspur Through Chief Executive Officer, Revenue And Civil District Bilaspur, Chhattisgarh
6. Janpad Panchayat Bilha, Through Chief Executive Officer, Revenue And Civil District Bilaspur, Chhattisgarh
7. Naib Tehsildar Bilaspur Revenue And Civil District Bilaspur, Chhattisgarh
8. Holy Cross Sister Association / Holy Cross Institute, Village Mahmand Police Station Torwa, Tehsil Bilaspur, Revenue And Civil District Bilaspur, Chhattisgarh

9. Neeraj Rai S/o Shree Markande Rai Aged About 39 Years Sarpanch Of Gram Panchayat Mahmand Police Station Torwa, Tehsil Bilaspur, Revenue And Civil District Bilaspur, Chhattisgarh

---- Respondents

For Petitioner : Shri Mahendra Dubey, Advocate.
 For Respondent/State : Shri Ashish Surana, Panel Lawyer.
 For Respondent No.8 : Ms. Hamida Siddiqui, Advocate.
 For Respondent No.9 : Shri Surfaraj Khan, 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

04/05/2018

1. We have heard the learned counsel for the Petitioner in this MCC and the learned Advocates appearing for the different Respondents, except Respondent No.6, who is yet to be served. Service to Respondent No.6 is not necessary in view of the issue in hand. Hence, further issuance of notice to Respondent No.6 is dispensed with.
2. On 24.08.2017, the following order was minuted in the Writ Appeal No.305 of 2017:-

“The issue raised is as to whether the complaint of the villagers of Village-Mahmand of which the Appellant is that Sarpanch is to be considered by the SDO, Bilha or SDO, Bilaspur. It appears that there are contradictory pleadings. Therefore, the question is whether the village Mahmand is within the jurisdiction of SDO, Bilha or SDO, Bilaspur. The Collector, Bilaspur is directed to provide authentic material identifying the requisite facts from the revenue records and to place it before this Court supported by an affidavit within a period of two weeks.”

3. Thereafter, the Collector, Bilaspur has sworn to an affidavit on 08.09.2017, which, among other things, says as follows:-

“.....village Mahmand is under Patwari Halka No.32 Dheka of Revenue Inspector Circle, Bilaspur and Tehsil Bilaspur. Thus, the village Mahmand comes under the jurisdiction of Sub-Divisional Officer (Revenue Bilaspur.”

4. Deciding the Writ Appeal No.305 of 2017 on 14.09.2017, this Court has noted a particular notification dated 14.02.2017 and took that document on record. The relevant portion of the judgment rendered on that day in Writ Appeal No.305 of 2017, is as follows:-

“4. Notification dated 14.02.2017 issued by the then Collector, Bilaspur under Section 104 of the Chhattisgarh Land Revenue Code, 1959, reconstituting the Patwari Halka of Bilaspur Tehsil showing the name of village Mahmand at SI.No.96 is produced along with that affidavit as Annexure A/1. We take that document on Board.

5. With the aforesaid, the controversy has been resolved. The complaint of the applicant, who is the Sarpanch of village Mahmand, is to be considered by the Sub-Divisional Officer, Bilaspur afresh. This writ appeal is ordered accordingly in supersession of judgment of the learned Single Judge.”

5. Having noticed that the controversy as regards jurisdiction has been resolved, the complaint of the Appellant in the writ appeal was directed to be considered by the Sub-Divisional Officer, Bilaspur. However, this Court had then directed that such consideration shall be consideration of the complaint “afresh”. This means that the entire proceedings carried out before the Sub-Divisional Officer, Bilha would be rendered negatory. It is noticed that the said officer took up those proceedings under the command of this Court issued under Article 226 of the Constitution. Therefore, the question of territorial jurisdiction alone is not going to lead to a different conclusion

overriding the command contained in the judicial order under Article 226 of the Constitution. Hence, the requirement of the situation is that the Sub-Divisional Officer, Bilaspur will comply with the directions contained in the judgment dated 14.09.2017 in Writ Appeal No.305 of 2017 by carrying forward the proceedings which Sub-Divisional Officer, Bilha had carried and such proceedings shall be carried forward by Sub-Divisional Officer Bilaspur from the stage which Sub-Divisional Officer, Bilha had reached. This means that the proceedings of Sub-Divisional Officer, Bilaspur will not be treated as *de novo* proceedings to be considered afresh. It is directed that the Sub-Divisional Officer, Bilaspur will hold the proceedings in continuation of the proceedings of the Sub-Divisional Officer, Bilha from the stage at which it had reached at the hands of the Sub-Divisional Officer, Bilaspur. Efforts will be taken by the Sub-Divisional Officer, Bilaspur to expedite the final decision of the matter.

6. The MCC is ordered accordingly.

Sd/-

(Thottathil B. Radhakrishnan)
CHIEF JUSTICE

Sd/-

(Sharad Kumar Gupta)
JUDGE