

HIGH COURT OF CHHATTISGARH, BILASPUR

WA No. 10 of 2018

- Omkar Awasthi Son Of Late Ram Khilawan Awasthi, Aged About 50 Years R/o Village Sirgitti, Tahsil And District Bilaspur, Chhattisgarh

---- Appellant

Versus

1. State Of Chhattisgarh Through Secretary, Department Of Revenue, Mantralaya, Mahanadi Bhawan, Naya Raipur, District Raipur, Chhattisgarh
2. Collector, District Bilaspur, Chhattisgarh
3. Sub Divisional Officer, Revenue, Bilaspur, District Bilaspur, Chhattisgarh.,
4. Tahsildar, Bilaspur, District Bilaspur, Chhattisgarh
5. Dev Prasad Mishra, Son Of Shri Bhikam Prasad Mishra, Aged About 62 Years R/o Village Sirgitti, Tahsil And District Bilaspur, Chhattisgarh

---- Respondents

For appellant	: Shri Jitendra Pali, Advocate
For Respondents/State	: Shri RK Gupta, Dy Advocate General
For Respondent- 5	: Smt Renu Kochar, Advocate

**Hon'ble Shri Justice Manindra Mohan Shrivastava &
Hon'ble Shri Justice Sharad Kumar Gupta**

Judgment on Board by Manindra Mohan Shrivastava, J.

21.03.2018

- 1) Heard the learned counsel for the parties.
- 2) The appellant has called in question the correctness and validity of order dated 03.08.2017 passed in WPC- 2145 of 2017 and order dated 18.09.2017 passed in Review petition- 99 of 2017.

3) Learned counsel for the appellant submits that the land in dispute in respect of which certain favourable orders were passed in favour of respondent- 5 were all illegal. He would submit that earlier, the dispute had already travelled up to this Court. He further submits that the land belongs to the Government and therefore, the orders which were passed by the Commissioner, enforcement of which was sought through the Writ Petition, itself is illegal. It is also submitted that the said order is already under challenge in the revision before the Board of Revenue.

4) It appears that the Writ Petition was disposed of by the learned Single Judge taking into consideration that there exists order of the Commissioner passed on 29.03.2016. When the petitioner filed a Review Petition, the learned Single Judge dismissed the same though observing that the petitioner is free to submit before the Collector and Sub-Divisional Officer, the order passed by the Board of Revenue, if any, which shall be considered by the Revenue authorities.

5) In our opinion, those observations fully protect the interest of the appellant. Therefore, as the appellant has already approached before the Board of Revenue and he has all other remedies open for him in case he is not granted relief by the Board of Revenue, we are not inclined to keep the matter pending. Subject to above observation, the appeal is dismissed.

6) It is made clear that the order has been passed by the learned Single Judge on the presumption that the order of the Commissioner is in existence. As it has been brought to the notice of this Court that the Order of the Commissioner has been challenged before the Board of

Revenue, it has to be clarified that the order passed by the learned Single Judge shall not come in the way of the Board of Revenue in examining the order passed by the Commissioner on its own merits and in accordance with law.

Sd/-
(Manindra Mohan Shrivastava)
JUDGE

Sd/-
(Sharad Kumar Gupta)
JUDGE

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