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HIGH COURT OF CHHATTISGARH BILASPUR

Judgment reserved on 08.01.2019

Judgment delivered on 25.03.2019

Writ Appeal No. 188 of 2017

Y. Thankachan, S/o Shri O. Yohannan, aged about 71 years, R/o Bacheli Tahsil Dantewada, District South Bastar, Dantewada (CG).

---- Appellant

Versus

1. State of Chhattisgarh Through Secretary, Department of Revenue, D.K.S. Building, Mantralaya, District Raipur, (Now at Mahanadi Bhawan, Naya Raipur, District Raipur (CG).
2. The Commissioner, Jagdalpur, Division Bastar (CG).
3. The Collector, Dantewada, District South Bastar, Dantewada (CG).
4. The Sub Divisional Officer (Revenue), Dantewada, District South Bastar, Dantewada (CG).
5. The Tahsildar, Dantewada, District South Bastar, Dantewada (CG).
6. Shri P.L. Bhayor, S/o Shri Asharam Bhayor, Age unknown, R/o New Rajendra Nagar, District Raipur (CG).

---- Respondents

For Appellant	:	Shri Mrigendra Singh, Senior Advocate with Shri Suyash Mohan Guru, Shri Hitendra Singh and Shri Sumit Singh, Advocates.
For Respondent/State	:	Shri R.S. Baghel, Deputy Advocate General.

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Hon'ble Shri Ajay Kumar Tripathi, Chief Justice
Hon'ble Shri Parth Prateem Sahu, Judge

C A V JUDGMENT

Per Parth Prateem Sahu, J

1. By this instant appeal, the appellant has challenged the legality, validity and propriety of the impugned order dated 13.04.2017 passed by the learned Single Judge in Writ Petition (C) No.759/2016 whereby the writ petition filed against the order dated 10.01.2012 passed by the Commissioner, Bastar Division, Jagdalpur in suo motu Revision Case No.60/A-21/2010-11 has been dismissed.

2. Brief facts for disposal of this appeal, are that, the appellant purchased the property bearing Khasra No.98/6ज & 98/6द measuring 0.07 acre, situated at Bade Bacheli, Tahsil Dantewada, District South Bastar Dantewada vide registered sale deed. Seller of land namely P.L. Bhayor, Caste-Halba, belongs to scheduled tribe community who filed an application before Collector on 13.6.2006 seeking permission for transfer of his interest in the property in question. The Collector on the basis of report submitted by concerned Tahsildar, granted permission without initiating an enquiry himself. Tahsildar in his enquiry report has recorded that land is a diverted land and it is not a part of nazul land. Meaning thereby the land in question was earlier an agricultural land which has been subsequently diverted. The Collector granted permission vide its order dated 25.7.2007 and thereafter on the basis of aforementioned permission, sale deed was executed in favour of appellant on 16.8.2007.

3. The Commissioner received about 10 cases of granting permission of sale of land belonging to member of scheduled tribe community for its examination including case of appellant from the State Government.

4. On scrutiny, the Commissioner found that the land was situated in the scheduled area and under the provisions of Section 165(6)(i) of the Chhattisgarh Land Revenue Code, 1959 (hereinafter referred to as the 'Code, 1959'), there is a restriction on transferring the rights of aboriginal tribe to other persons. The Commissioner registered the cases separately under suo motu revision as provided under Section 50(1) of the Code, 1959. A show-cause notice was issued to the appellant as well as seller of the land i.e. respondent No.6.

5. The private respondents i.e. purchaser and seller submitted reply to the show-cause notice and pleaded that the land is within the territorial jurisdiction of the municipal limits and the rights of the property has been transferred after obtaining valid permission from the competent authority i.e. Collector, Dantewada. They have further pleaded that the transfer/sale of the land is in accordance with the law and it is also a bonafide transfer of the disputed property from a person belonging to a scheduled tribe community to a non-tribal person.

6. The Commissioner after conclusion of suo motu revision proceeding, arrived at a finding that the transfer of the land in favour of the appellant is in violation of the provisions of Section 165(6)(i) of the Code, 1959 and set aside the order of granting permission of sale dated 04.06.2008 passed by the Collector in Revenue Case No.21/A-21/2007-08 and remanded back the matter to the Collector, District South Bastar, Dantewada for fresh consideration by observing that under the provisions of Section 165 (6) (i) of the Code, 1959 property in question in any manner could not be transferred to non-tribal person. There was non-compliance of provisions of Section 165 of the Code, 1959.

