

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 2184 of 2019

1. Goswami Triveni Giri, Disciple of Mahant Dhansukh Giri, Aged About 70 Years,
2. Goswami Gangasharan Giri, Disciple of Mahant Sadanand Giri, Aged About 69 Years,
3. Goswami Harwansh Giri Disciple of Mahant Sadanand Giri, Aged About 68 Years
(Mahant Sudarshan Giri (Since Died)
Petitioner No.1 to 3 R/o Village Silsila, Tahsil Lundra, District- Surguja, Chhattisgarh.

---- Petitioners

Versus

1. State Of Chhattisgarh Through Secretary, Revenue Department, Mahanadi Bhawan, Mantralaya, Capital Complex, New Raipur, District- Raipur, Chhattisgarh.
2. Commissioner, Surguja Division (Ambikapur), District- Surguja, Chhattisgarh.
3. Sub-Divisional Officer (Revenue) Ambikapur, District- Surguja, Chhattisgarh.
4. Additional Tahsildar, Lundra (Dhourpur), District Surguja, Chhattisgarh.

---- Respondents

For petitioners – Shri Manoj Paranjpe and Shri Anurag Singh, Advocates.
For State -Shri Rahul Jha, G.A. Advocate.

Hon'ble Shri Justice Goutam Bhaduri

Order

03/07/2019

Heard.

1. Instant petition is against the order dated 6/08/2018 passed by the Commissioner, Surguja.
2. Primary contention of the petitioners are that the land was settled in favour of Mahant Harihar Giri way back in the year 1952. Subsequently, after his death name of other disciples were mutated from time to time. State Government by a letter dated 5/04/2006

directed that in the property of the like nature of trust name of the Collector as a Manager be recorded. Consequently, it gave rise to mutation proceeding and after enquiry name of the Collector was recorded after giving liberty of hearing to the petitioners. Subsequently, that order of mutation being challenged before the SDO. SDO maintained the order of the State Government and recorded name of Collector as Manager in respect of the property. That mutation proceeding further was subject of challenge up till Commissioner and the Commissioner by an order dated 6/08/2018 affirmed the mutation proceeding. Learned counsel submits that the property have been settled in favour of Mahant Harihar Giri way back in 1952 same could not have been recorded in the name of the Collector. He referred to Annexure P-2 and would submit that order be set aside.

3. Learned State counsel opposes the submission and submits that the property belong to math.

4. Perused the Annexure P-2 which is Surguja State Settlement revenue record. Perusal of it shows that subject property were settled in the name of Mahant Harihar Giri and the remark column of revenue entry contains a note that property to be passed to disciple from time to time. The petitioners herein claim the property to be their personal property which has devolved on them after death of his guru. In any case, the question of title is in dispute whether the property was given to the trust or it was personal property. The petitioner in substance claims an order of declaration and in substance claims that mutation would amount to de-proprietary affect. In order to appreciate the contention of petitioner elaborate evidence of facts are required to be gone into. Order of Commissioner dated 6/08/2018 is only out of

mutation proceeding. In any case mutation proceeding are under challenge. Therefore, following the law laid down in case of **Municipal Corporation, Gwalior v. Puran Singh alias Puran Chand & Ors.** reported in **AIR 2014 SC 2665** which purports the khasra entry only do not convey any title and are only relevant for the purpose of paying land revenue. Any relief of like nature as claimed in the petition cannot be granted as disputed question of facts falls for consideration. Therefore, even ownership is claimed only on the basis of khasra entry then whether property was held in private capacity or in the capacity of trustee is a matter of evidence before the court below which cannot be decided in a proceeding under Article 226 of the Constitution of India. Therefore, I am not inclined to entertain this petition.

5. Accordingly, the petition is dismissed.

6. Learned counsel for the petitioners submits that the petitioners may be given liberty to file a suit. Petitioners shall be free to file the same as per law.

Sd/-

(Goutam Bhaduri)

JUDGE