

HIGH COURT OF CHHATTISGARH, BILASPUR

WA No. 554 of 2017

- Shambhu Nath Sahu, S/o Shri Rameshwar Sahu, aged about 35 Years
R/o Village Lodam, District Jashpur Chhattisgarh.(Intervener No. 2),
District : Jashpur, Chhattisgarh ----- **Appellant**

Versus

1. Union Of India Through Secretary Department Of Home Affairs, New Delhi, India.(Respondent No. 1)
 2. State Of Chhattisgarh Through Secretary, Department Of Revenue Mantralaya, D.K.S. Bhawan, Raipur, Chhattisgarh Now Mahanadi Bhawan, Naya Raipur, District Raipur Chhattisgarh.(Respondent No. 2)
 3. Commissioner, Bilaspur, Division Bilaspur Chhattisgarh.....(Respondent No. 3)
 4. Competent Authority, Cum - The Collector, Under The Provision Of M.P. Celling On Agricultural Holding Act, 1960, At Jashpur Nagar Chhattisgarh.(Respondent No. 4)
 5. Smt. Madhavi Kumari Devi, W/o Late Shri Dilip Singh Judeo, Aged About 62 YearsPetitioner No. 1(a)
 6. Prabal Pratap Singh Judeo, S/o Late Shri Dilip Singh Judeo, Aged About 62 YearsPetitioner No. 1(b)
 7. Yudhvair Singh Judeo, S/o Late Shri Dilip Singh Judeo Aged About 62 YearsPetitioner No. 1(c)
 8. Smt. Priyamvada Singh Sudeo, W/o Late Shri Shatrunjay Singh Judeo, Aged About 62 YearsPetitioner No. 1(d)
- Respondents- 5 to 8 r/o Vijay Vihar Palace, Jashpur Nagar, district Jashpur (CG)
9. Raja Ran Vijay Pratap Singh Judeo, S/o Late Yuvraj Upendra Singh Dev, Aged About 34 Years(Petitioner No. 2)
 10. Raj Kumari Mranalini Singh Deo, D/o Late Yuvraj Upendra Singh Dev Aged About 32 Years(Petitioner No. 3)
 11. Vikramaditya Singh Deo S/o Late Yuvraj Upendra Singh Dev, Aged About 30 Years(Petitioner No. 4)
 12. Smt. Lokeshwari Devi, Aged About 50 Years(Petitioner No. 5)
 13. Smt. Chandralekha Devi, Aged About 48 Years(Petitioner No. 6)
 14. Smt. Shashi Lekha Aged About 42 Years(Petitioner No. 7)
 15. Smt. Sarveshwari Devi, Aged About 42 Years(Petitioner No. 8)
 16. Rajmata Jaya Jaya Kumari Devi, W/o Late Raja Vijay Bhushan Singh Dev, Aged About 75 Years(Petitioner No. 9)

Respondents- 9 to 16 r/o Aaram Niwas, Palace Road, Jashpur Nagar, district - Jashpur (CG)

17. Santosh Kumar Sahu S/o Rameshwar Sahu Aged About 26 Years R/o Village Lodam, District Jashpur Chhattisgarh.(Intervener No. 1)

---- Respondents

For Appellant	: Shri Surfaraj Khan, Advocate
For State	: Shri RK Gupta, Deputy Advocate General
For Union of India	: Shri B Gopa Kumar, Assistant Solicitor General
For Contesting respondents	: Shri Amrito Das, Advocate

Hon'ble Shri Thottathil B. Radhakrishnan, Chief Justice &

Hon'ble Shri Justice Sharad Kumar Gupta

Judgment on Board

Per Thottathil B. Radhakrishnan, Chief Justice

20.02.2018

1) We have heard the learned counsel for the appellant, the learned Deputy Advocate General, the learned Assistant Solicitor General and the learned counsel for the contesting respondents, who are the Writ Petitioners.

2) This appeal is against the order delivered on 23.11.2017 in a Writ Petition instituted in the year 2001 and in which there was an interim order granted by the learned Single Judge way back on 28.03.2001.

3) It is apparent from the impugned order that when the Writ Petition was taken up for consideration, the learned counsel appearing for the parties had jointly submitted that the revision preferred by the Writ Petitioners against the order dated 16.03.2001 which is pending consideration before the Commissioner, Bilaspur Division, Bilaspur be directed to be decided expeditiously. Acceding to that request, the learned Single Judge had issued the impugned order directing the

proceedings pending before the Commissioner to be concluded within a period of four months from 23.11.2017, the date of the Single Judge's order. This means that the Commissioner, Bilaspur Division is duty bound to comply with that order and take a final decision on or before 23.03.2018.

4) The plea of the appealing intervenor is that he had been trying to put up a construction for nearly 17 years by now and that has been dragged on by the proceedings. He, therefore, pleads that the learned Single Judge should not have granted an order extending the interim relief issued in the Writ Petition for a further period of four months. He points out that when there is a statutory interdiction to passing of interlocutory stay orders in revisions, that should be deemed to exclude the Writ Court from exercising any power and issuing orders of interlocutory nature or granting such interlocutory order as would be co-extensive with the period of pendency of the statutory revision.

5) The powers under Article 226 of the Constitution of India includes the power to ensure that situational justice is handed down to the parties. As already noticed, the impugned order is essentially passed on consent. Obviously, the proceedings before the Commissioner, Bilaspur Division will have to be carried to its logical end. The learned Single Judge thought it appropriate to maintain the status *quo* obtained by the interlocutory order issued by this Court way back on 28.03.2001 for a further period of four months from the date of disposal of the Writ Petition to ensure such continuance of situation during the pendency of the revision as well. The principle that what is prohibited by law cannot be done through the

issuance of a writ does not govern the situation in hand. The writ jurisdiction under Article 226 of the Constitution is not a substitute for the statutory revisional jurisdiction. What has been done by the learned Single Judge is only to balance the scales of justice and to protect the interest of all parties for a short period during which the revisional authority is required to dispose of the statutory revision. The plea of the appellant that the proceedings cannot be carried forward by the Commissioner, Bilaspur Division, in view of the territorial jurisdiction of that Commissioner also does not appeal to us. This is because whatever be the territorial jurisdiction of the Commissioner, Bilaspur Division, now that Officer has to work under the judicial command contained in the order of the learned Single Judge. Therefore, whatever be the territorial jurisdiction, the Commissioner, Bilaspur Division will comply with the direction contained in the learned Single Judge's order and decide on the issue promptly. We do not see any injustice in this matter. Nor do we see that there is any jurisdictional error or legal infirmity in the impugned order which deserves to be visited by us in exercise of the intra Court appellate jurisdiction under Section 2 (1) of the Chhattisgarh High Court Rules (Appeal to Division Bench) Act, 2006.

6) We, therefore, dismiss this Writ Appeal, however, requiring the Commissioner, Bilaspur Division to comply with the directions contained in the impugned order of the learned Single Judge, without seeking any further extension of time.

Sd/-
(Thottathil B. Radhakrishnan)
Chief Justice

Sd/-
(Sharad Kumar Gupta)
Judge