7. This order of Commissioner was challenged by the appellant before Board of Revenue stating that exercise of suo motu power of the revision by the Commissioner is not within reasonable time as provided under C.G. Land Revenue Code, 1959 as the proceeding was initiated about after four years, there cannot be complete restriction of transfer of interest of the member belonging to the

scheduled tribe community in favour of non-tribal person, which is violative to Articles 14, 19 and 21 of the Constitution of India. It has also been pleaded that the appellant has suffered irreparable loss as during these period of four years, he has constructed house over land in dispute. Board of Revenue dismissed the revision against which writ petition was filed before High Court.

8. The learned Single Judge dismissed the writ petition by impugned order dated 13.04.2017 taking into consideration the order dated 07.08.2014 passed by the coordinate Bench in **Writ Petition (C) No.3509 of 2011 (Vijay Pandey v. State of Chhattisgarh and Others)** wherein also the land was situated within the jurisdiction of Commissioner (Bastar Division), Jagdalpur and the writ Court held that land situated in scheduled areas and owned by the members of scheduled tribe community cannot be transferred to a non-tribal person.

9. Learned counsel appearing for the appellant argued that appellant purchased the land after obtaining valid permission from the competent authority i.e. Collector under the provisions of Section 165(6) of the Code, 1959. He further argued that the land in question is a diverted land and situated within the municipal limits, therefore, the provisions of Section 165(6)(i) of the Code, 1959 would not be applicable to the present case. He also argued that the Commissioner could not have exercised the powers of suo motu revision after lapse of four years and in support of this argument, he relied upon the case of **Ranveer Singh (deceased by L.Rs.) and Another v. State of Madhya Pradesh,** wherein it has been held that the provisions of

Section 165 (6) itself provides the mode of transfer of property belonging to a member of scheduled tribe community to a non-tribal person i.e. by a valid prior permission from the competent authority. He lastly argued that the appellant has purchased the property by way of a registered sale deed after following due process of law i.e. by taking prior permission from the Collector.

10. Per contra, learned counsel appearing for the State argued that the provisions of Section 165(6) of the Code, 1959 is a special provision enacted under the Code of 1959 by Act of 1976. He further argued that the land in dispute situated in an area which is predominantly inhabited by aboriginal tribe notified as scheduled area, therefore, no transfer can be made under the law by a tribal person to a non-tribal person. He further argued that the Collector in its earlier order of granting permission had not considered the impact of provisions of Section 165(6)(i) of the Code, 1959, but has granted permission only on the report submitted by Tahsildar with respect to no objection of any other person on transfer of the land. He also argued that provisions of Section 50 of the Code, 1959 do not provide any specific period of limitation for initiating suo motu revision proceeding and in the present case, Commissioner has initiated suo motu proceeding on the direction of the State Government wherein the State Government came across that the Collector in violation of the specific provisions of Section 165(6)(i) of the Code, 1959 granted number of permissions to sell land of aboriginal tribal persons situated in schedule area and which has been found to be correct by the Commissioner in the proceeding initiated by him. To support his contention, he referred to the order passed by the Single Bench on 07.08.2014 in **Writ Petition**

(C) No.3509 of 2011 (Vijay Pandey v. State of Chhattisgarh and Others) and argued that in the aforementioned order passed by the learned Single Judge, the property is situated within the territorial jurisdiction of Jagdalpur District, which is also a notified scheduled area.

11. We have heard learned counsel appearing for parties and perused documents annexed with the writ petition as well as the writ appeal.

12. Before proceeding further, it will be beneficial to take note of relevant provisions of Chhattisgarh Land Revenue Code, 1959 applicable to the facts of the present case. Section 165 of the Code, 1959 deals with rights to transfer of any interest of a Bhumiswami. The relevant provision with respect to case at hand is sub-section (6) of Section 165 of the Code, 1959, which is reproduced herein below:-

> **"165. Rights of transfer.** –(1) x x x
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> x x x
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> x x x
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> x x x
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> x x x
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> (6) Notwithstanding anything contained in sub-section (1) the right of bhumiswami belonging to a tribe which has been declared to be an aboriginal tribe by the State Government by a notification in that behalf, for the whole or part of the area to which this Code applies shall -
>
> > (i) in such areas as are predominantly inhabited by aboriginal tribes and from such date as the State Government may, by notification, specify, not be transfered nor it shall be transferable

either by way of sale or otherwise or as a consequence of transaction or loan to a person not belonging to such tribe in the area specified in the notification;

(ii) in areas other than those specified in the notification under clause (i), not to be transferred or be transferable either by way of sale or otherwise or as a consequence of transaction of loan to a person not belonging to such tribe without the permission of a Revenue Officer not below the rank of Collector, given for reasons to be recorded in writing.

