

HIGH COURT OF CHHATTISGARH, BILASPUR

MA No. 95 of 2017

Tularam S/o Jageshwar Patel Aged About 61 Years R/o Village
Bhouradadar, Tahsil Basna, District Mahasamund Chhattisgarh.

---- Appellant

Versus

1. Rajendra Patel S/o Tulsiram Patel Aged About 45 Years.
2. Ishwar Prasad Patel S/o Tulsiram Patel Aged About 38 Years
Both are R/o Bhouradadar, Tahsil Basna, District Mahasamund
Chhattisgarh.
3. Smt. Vilam Bai D/o Tulsiram Patel W/o Bhoj Kumar Choudhary
Aged About 42 Years R/o Village Limgaon, Police Station And Tahsil
Saraipali District Mahasamund Chhattisgarh.
4. Tulsiram S/o Jageshwar Patel Aged About 64 Years R/ O Village
Bhouradadar, Tahsil Basna, District Mahasamund Chhattisgarh.
5. State Of Chhattisgarh, Through Collector, Mahasamund
Chhattisgarh.

---- Respondents

For appellant – Shri T.K. Jha, Advocate.
For respondents No.1 to 4 – Shri Vivek Tripathi, Advocate.
For State/respondent No.5-Shri Ashutosh Pandey, PL.

Hon'ble Shri Justice Goutam Bhaduri

Order

23/08/2018

Heard.

1. Instant appeal is against the order dated 20/09/2017 whereby an application under Order 39 Rule 1 and 2 read with section 151 of CPC was allowed which was filed by the plaintiffs and it was directed that till the civil suit is decided on merits, the entry in the revenue records may be maintained and the status quo order be continued.
2. Learned counsel for the appellant would submit that the revenue court in exercise of power under Order 39 Rule 1 and 2 read with section 151 of CPC cannot intervene into jurisdiction of the revenue authorities and it is only responsibility of the revenue authority in respect of the entry made whether to continue with them or not. It is contended that jurisdiction of the civil court is

barred under section 257 of the Land Revenue Code.

3. Perused the order and documents connected with this petition. Petition would show that suit was filed by Rajendra Patel, Ishwar Prasad Patel and Vilam Bai who are the son and wife of Tulsiram Patel. The appellant herein is Tularam who is brother of Tulsiram. The plaintiffs averred that a relinquishment deed was got executed by fraud by Tulsiram as he was not of sound mind, therefore prayer was made that relinquishment deed executed by Tulsiram be declared null and void which was executed on 25/01/2017 and 11/01/2017.

4. The averment of the plaint would show that one brother was claiming the right over the property on the basis of the relinquishment deed which is under challenge by wife and the son of brother namely Tulsiram. It is alleged that said relinquishment deed dated 11/01/2017 and 25/01/2017 is outcome of fraud. The order impugned would show that the learned court below had accepted the application under Order 39 Rule 1 and 2 of CPC and directed that the status quo be maintained in respect of the revenue record till the final adjudication of the civil suit.

5. Undisputedly the khasra entry do not confer a title. It is only relevant for the purpose of paying land revenue. The Supreme Court in case of **Municipal Corporation, Gwalior Vs. Puran Singh alias Puran Chand & ors.** reported in **AIR 2014 SC 2665** has laid down the ratio to the above.

6. Considering the prayer made and the pleading in this case when the relinquishment deed dated 11/01/2017 and 25/01/2017 itself are in question, it is obvious that in the meanwhile if subsequent right are created in respect of the property on the basis of the revenue entry then it will lead to multiplicity of the proceeding. Under the circumstances the order passed by the learned court below whereby status quo has been ordered in respect of the revenue entry balancing with the prayer and pleading made, the same cannot be faulted with. Even otherwise revenue entry even if are made it will not confer any title but taking into facts of this case it is directed that the parties shall

maintain status quo in respect of the suit property in question till the final adjudication of the case.

7. With such observation, the appeal stands disposed of.

(Goutam Bhaduri)

JUDGE

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