

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****WPC No. 3367 of 2017**

- Ishwar Prasad S/o Fingeshwar Prasad Aged About 48 Years R/o Dharam Colony, Chandrashekharpur Edrhu, Tahsil Dharamjaigarh, District Raigarh, Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The Secretary, Department Of Revenue, Mahanadi Mantralaya, Naya Raipur, Post Office And Police Station Naya Raipur, District Raipur, Chhattisgarh
2. Additional Commissioner, Bilaspur Division, Bilaspur, Chhattisgarh
3. Collector, (Land Record), Raigarh, District Raigarh, Chhattisgarh.,
4. Sub Divisional Officer Revenue Kharsiya, District Raigarh, Chhattisgarh
5. Tahsildar, Kharsiya, District Raigarh, Chhattisgarh
6. Smt. Kanta Dadsena W/o Shiv Prasad R/o Bade Dumarpali, Tahsil Kharsiya, District Raigarh, Chhattisgarh
7. Smt. Pushpa Devi Vaishnav W/o Mohandas R/o Gopi Mahka Tahsil Kharsiya, District Raigarh, Chhattisgarh
8. Shiva Bajpai W/o Dilip Kumar Bajpai R/o Mahka, Tahsil Kharsiya, District Raigarh, Chhattisgarh

---- Respondent

For Petitioner
For Respective
For Respondents

Mr. Dhaniram Patel, Advocate

Mr. Rahul Jha, Government Advocate
Mr. Sanjeev Kumar Sahu and Mr.
Roop Naik, Advocates

Order On Board By

Hon'ble Mr. Justice Prashant Kumar Mishra**25/3/2019**

1. Challenge in this petition is to the orders passed by the Additional Commissioner, Bilaspur Division, Collector (Land Records), Raigarh and the Sub Divisional Officer (Revenue), Kharsia District Raigarh permitting the Tehsildar, Kharsia to review its own order by which mutation was directed in petitioner's favour.
2. There is no dispute about the legal position that the Sub Divisional Officer (Revenue) has exercised the power under Section 51 of the Chhattisgarh Land Revenue Code, 1959 (for short 'the Code') and such power has to be exercised after issuing notice and giving opportunity of hearing to the person who is likely to be affected or in whose favour the order sought to be reviewed was passed by the subordinate revenue officer.
3. This Court in WPC No.1422/2015 decided on 1.10.2015 and in WPC No.1243/2016 decided on 10.5.2016 has quashed the similar orders. In the said matter, reliance has been placed in the Division Bench order of the Madhya Pradesh High Court in **Biharilal v. State of M.P. and connected matters** reported in **{2010 (2) MPHT 115 (DB)}**.
4. The matter in issue being identical, the impugned orders dated 7.10.2017, 7.7.2016 and 12.7.2016 are set aside. The matter is remitted back to the Sub Divisional Officer (Revenue) Kharsia, Raigarh for passing fresh orders after giving opportunity of hearing to the petitioner.
5. Let the needful be done by the Sub Divisional Officer (Revenue)

after providing opportunity of hearing to the petitioner within a period of four (4) months from today.

6. It is made clear that this Court has not expressed any opinion on the merits of the case and the Sub Divisional Officer (Revenue) shall exercise powers under Section 51 of the Code and if it decides to grant permission for re-opening of the matter, the Tehsildar shall proceed to decide the matter strictly in accordance with law.
7. The writ petition is accordingly disposed of.

Sd/-

(Prashant Kumar Mishra)

Judge

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