

HIGH COURT OF CHHATTISGARH, BILASPURWrit Petition (C) No.859 of 2018

Smt.Sangita Shende W/o Shri Sagar Aspurse, aged about 45 years,
resident of Ramdayal Colony, Bhatapara, Tah. Bhatapara, Distt.
Baloda Bazar Bhatapara, Civil and Revenue Distt. Baloda Bazar
Bhatapara (CG)

---- Petitioner

Versus

1. State of Chhattisgarh, through Collector, Distt. Baloda Bazar-Bhatapara (CG)
2. Sub Divisional Officer (R) Bhatapara, Distt.Baloda Bazar-Bhatapara (CG)
3. Tahsildar, Bhatapara, Distt.Baloda Bazar-Bhatapara (CG)
4. The Sarpanch, Gram Panchayat Pendari, Tah. Bhatapara, Distt.Baloda Bazar-Bhatapara (CG)
5. Mahesh Kumar Sachdeva S/o late Hukumat Rai Sachdeva, R/o Matadevalay Ward, Tah. Bhatapara, Distt.Baloda Bazar-Bhatapara (CG)

---- Respondents

For Petitioner: Mr. M.K.Sinha, Advocate

For State/Respondents No.1 to 3: -

Mr.Anand Dadariya, Dy.Govt.Advocate

For Respondent No.5: -

Mr.Manoj Paranjape, Advocate

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

11/07/2018

1. This writ petition emanates from the order dated 27.2.2018 passed by the Sub Divisional Officer (Revenue), Bhatapara Revenue Case No.B/121/2016-2017 by which he has passed an order restraining the other side/petitioner herein from

alienating/selling the suit property.

2. Learned counsel for the petitioner submits that the Sub Divisional Officer (Revenue) has passed order on 27.2.2018 granting temporary injunction for which he has no jurisdiction, therefore, the order passed by the Sub Divisional Officer (Revenue) is without jurisdiction and without authority of law. He relies upon a decision of the High Court of Madhya Pradesh in the matter of Maya Lalchandani (Mrs.) and others v. Board of Revenue and others¹ in which the M.P. High Court has held as under: -

“4. After going through the order passed by the learned President, Board of Revenue and taking into consideration the legal provisions, we are of the opinion that the directions issued in paragraph 7 of the order passed by the Board of Revenue cannot be allowed to stand. Section 32 of the Land Revenue Code talks of the inherent powers of the Revenue Authorities while Section 43 talks of applicability of the Code of Civil Procedure. It is to be seen from Section 32 that nothing in the Land Revenue Code shall be deemed to limit or otherwise affect the inherent power of the Revenue Court to make such orders as may be necessary to meet the ends of justice or as may be necessary to prevent the abuse of the process of Court. Section 43 simply provides that unless otherwise expressly provided in the Code, the procedure laid down in the Code of Civil Procedure shall, so far as may be, followed in all proceedings under the Code. Section 43 in no case would authorize a Revenue Authority to grant an injunction. Section 43 simply provides that the procedure laid down in the Code of Civil Procedure so far as may be followed in all proceedings under the Code. It is also to be seen from the provision of the Code of Civil Procedure that an injunction can be granted only by civil Court and by none else. Section 32 of the M.P. Land Revenue Code only talks of the inherent powers of the Revenue Courts where they are required to make such order as may be necessary for the

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ends of justice or to prevent the abuse of the process of the Court. The powers under Section 32 can be exercised within the Code itself and not beyond the Code. If the Revenue Authority does not have the power to grant injunction then the Board of Revenue also could not grant injunction.”

3. Order to grant injunction is surely vested in the jurisdictional civil court, revenue courts cannot grant order of injunction. Therefore, the order passed by the revenue authority granting temporary injunction restraining transfer following the principle of law laid down in Maya Lalchandani (supra) is without jurisdiction and without authority of law. It is accordingly set aside. However, the Sub Divisional Officer (Revenue) is directed to take decision on merits after hearing the parties in accordance with law, expeditiously, within three months from the date of receipt of a copy of this order.
4. The writ petition is allowed to the extent indicated herein-above.
- No order as to cost(s).

Sd/-
(Sanjay K. Agrawal)
Judge

B/-