

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR****WPC No. 1597 of 2018**

- Budhwar Singh S/o Late Nohar Sai, Aged About 65 Years R/o. Tarda, Tahsil and District Korba (Chhattisgarh) (Since Deceased) Through His Son Kripal Singh, Aged About 48 Years, S/o Late Budhwar Singh, R/o Tarda, Tahsil and District Korba Chhattisgarh

**---- Petitioner****Versus**

1. Latelu Ram, S/o Shri Kanhaiya Lal, Caste Kurmi, R/o Bendarkona- Kurudih, Tahsil Korba, District Korba, Chhattisgarh
2. The State Of Chhattisgarh Through The District Collector, Korba, Chhattisgarh
3. The Commissioner, Bilaspur Division, Bilaspur, Chhattisgarh
4. The Additional Collector, District Korba, Chhattisgarh
5. The Sub Divisional Officer (Rev.), Korba, District Korba, Chhattisgarh

**---- Respondents**

For Petitioner

Shri P. K. Patel, Advocate

For Respondent-State

Shri Rajendra Tripathi, PL

**Hon'ble Justice Mr. Prashant Kumar Mishra****Order On Board****18/09/2018**

1. The Additional Commissioner, Bilaspur Division has allowed the revision application preferred by the respondent No.1 and set aside the order passed by the Additional Collector, Korba on 14.09.2006, by which petitioner's application under Section 170-B of the Chhattisgarh Land Revenue Code, 1959 (henceforth 'the

Code, 1959') was allowed and the subject land bearing Khasra No.396/3, area 1.80 Acre at Village Bendarkona, Patwari Halka No.9, RI Circle, Korba has been reverted back in favour of the petitioner.

2. Admittedly, name of petitioner's forefather Hari Gontiya, S/o Pitar Gontiya was recorded in the jamabandi of the year 1954-55, which suffered amendment on 09.09.1957 to mention "government grass land" after deleting the name of Hari Gontiya, S/o Pitar Gontiya. By a subsequent grant dated 02.02.1970, lease of the subject land was granted to the respondent No.1 by the Additional Collector, Korba. After this grant of lease and upon coming into force of Section 170-B of the Code, 1959, the petitioner initiated proceedings under Section 170-B, which was dismissed by the SDO (Revenue), Korba on 20.06.2005, but the petitioner's appeal was allowed by the Additional Collector, Korba.
3. Under Section 170-B of the Code, 1959, it is provided that every person who on the date of commencement of the Chhattisgarh Land Revenue Code (Amendment) Act, 1980 is in possession of agricultural land which belong to a member of a tribe, which has been declared to be an aboriginal tribe under sub-section (6) of Section 165 between the period commencing on the 2<sup>nd</sup> October, 1959 and ending on the date of commencement of Amendment Act, 1980 shall, within 2 years of such commencement, notify to the Sub Divisional Officer in such form and in such manner as may be prescribed, all the information as to how he has come in

possession of such land.

4. In the case at hand, there is no transaction between the petitioner and the respondent No.1. Name of forefathers of the petitioner was deleted on 09.09.1957, therefore, this act was also performed prior to 02.10.1959. If the petitioner or his forefathers were aggrieved by deletion of their name from the revenue record, they should have initiated proceedings within a reasonable time immediately after 09.09.1957. The respondent No.1 is a lessee from the State Government and has no privity of transaction with the petitioner, therefore, there is no question of any element of fraud being played by the respondent No.1 in relation to a property which was not owned or at least not recorded in the name of petitioner's father as on the date of commencement of the Code, 1959 i.e. 02.10.1959.
5. It appears, the petitioner's father Hari Gontiya was a proprietor of the village and the land was vested in the State Government pursuant to an order passed by the Competent Authority under the Chhattisgarh Abolition of Proprietary Rights (Estates, Mahals and Alienated Lands) Act, 1950 and it is precisely for this reason that there was no challenge to deletion of his name from the revenue record. The petitioner therefore cannot be permitted to collaterally challenge the said order of the deletion of his forefathers' name from the revenue record by initiating proceedings under Section 170-B of the Code, 1959 without there being any transaction between him and the respondent No.1 at any point of time.

6. The order passed by the Additional Commissioner does not call for any interference under Article 226 of the Constitution of India.
7. The writ petition has no substance. It fails and is hereby dismissed.

Sd/-  
Prashant Kumar Mishra  
Judge

Nirala