

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WA No. 174 of 2018

Awadh Ram S/o Bhaddar Gond, Aged About 30 Years R/o Village Kharwani (Bade) Tahsil Sarangarh, District Raigarh Chhattisgarh.

---- Appellant

Versus

1. State Of Chhattisgarh, through the Secretary Revenue Department, Mantralaya Mahanadi Bhawan, New Raipur, District : Raipur, Chhattisgarh
2. The Sub Divisional Officer, Sarangarh, District Raigarh Chhattisgarh.
3. The Additional Commissioner, Bilaspur Division Bilaspur Chhattisgarh.
4. Smt. Yamuna Bai W/o Late Yadram Aged About 55 Years
5. Ram Kumar S/o Late Yadram Aged About 38 Years,
6. Smt. Meena Nayak W/o R P Nayak D/o Late Yadram , aged about 35 years, All are R/o Village Kharwani (Bade) Tahsil Sarangarh District Raigarh Chhattisgarh
7. Baburam S/o Gosai Ram Caste - Aghariya , , R/o Village Kharwani (Bade) Tahsil Sarangarh District Raigarh Chhattisgarh.

---- Respondents.

For Appellant	:	Shri Shashi Kumar Kushwaha, Advocate
For State	:	Shri Prafull Bharat, Additional Advocate General

Hon'ble Shri Manindra Mohan Shrivastava, Judge &

Hon'ble Shri Sharad Kumar Gupta, Judge

Judgment On Board

Per Manindra Mohan Shrivastava, Judge

21/03/2018

1. There is an application for condonation of delay in filing the writ appeal.
2. The appeal is barred by 114 days.

3. Even if we were inclined to condone the delay, we find that there is nothing on merits of the appeal. This is so because indisputably, the transaction which was sought to be called in questions in 170 B of Land Revenue Code of the proceeding was made prior to 02/10/1959 in the manner that the property in dispute was declared 'Lawaris' and thereafter, it was settled by the orders of the revenue authorities in the name of Gotiya Shanker way back on 04/07/1949 by Tahsildar Sarangarh and the appeal against that order was also dismissed. It is also not in dispute that Civil Suit filed by father of writ petitioner No. 4 was also decreed on 15/07/1973 against which first appeal filed by forefathers of the appellant was also dismissed by the Additional District Judge, Raigarh. Eventually, second appeal filed before the High Court was also dismissed and the dispute attend finality.
4. Learned counsel for the appellant sought to support the maintainability of the proceeding under Section 170 B of Land Revenue Code by contending that the petitioners are tribals and they were deprived of their valuable land by fraud practised against them and therefore they were entitled to proper opportunity of hearing.
5. Learned Single Judge in order to hold that the proceedings under Section 170 B of the Land Revenue Code were not maintainable has relied upon the Division Bench decision by this Court in the case of *'Yadram (Dead) through LR's Smt. Yamuna Bai and others vs. State of Chhattisgarh and others'*, reported in 2015 (5) CGLJ 402 (DB).
6. In view of above considerations, the decision having been

rendered on a settled legal position, we find that even on merits no case is made out.

7. The last submission of the learned counsel for the appellant that the appellant was not heard, cannot be accepted it is not the case of the appellant that the notices were not served upon him or that his name was published in the cause-list for the day. If at the time of hearing, the counsel for the petitioner has chosen not to appear, no relief can be granted in this regard.
8. Learned counsel for the appellant then submits that he may be granted liberty to file review petition. We are not inclined to grant any such liberty, having examined the matter on merits.
9. The writ appeal is dismissed.

Sd/-

(Manindra Mohan Shrivastava)
Judge

Sd/-

(Sharad Kumar Gupta)
Judge