Explanation.- For the purposes of this sub-section the expression “otherwise” shall not include lease.

(6-a) Notwithstanding anything contained in sub-section (1), the right of a Bhumiswami other than a Bhumiswami belonging to a tribe which has been declared to be an aboriginal tribe under sub-section (6), in the land excluding the agricultural land shall not be transferred or be transferrable either by way of sale or otherwise or as a consequence of transaction of loan to a person not belonging to aboriginal tribe without the permission of the Collector given for reasons to be recorded in writing:

Provided that every such transfer effected after the 9th day of June, 1980 but before the 20th April, 1981 which is not in accordance with the provisions herein contained shall, unless such transfer if ratified by the Collector in accordance with the provisions hereinafter contained, be void and shall be of no effect whatsoever, notwithstanding anything contained in this Code or any other law for the time being in force.”

13. The question which arises for consideration before this Court is whether only on the ground that the land being diverted and subsequently coming into the territory of the municipal area, the transaction of transfer of interest can escape the rigors of the provisions of Section 165(6)(i) of the Code, 1959?

14. Article 244(1) of the Constitution of India deals with the administration of scheduled areas and tribal areas, which is reproduced herein below:-

> "**244. Administration of Scheduled Areas and Tribal Areas.-**(1) The provisions of the Fifth Schedule shall apply to the administration and control of the Scheduled Areas and Scheduled Tribes in any State other than the States of Assam, Meghalaya, Tripura and Mizoram.
>
> (2) x x x"

15. The relevant portion of Fifth Schedule of the Constitution of India is also reproduced herein below:-

> "**1. Interpretation**.-In this Scheduled, unless the context otherwise requires, the expression 'State' does not include the State of Assam, Meghalaya, Tripura and Mizoram.
>
> **2. Executive power of a State in Scheduled Areas.**–Subject to the provisions of this Schedule, the executive power of a State extends to the Scheduled Areas therein.
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> x x x
>
> x x x
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> **5. Law applicable to Scheduled Areas.**-(1) Notwithstanding anything in this Constitution, the Governor may by public notification direct that any particular Act of Parliament or of the Legislature of the State shall not apply to a Scheduled Area or any part thereof in the State or shall apply to a Scheduled Area

or any part thereof in the State subject to such exceptions and modifications as he may specify in the notification and any direction given under this sub-paragraph may be given so as to have retrospective effect.

(2) The Governor may make regulations for the peace and good government of any area in a State which is for the time being a Scheduled Area.

In particular and without prejudice to the generality of the foregoing power, such regulations may-

(a) prohibit or restrict the transfer of land by or among members of the Scheduled Tribes in such area;

(b) regulate the allotment of land to members of the Scheduled Tribes in such area;

(c) regulate the carrying on of business as money-lender by persons who lend money to members of the Scheduled Tribes in such area.

(3) In making any such regulation as is referred to in sub-paragraph (2) of this paragraph, the Governor may repeal or amend any Act of Parliament or of the Legislature of the State or any existing law which is for the time being applicable to the area in question.

(4). All regulations made under this paragraph shall be submitted forthwith to the President and, until assented to by him, shall have no effect.

(5). No regulation shall be made under this paragraph unless the Governor making the regulation has, in the case where there is a Tribes Advisory Council for the State, consulted such Council."

16. The list of Scheduled Tribes and Scheduled Castes has been published under the Constitution of India which was amended from time to time and notified in the Gazette of India. The Scheduled areas were also notified and subsequently while amending the provisions of Section 165 of the Code, 1959 and incorporating Section165 (6) (i) (ii) & (6-a), the list of Schedule Tribes and Scheduled Areas were also notified as part of Section 165 of the Code, 1959.

17. For the purpose of Section 165 of the Code, 1959 schedule Tribe's enlisted in the list of Tribes was made its part in which caste 'Gond' has been declared to be the aboriginal tribe in the State of Chhattisgarh and in Sl.No.15 of the said Schedule, sub-caste 'Mudia (Muria)' has been mentioned as the member belonging to 'Gond' community, which is notified as a scheduled tribe community.

