

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WP No. 5482 of 2005**

1. Sewak Ram, S/o Harichand Aghariya, aged about 58 years, R/o village Temri, Patwari Halka No.45/16, R.I. Circle Khamharpali, Tahsil Saraipali, Dist. Mahasamund (CG).

---- Petitioner**Versus**

1. The State of Chhattisgarh, through the Secretary, Department of Revenue, Matralay, DKS Building, Raipur (CG).
2. The Board of Revenue, Chhattisgarh, through its President, Circuit Court Raipur, Tahsil & Dist. Raipur (CG).
3. The Collector, Mahasamund, Tahsil & Dist. Mahasamund (CG).
4. Gadarai, S/o Late Chetan Binjhar, R/o village Jampali, Patwari Halka No.16, R.I. Circle, Khamharpali, Tahsil Saraipali, Dist. Mahasamund (CG).

---- Respondent

For Petitioner	Shri Shailendra Dubey, Advocate
For Respondent/State	Shri Rajendra Tripathi, Panel Lawyer
For Respondent No.4	Shri Raghvendra Pradhan, Advocate

Order On Board**By****Prashant Kumar Mishra, J.****26/09/2018**

1. The order under challenge passed by the Board of Revenue has remanded back the proceedings under Section 170B of the Chhattisgarh Land Revenue Code, 1959 for fresh hearing by the Collector.

2. It has been observed by the Board of Revenue that when the proceeding was pending before the Sub Divisional Officer (Revenue) (henceforth 'the SDO') and statements of witnesses were recorded, the tribal holder was not allowed opportunity to cross-examine the petitioner. Similarly after the death of Gadarai his legal heirs were not substituted and the proceedings continued before the SDO in absence of the legal heirs.
3. In my considered opinion, when the Board of Revenue has pointed out the irregularities in the proceedings carried out by the SDO, the matter should have been remitted back to the SDO for fresh enquiry and not to the Collector.
4. Accordingly, the writ petition is disposed of with a direction that the concerned SDO shall hold fresh enquiry by providing opportunity to both the parties to submit fresh pleadings; record statements of their witnesses; cross-examine the witnesses of each other; and then pass final order in accordance with law. The proceedings be completed within a period of six months from the date of presentation of certified copy of this order. The record of the Revenue Court be sent back forthwith.
5. There shall be no order as to cost(s).

Sd/-

Judge
Prashant Kumar Mishra

Gowri