

AFR

HIGH COURT OF CHHATTISGARH, BILASPUR**REVP No. 152 of 2019**

1. Syed Faisal Ahmed Rizvi S/o Late Afzaal Ahmed Rizvi Aged About 51 Years,

2. Faraz Ahmed Rizvi S/o Late Afzaal Ahmed Rizvi Aged About 38 Years

Both are R/o Banstal, GE Road, Raipur, Tahsil And District Raipur, Chhattisgarh.

---- Petitioners**Versus**

1. Syed Iqbal Ahmed Rizvi S/o Late Syed Ahmed Rizvi Aged About 75 Years Profession Advocacy, R/o Banstal, GE Road, Raipur, Tahsil And District Raipur, Chhattisgarh.

2. State Of Chhattisgarh Through Collector, Raipur, District Raipur, Chhattisgarh.

--- Respondents

For petitioners – Shri Rahim Ubwani, Advocate.
For respondent No.1- Shri Manoj Dubey, Advocate.
For State-Shri Sudeep Verma, Dy.G.A.

Hon'ble Shri Justice Goutam Bhaduri**Order****12/09/2019**

Heard.

1. Instant petition is filed to review order dated 8/04/2019 passed in WPC No.1318/2019. This court by an order dated 8/04/2019 has passed the following order:-

“1. Heard.

2. It is contended that a lease in respect of certain land was initially granted by the State in favour of Waqf through mutwally, however, during the renewal of the lease deed in the year 1992 the word mutwally was dropped and as such the mistake had happened. It is further contended that the petitioner had made representation before the Collector to add the word mutwally which by mistake was dropped while renewal of the lease in the year 1992. Therefore, the representation which is made before the Collector, may be decided after consideration of the old records as in the original record the word mutwally still exists. Learned counsel for the

petitioner referred to Annexure P3 dated 14/03/2018 and would submit that the Collector is directed to decide the matter expeditiously.

3. Perused the Annexure P3.

4. Learned State counsel submits that the representation of the petitioner shall be decided in accordance with law on its own merits after evaluating the various past records. Taking into the nature of the dispute it is directed that the Collector shall decide the representation of the petitioner (Annexure P-3) within a further period of three months from the date of presentation of this order. The Collector shall also be obliged to hear the affected parties while deciding the representation. It is made clear that this Court has not expressed any observation on the merits of the case.

5. Accordingly, the writ petition stands disposed of"

2. Learned counsel for the petitioners submits that initially order dated 8/04/2019 was passed without hearing the petitioners. Since civil revision No.26/2010 is pending in respect of the same issue, petitioners ought to have been made party. He further submits that proceeding under section 40 of the Waqf Act is also pending before the Waqf Tribunal for demarcation of the disputed property, therefore submits that order dated 8/04/2019 may be recalled.

3. Learned counsel for respondent No.1 would submit that in the writ petition no adverse orders were sought for and only on the basis of the different documents prayer for consideration was made. He further submits that there is no ground of review exist in this case. He submits that again all practice which is adopted by the petitioner is only to show power and it is indeed a very bad practice. He submits that the petitioners have actually made allegation against the court that is wrong.

4. Heard learned counsel for the parties and perused the documents.

5. Perusal of the record shows that writ appeal was preferred against the order passed on 8/04/2019 and it was sought to be set aside. Averment of the writ appeal would show that in certain para allegations were made against the court which is also seriously objected by the

respondent. Writ appeal appears to be authored by team of advocates namely Smita Jha, Rahim Ubwani and Navin Shukla and writ appeal memo contains signature of Smita Jha. The copy of the order of the writ appeal was not placed before this court. It appears that there has been deliberate suppression tried to be made, therefore this court has called for entire record of the writ appeal. Order dated 26/06/2019 in writ appeal shows that despite no power was filed by Prafull Bharat, Advocate he appeared and argued. Prafull Bharat admittedly has not been declared senior advocate by the High Court, therefore in what capacity he argued it can be known by the team of advocates who represented the parties and filed writ appeal, however this court is not going into such facts and detail.

6. The order of the appellate court it shows that after some argument writ appeal was sought to be withdrawn with permission to file necessary proceedings before the court. Consequently, it appears that the petitioners made a failed submission before the appellate court and eventually withdrew the petition with a prayer to file a review. The courts are not infallible. Reading of the order which was under attack which has been sought to be reviewed prima facie has not decided the right of the parties on merit. The conduct of the petitioners led by the team of advocates would show that had there been any bonafide they could have made the review application before this court itself but they raised certain unscrupulous allegations against the court in the grounds raised in the writ appeal. The petitioners could have been fair to point out the facts to review the order passed by this court. The petitioners have not expressed any remorse or regret for not approaching this court directly, instead filed the writ appeal, however withdrew the same. It can only show that team was not working with clean hands, clean heart, clean mind and clean object. I am constrained to observe that conduct of the team of advocates as named above is nothing sort of incorrigible.

7. In view of the background and the nature of averments made though it do not attach any disqualification to this court but in order to give an impression to the parties that they are not subjected to any injustice or they are not heard or the court is prejudiced, to uphold dignity of the institution, the order dated 8/04/2019 is recalled. The Registry may place the matter before the Hon'ble Chief Justice for listing the case before any other bench wherein I am not a member.

Sd/-

(Goutam Bhaduri)

JUDGE