18. The list of the areas, districts and divisions showing it to be the scheduled areas as predominately inhabited by aboriginal tribes was also notified and made part of Section 165 of the Code, 1959. In that list Dantewada District Bastar has also been mentioned at Sl.No.6 in the erstwhile State of Madhya Pradesh. After reorganization of the State of Madhya Pradesh and formation of new State of Chhattisgarh under notification of scheduled area under the provisions of Section 165(6) of the Code, 1959, whole of the Dantewada District has been notified to be specified scheduled area.

19. Undisputedly, “Bade Bacheli” where the land is situated is also a specified scheduled area as notified by the State Government being predominantly inhabited by tribal community. Seller of the land respondent No. 6 is a member belonging to notified scheduled tribe community. Relevant portion of the notification showing that ‘Bade Bacheli’ is notified as specified scheduled area is reproduced herein below:-

> “(3) Chhattisgarh Notification.- In supersession of Department Notification No.5-3-76-384-Sevem-N stipulated dated 26.1.1997 the State Government hereby declare the following area shown as schedule, as specified area for the

purpose of sub-section (6) of section 165 of the Chhattisgarh Land Revenue Code, 1959 (No.20 of 1959)

Schedule

S.No.	Area Comprised within the limits of Tahsil	District
1.	Whole District Surguja	Surguja
2.	xxxxxxxxxxxx	xxxxxxx
3.	xxxxxxxxxxxx	xxxxxxx
4.	Whole District Dantewada	Dantewada
5.	xxxxxxxxxxxx	xxxxxxx
6.	xxxxxxxxxxxx	xxxxxxx
7.	xxxxxxxxxxxx	xxxxxxx
8.	xxxxxxxxxxxx	xxxxxxx
9.	xxxxxxxxxxxx	xxxxxxx
10	xxxxxxxxxxxx	xxxxxxx
11.	xxxxxxxxxxxx	xxxxxxx
12.	xxxxxxxxxxxx	xxxxxxx
13.	xxxxxxxxxxxx	xxxxxxx

(1) Aboriginal Tribes specified.- In exercise of the powers conferred by sub-section (6) of S. 165 of the Code, the State Government has declared the tribes specified in the Schedule below to be aboriginal tribes for the whole of the area to which the said Code applies:-

Schedule

1. Andh
2. Xxxx
3. Xxxx
4. Xxxx
5. Xxxx
6. Xxxx
7. Xxxx
8. Xxxx
9. Xxxx
10. Xxxx
11. Xxxx
12. Xxxx
13. Xxxx
14. Xxxx
15. Gond, including –
    Arakh or Arrakh, Aaria, Asur, Badi Maria or Bada Maria, Bhatola, Bhimma, Bhuta, Koibhuta or Koilabhuti, Bhar, Bisonhora Maria, Chota Maria, Dadami Maria, Dhuru or Dhurwa, Dhoba, Dhulia, Dorla, Gaiki, Gatta or Gatti, Gaita, Gond-Gowari, Hill Maria, Kandra, Kalanga, Khatola, Koitar, Koya, Khirwar or Khirwara, Kucha-Maria, Kucha-Maria, Kuchki Maria, Madia (Maria), Mana, Mannowar, Moghya or Mogia Monghya, Mogiyar, Mudia (Muria), Nagarchi, Nagwanshi, Ojha, Raj, Sonjhari Jharekha, Thatia or Thotya, Wada Maria, or Vada Maria, Daroi."

20. Bare reading of the provisions of Section 165(6)(i) & (ii) of the Code, 1959 makes it amply clear that the legislature under its wisdom has made complete restriction on transfer of the interest of a tribal person on the immovable property by way of sale or otherwise if the property

belonging to member of Scheduled tribe community, is situated within the scheduled area as notified by State Government.

21. The Land Revenue Code, 1959 specifically provides that the areas other than those specified in the notification under clause (i) of sub-section (6) of Section 165 of the Code, 1959 as scheduled area, the transfer can be made with prior permission of the revenue officer not below the rank of Collector.

22. From conjoint reading of both the clauses i.e. clause (i) and clause (ii) of sub-section (6) of Section 165 of the Code, 1959, it is clear that the intention of the legislature is apparent that the complete restriction of transfer of the land situated in scheduled area has been purposefully made, it leaves no scope for interpreting it in any other way. The language used in clause (i) of sub-section (6) of Section 165 does not provide any jurisdiction to the Collector even to entertain an application for grant of permission of sale of the land owned by tribal persons and situated in scheduled area, therefore, the order passed by Collector granting permission to transfer interest of tribal person on land in dispute is without jurisdiction and without any lawful authority.

