

HIGH COURT OF CHHATTISGARH, BILASPUR**WA No. 155 of 2017**

1. Bhagwati Bai W/o Late Babulal Aged About 72 Years
2. Smt. Usha, W/o Late Laxmi Narayan, aged about 42 years.
3. Satya Narayan S/o Late Babulal Aged About 38 Years
4. Jai Narayan S/o Late Babulal Aged About 36 Years

R/o Village Kharmora, Tahsil And District Korba, Chhattisgarh, District :
Korba, Chhattisgarh

**---- Appellants
Petitioners**

Versus

1. Jhalkan S/o Shivprasad Dewangan Aged About 65 Years R/o Lig 45,
Mahendrapratap Nagar, Korba, Tehsil And District Korba (CG)
2. State Of Chhattisgarh, Through Collector, Korba (CG)

---- Respondents

For Appellants	:	Shri Manoj V Paranjpe, Advocate
For Respondent No.1	:	Shri Eshwar Jaiswal, Advocate
For Respondent No.2	:	Shri Prasun K Bhaduri, G.A.

Hon'ble Shri Ajay Kumar Tripathi, CJ
Hon'ble Shri Parth Prateem Sahu, J

Order on Board

Per Ajay Kumar Tripathi, CJ

12/11/2018

1. This appeal has been preferred by the appellants against the order dated 24.3.2017 passed by the learned Single Judge.
2. Before the writ Court the order passed by the Board of Revenue dated 1.12.2017 in exercise of revisional power was under challenge since the Member, Board of Revenue set aside all the orders passed by the revenue authorities subordinate thereto.

3. The origin of dispute lies in a narrow compass. Way back in the year 1974-75 Babulal, husband of appellant No.1 & father of appellant Nos.2 to 4, was granted lease by the government. In the year 1979-80 said Babulal was conferred bhumiswami rights under the provisions of the Chhattisgarh Land Revenue Code, 1959 and after his death in the year 2008, the appellants herein applied for mutation as legal heirs which was allowed by the revenue authority sometime in the year 2010-11. An application too was made by the appellants herein for diversion of land which was also allowed.
4. After all these exercise, respondent No.1 to the present appeal filed an appeal against the order of mutation passed by the Sub-Divisional Officer (Revenue) on the ground that he was a bonafide purchaser of the land by way of registered sale deed executed by Babulal in the year 1997 itself. Appeal of respondent No.1 herein was dismissed. Second appeal was preferred before the Commissioner and the Commissioner passed yet another order directing recording of name of the government in the revenue records. Against the said decision a revision was preferred before the Board of Revenue and the Board of Revenue for the reasons so given in its order dated 1.2.2017 set aside both the orders of the subordinate forums which became subject-matter of challenge in the writ application.
5. Learned Single Judge took note of the fact that way back in the year 1997 after bhumiswami right was conferred on Babulal, the sale deed was executed and registered in favour of the respondent No.1 herein. The objection which was made or taken that such a sale or alienation could not have been done without due permission of the Collector under Section 165 (7-B) of the CG Land Revenue Code, 1959 has been held by the

Member, Board of Revenue to be directory and an administrative decision and not a statutory bar from such alienation or transfer.

6. Be that as it may, the learned Single Judge keeping the totality of issue into consideration has remitted the matter back to the revenue authorities for deciding the issue of mutation afresh after hearing the parties to the dispute.
7. Through the appeal the effort on the part of the appellants is to shake off the obligation created by their predecessor through a registered sale deed. The same now cannot be allowed to be done in the manner in which the family wants to disown the said sale by their predecessor on the ground that due permission was not taken from the Collector before the said alienation or transfer.
8. We refuse to pass any observation on the said proposition of law as such at this stage keeping in mind the kind of direction which has been issued by the learned Single Judge for reconsideration of the mutation by the revenue authorities.
9. The parties are free to agitate the issue and make their submissions before the authority concerned for consideration.
10. Appeal is otherwise dismissed.

Sd/-
(Ajay Kumar Tripathi)
Chief Justice

Sd/-
(Parth Prateem Sahu)
Judge

roshan/-