

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 3030 of 2018

- Laxman S/o Rampyari Aged About 65 Years R/o Village Pandrapath, Tahsil Bagicha District Jashpur Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through Collector Jashpur, District Jashpur Chhattisgarh
2. Anarasi S/o Vishwanath Aged About 52 Years R/o Village Pandrapath Tahsil Bagicha, District Jashpur Chhattisgarh
3. Ramkaran S/o Vishwanath Aged About 50 Years R/o Village Pandrapath Tahsil Bagicha, District Jashpur Chhattisgarh

---- Respondents

For Petitioner

Shri H. B. Agrawal, Senior Advocate
with Shri J. K. Saxena, Advocate

For Respondent-State

Ms. Astha Shukla, PL

Hon'ble Justice Mr. Prashant Kumar Mishra

Order On Board

30/10/2018

1. Challenge in this petition is to the order passed by the Board of Revenue on 02.05.2018, which has affirmed the order passed by the Commissioner, Sarguja Division on 10.01.2018 and the Collector, Jashpur on 15.05.2012 cancelling the lease of agricultural land allowed in favour of the petitioner on 16.07.1986.
2. Respondent Nos.2 & 3 had moved an application before the SDO (Revenue) for cancellation of the lease granted to the petitioner. The SDO allowed the appeal on 27.06.2002, against which the

petitioner preferred an appeal before the Collector, Jashpur on 05.07.2005. The Collector allowed the petitioner's appeal to hold that the SDO (Revenue) had no jurisdiction to cancel the lease granted to the petitioner but at the same time, the Collector observed that the petitioner was not entitled for grant of lease of agricultural land, therefore, *suo motu* revision proceedings deserve to be initiated to consider the issue regarding validity of the lease granted to the petitioner.

3. In the *suo motu* revision proceedings, the petitioner was issued show cause notice and after considering his reply, the Collector passed an order on 15.05.2012 interalia holding that as on the date when the petitioner was allowed lease on 16.07.1986, he was already having 10.22 Hectares of land in 3 different holdings, therefore, he was neither a landless person nor a marginalized agriculturist, therefore, he was not entitled to be issued lease of agricultural land.
4. It is argued by the learned counsel for the petitioner that *suo motu* revisional power could not have been exercised without seeking permission from the Board of Revenue. It is also argued that the lease allowed in favour of the petitioner could not have been cancelled after lapse of 25 years, more so when the petitioner has developed the land and is carrying on agricultural activity.
5. Learned State counsel would submit that the petitioner has not moved the application for grant of lease with clean hands and has obtained the lease without being entitled, therefore, no interference is called for.

6. It is settled law that if an order obtained by a person is a result of fraud or misrepresentation, the same is a nullity. Such order can be cancelled at any stage of time as soon as misrepresentation is brought to the notice of the Authorities. In the case at hand, the petitioner was already possessed of 10.22 Hectares=25 Acres of land in the year 1966. Grant of lease of agricultural land is ordered in favour of landless person or marginalized agriculturists who have no means of livelihood. It is not for enriching a person who is already well off. When the petitioner was not entitled to obtain benefit of lease of agricultural land, he should not have moved the application nor the Tehsildar should have processed his application for grant of lease. The petitioner was not at all entitled for lease but somehow the lease was obtained without proper enquiry about the petitioner's eligibility. The Collector has rightly exercised the *suo motu* revisional power.
7. The writ petition has no substance. It fails and is hereby dismissed.

Sd/-
Prashant Kumar Mishra
Judge

Nirala