23. The arguments raised by learned counsel appearing for the appellant that the land is situated in municipal area and it is a diverted land, therefore, provisions of Section 165(6)(i) of the Code, 1959 will not apply to the case also does not appeal to this Court.

24. The provisions of Section 165(6)(i) of the Code, 1959 has been constituted by invoking the powers as provided under the provisions of Article 244(1) of the Constitution of India. There is no separate provision to deal with the lands situated in municipal area or looking to the change of the use of the land mentioned in the revenue records. The strict provisions appear to have been incorporated is to achieve some specific object i.e. to protect the inhabitants in its form in areas which are predominantly inhabited by scheduled tribe community. The words used in the provision are very specific and simple i.e. “the land owned by tribal person and situated in scheduled area as notified by the State Government as scheduled area” and the subject land is situated within Bade Bacheli, District Dantewada which is notified as

scheduled area because whole of Dantewada District is notified as scheduled area.

25. The provisions of Section 165(6)(i) of the Code, 1959 is framed for the benefit of a person belonging to a scheduled tribe community to protect their interest and their inhabitants in the area where they are residing from their eviction by non-tribal person. Complete restriction of transfer of immovable properties belonging to tribal persons is only to protect the tribal community of scheduled area from uprooting them from place of their origin.

26. Learned counsel for the appellant relied upon the case of **Gwalior Sugar Company Limited and another v. Anil Gupta and others,** is entirely on different facts and not applicable to the facts of the case in hand.

27. The other ground raised by learned counsel for the appellant with respect to period of limitation for initiating a suo motu revision proceeding against any order passed by sub-ordinate revenue officer is answered in judgment rendered in **Ranveer Singh** (supra), relied upon by the appellant himself. It makes it very clear that the period of limitation would start from the date of knowledge of any illegality committed by the authority and in the instant case. As soon as illegality came to the knowledge of State Government, it directed Commissioner to look into the issue and Commissioner on preliminary enquiry after satisfying that provisions of law was violated registered a suo motu revision case. The case law relied upon by the petitioner is against him and supporting the action of the Commissioner. Even otherwise, the order which was reviewed under the provisions of Section 50(1) of the Code, 1959 is an order which was passed without any jurisdiction. The provision of Section 165(6)(i) does not provide any revenue officer jurisdiction to grant permission of sale for the land owned by tribal and situated within scheduled area, therefore, in view of the above discussion, the argument raised by learned counsel for the appellant that suo motu revisional powers have been invoked by the Commissioner is beyond the reasonable period of time, is not sustainable and is repelled.

28. The learned Single Judge in its order has considered the observations made by the coordinate Bench on 07.08.2014 in **Writ Petition (C) No.3509 of 2011 (Vijay Pandey v. State of Chhattisgarh and Others),** which is reproduced herein below :-

> “11. The provision creating embargo on transfer of right of Bhumiswami belonging to a tribe which has been declared to be aboriginal tribe in areas, which are predominately inhabited by aboriginal tribes notified as such under Section 165 (6)(i) of the Code, is absolute in nature and does not admit of any exception. It is a complete ban. Subject to other provisions contained in Section 165, the embargo does not allow transfer of right of such Bhumiswami in notified areas as referred to hereinabove. Such a stringent provision has been made in order to protect the Bhumiswami's right of aboriginal tribes in notified areas. The legislative intention is clear that in areas notified as above, rights of Bhumiswami belonging to aboriginal tribe as notified by the government in that behalf, rights shall not be transferred nor it shall be transferable either by way of sale or otherwise or as a consequence of transaction of loan to a person not belonging to such tribe in the area specified in the notification.
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> 14. Even if it were assumed that the subject land is situated in an area which is now brought within the local limits of the Municipal Corporation, Jagdalpur, seminal question arising for consideration is whether the embargo on transfer of rights of Bhumiswami covered by the provisions contained in Section 165 (6) (i) is taken away or to say, ceases to apply.
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> On a plain reading of the provision contained in Section 165 (6) or any other sub sections or any other provisions contained in the Land Revenue Code, it nowhere expressly or by necessary implication removes the embargo on transfer of right of Bhumiswami belonging to aboriginal tribe in the area notified under Section 165 (6)(i) of the Code. Therefore, this Court is unable to hold that in cases, where land is diverted from agricultural purpose to residential purpose and included in urban area, restriction on transfer of right of a Bhumiswami belonging to aboriginal tribe in notified area will ceases to apply. In other words, irrespective of whether the land is diverted one and/or situated within the limits of a Municipal Corporation and therefore, in an urban area, the embargo on transfer of right as referred to above continues unhindered.

