**`NAFR**

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**Writ Petition (C) No. 413 of 2016**

Rajesh Kumar Tiwari, S/o. Late Shri Ganesh Prasad Tiwari, aged about 61 years, R/o. Opposite Railway Station Champa, Jawaharpara, Police Station & Post Champa, Civil and Revenue District Janjgir Champa (C.G.)

**---- Petitioner**

**Versus**

1. Anil Kumar Tiwari, S/o. Late Tulsi Prasad Tiwari, aged about 50 years, R/o. Opposite Railway Station Champa, Jawaharpara, Police Station & Post Champa, Civil and Revenue District Champa Janjgir (C.G.)

2. Commissioner, Bilaspur, Division Bilaspur, District Bilaspur (C.G.)

3. Collector, District Janjgir-Champa, Chhattisgarh (C.G.)

4. Sub-Divisional Officer (Revenue), Champa, District Janjgir-Champa (C.G.)

**---- Respondents**

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For Petitioner : Mr. Manoj Paranjpe, Advocate.
For Respondent No.1 : Mr. K.K. Singh, Advocate.
For State : Mr. Ratan Pusty, Govt. Advocate.

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**Hon'ble Shri Justice Sanjay K. Agrawal**

**Order On Board**

**30/01/2018**

(1) The petitioner made an application before the Collector Janjgir-Champa for correction of the revenue records. The said application was rejected by the Collector by order dated 09.04.2012, against which, the petitioner preferred revision before the Commissioner, Bilaspur Division. The Commissioner, Bilaspur Division, by its order dated 30.12.2012, has allowed the revision and set aside the order of Collector and the matter was remitted back to the Collector to consider afresh after affording due

opportunity of hearing to the petitioner, in which, respondent No. 1 – Anil Kumar Tiwari filed an application for review of the order dated 30.12.2012 passed by the Commissioner, which was dismissed on the ground that no ground for review is made out as the respondent No.1 was not party before the Collector or Commissioner, against which the respondent No.1 preferred revision before the Board of Revenue. The Board of Revenue declined to entertain this revision, however, stayed the proceedings of Collector, pursuant to the order of Commissioner dated 30.10.2012. Being aggrieved by the order of stay of the proceedings of the Collector, the petitioner moved an application for review questioning order staying the proceedings. This time, Board of Revenue has declined to entertain the review with regard to order dated 8.5.2015, but set aside the order dated 30.12.2012 passed by the Commissioner, against which instant writ petition has been filed questioning the same.

(2) Learned counsel appearing for the petitioner would submit that order passed by the Commissioner dated 30.10.2012 was not under challenge before the Board of Revenue, therefore, the Board of Revenue has committed jurisdictional illegality in setting aside the order dated 30.10.2012. He submits that order dated 8.5.2015 staying the proceedings of the Collector was also bad and unstainable in law, which is liable to be set aside.

(3) Per contra, counsel for respondent No. 1 would support the impugned order and submits that civil suit is pending consideration for the subject matter.

(4) On the other hand, counsel for the State would support the

impugned order.

(5) I have heard learned counsel appearing for the parties and considered their rival submissions made hereinabove and also gone through the record with utmost circumspection.

(6) Since order dated 30.10.2012 was not challenged before the Board of Revenue in the review petition filed by the petitioner, therefore, the Board of Revenue could not have set aside the order dated 30.10.2012. Thus, the part of the order by which order dated 30.10.2012 has been set aside, is liable to be and is hereby set aside. Board of Revenue, while dismissing the revision filed by respondent No.1, could not have stayed the further proceedings of the Collector pursuant to the order passed by the Commissioner and, therefore, that part of the order by which the order dated 8.5.2015 is set aside, is liable to be and is hereby set set aside.

(7) The writ petition is allowed to the extent indicated hereinabove. However, the Collector, Janjgir-Champa is directed to proceed further in compliance of the order of Commissioner dated 30.10.2012.

(8) The writ petition is allowed to the extent indicated hereinabove. No order as to cost(s).

Sd/-

(Sanjay K. Agrawal)
Judge

D/-