> 16. Thus, diversion of land for non-agricultural purpose, inclusion in the urban area or grant of colonizer license or land use specified to be residential under development plan do not in any manner operate to whittle down the rigor of provision contained in Section 165(6)(i) of the Code, which seek to protect the interest of aboriginal tribes in notified area, that rights of Bhumiswami belonging to such aboriginal tribe shall not be transferred to any person except those belonging to such aboriginal tribe.
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> Reliance on the judgment of the Supreme Court in the case of **Gwalior Sugar Company Limited** (supra) is misconceived because in that case, the issue was entirely different. That was not a case where the Supreme Court was dealing with the scope and ambit of provisions contained in sub section (6) of Section 165 of the Code."

- Learned Single Judge also differentiated the judgment relied upon by the learned counsel for the appellant and held as under:-

> "7. In the case at hand also, there is no averment or supporting document that the subject land is Nazul land. There is no proof either to establish that construction raised on the land was with permission of the concerned Municipal body. The cases relied by the petitioners in the matter of **Mewalal** (Supra) was one concerning the validity of a decree for specific performance of contract where the Court was not directly concern with the issue which has fallen for consideration in the present case. In any case, the area to which the subject land in the matter of **Mewalal** (Supra) was situated, was not a scheduled area under Section 165 of the Code. Similarly, in the matter of **Babulal** (Supra) also, learned Single Judge of the M.P. High Court was deciding the Second Appeal arising out of a suit for specific performance. It is also not clear from the facts of the case as to whether the matter originated from scheduled area or non-scheduled area.
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> 8. For the foregoing, this Court is of the considered view that the law laid down by this Court in the matter of **Vijay Pandey,** referred to above, which originated from the land situated in scheduled area like in the present three writ petitions, is binding on this Court. There being no question of permission for sale of land between tribal holder to non- tribal holder in the scheduled area, the order passed by the Board of Revenue does not suffer from any legal infirmity."

29. The land undisputedly was an agricultural land owned by tribal person and only sometime before its transfer the said land was diverted. It is not the land of abadi or nazul.

30. Clause (5) of Fifth Schedule of the Constitution of India very clearly grants powers to the Governor of a State to make regulations for the peace and good government of any area in the State which is, for the time being, a scheduled area. The object of imposing total prohibition on transfer of immovable property to any other person other than a tribe is for peace and to provide good management of a scheduled area. Strict provision by restricting the transfers of interest of tribals to the persons other than tribals is only to protect possession, right, title and interest of the members of scheduled tribes. This provision of the Constitution of India is to preserve the area and its nature in the condition as it was, which was predominantly inhabited by tribal persons and specified as scheduled area. The appellant has not challenged the validity of the provisions of Section 165 (6) (i) in any manner but he only argued that the land in question is a diverted land and situate in municipal area. The legislature has not differentiated the lands by their status as recorded in the revenue records or by their location in municipal or rural area, but language used by the legislature in the provision of Section 165 (6) (i) of the Code, 1959 are very clear and simple and it clearly provides that property situated in an area predominantly inhabited by ab-original tribes not to be transferred or transferrable by way of sale or otherwise to a person not belonging to a tribe. In case at hand, sale is effected on 2.7.2008 by a person who belongs to ab-original tribe (Muria) to a non-tribal person of the land situated at Bade Bacheli which is an area specified as scheduled area and notified.

31. As discussed above, the subject land is situated in scheduled area and was owned by member belonging to a scheduled tribe community therefore, there cannot be any transfer of interest of the aboriginal tribe, in any manner, in view of the bar imposed under the provisions of Section 165(6)(i) of the Code, 1959.

32. We do not find any infirmity in the reasoning and rationale given by the learned Single Judge in impugned order which do not call for any

interference in exercise of appellate jurisdiction of this Court. The appeal being merit less, is liable to be and is hereby dismissed.

(Ajay Kumar Tripathi)	**(Parth Prateem Sahu)**
Chief Justice	**Judge**

Yogesh