

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WA No. 397 of 2019***{Arising out of order dated 20.08.2019 passed by the learned Single Judge in**W.P.(C) No. 2718 of 2019}*

1. Inderpal Singh Bhatia S/o Late Harbans Singh Bhatia, Aged About 60 Years R/o Jagatpur, Dhimrapur Road, Raigarh District Raigarh-Chhattisgarh.
2. Poonam Chand Agrawal, S/o Lalchand Agrawal Aged About 55 Years R/o Gandhi Ganj, Raigarh Chhattisgarh
3. Sunil Agrawal, S/o Ramdas Agrawal, Aged About 52 Years R/o Friends Colony, Raigarh, District Raigarh Chhattisgarh

---- Petitioners**Versus**

1. Suresh Kumar Jagatramka S/o Shri Banwarilal Jagatramka Aged About 62 Years R/o Gandhi Chowk, Raigarh Tahsil And District Raigarh Chhattisgarh
2. State of Chhattisgarh Thorugh The Collector, Raigarh, District Raigarh Chhattisgarh
3. Sub Divisional Officer (R) Raigarh District Raigarh Chhattisgarh
4. Nazul Adhikari Raigarh District Raigarh Chhattisgarh
5. Revenue Inspector (Sheet No. 44) Raigarh District Raigarh Chhattisgarh
6. Pradeep Kumar Kejriwal S/o Late Manohar Lal Kejriwal R/o Subhash Chowk, Raigarh District Raigarh Chhattisgarh (However The Correct Address Is 198, Binova Bhawe Road, Sahapur, Kolkata (W. B.) Pin 700038

---- Respondents

For Appellants	:	Shri B.P. Sharma and Shri Hari Agrawal, Advocates.
For Respondent No.1	:	Shri Shailesh Ahuja, Shri Suresh Kumar Jagatramka and Shri Sandeep Kumar Jagatramka, Advocates.
For Respondents No. 2 to 5:	:	Shri Vikram Sharma, Deputy Government Advocate.

Hon'ble Shri P. R. Ramachandra Menon, Chief Justice**Hon'ble Shri Justice Parth Prateem Sahu, Judge****Judgment on Board****Per Parth Prateem Sahu, Judge****24.10.2019**

1. Aggrieved by the order passed by the learned Single Judge in WPC No. 2718 of 2019 dated 20.08.2019, Appellant has approached this Court by filing writ appeal on the ground that the order passed by the learned Single Judge is prejudicial to his interest as he was not impleaded as one of the Respondent in the writ petition and the impugned order has been passed affecting his rights.

2. The facts of the case, in nutshell, are that the Tahsildar (Nazul) in a revenue proceeding passed an order on 31.12.1996 for mutation of the name of Respondent No.6. Respondent No.1 challenged the order dated 31.12.1996 before the Sub Divisional Officer (Revenue) which culminated in favour of Respondent No.1 on 31.03.2014, wherein appeal was allowed and order of mutation dated 31.12.1996 was set aside. During pendency of the appeal, Appellant purchased the property in dispute on 18.05.2012.
3. Learned counsel for the Appellant submits that by virtue of sale deed executed in his favour his interest in the property was created but he has not been impleaded as party Respondent before the S.D.O.(R) and has been deprived of opportunity of hearing. He also submits that Respondent No.1 when filed writ petition before the High Court, he has not been arrayed as one of the Respondent so as to enable him to put forth his case. He further submits that now the revenue officials are about to correct the revenue records. He submits that he has already filed an appeal challenging the order of the S.D.O.(R) before Commissioner and if the revenue records are corrected in pursuance to the order of the S.D.O.(R), his rights will adversely be affected and that will be against the principles of natural justice.
4. Per contra, learned counsel for the Respondents submits that the revenue proceedings was pending before the Sub Divisional Officer in an appeal from the year 2002 and during the pendency of the revenue proceedings the Respondents therein- Pradeep Kumar Kejriwal has cleverly transferred the disputed property to the Appellant herein in the year 2012. He also submits that the Appellant was aware of proceedings and it was for the Appellant to move an application for impleadment in the proceeding before the Sub Divisional Officer but they have not done so and therefore, they cannot take advantage of their own misdeeds. The learned counsel for the Respondent also submits that the order passed by the learned Single Judge is strictly in accordance with law as

the learned Single Judge has only directed to comply with the order passed by the Sub Divisional Officer in the appeal looking to the fact that the order passed in appeal in the year 2014 was not complied with by the Revenue Official. It is also submitted that the Appellant wants to delay the matter for one or the other reason.

5. We have heard the learned counsel for the parties and also gone through the records.
6. Perusal of the writ petition would show that the writ petition is filed only against not acting upon the order passed by the S.D.O.(R) by Respondent No.5 herein even after direction of S.D.O.(R). Learned Single Judge has not passed any fresh order, but only directed to comply with the order passed by the S.D.O.(R).
7. While considering the arguments raised by the learned counsel for the Appellant that he purchased the subject property in the year 2012 and without being afforded any opportunity of hearing, the Sub Divisional Officer has passed an order against his interest and even before the writ Court they were not impleaded as party Respondent and also considering the documents filed along with the appeal, we directed on the last date of hearing to maintain *status quo* as existed on 05.09.2019 with respect to the entries made in the revenue records.
8. We do not find any error in the order passed by the learned Single Judge in the writ petition, however, looking to the fact that the Appellant has already approached to the appellate court and has filed an appeal against order of S.D.O.(R) which was subject matter of writ petition, to protect the interest of both the parties the appeal is disposed of with a direction to the appellate authority (Additional Commissioner) to decide the appeal within a period of 4 months strictly in accordance with law on its own merits. The appellate authority will also decide the application for condonation of delay considering its merits

without being influence by any of the observations made by this Court in this order. Till disposal of the appeal by Commissioner, *status quo* order passed by this Court on 05.09.2019 shall remain effective.

9. With above observation writ appeal is disposed off.

Sd/-

(P. R. Ramachandra Menon)
Chief Justice

Sd/

(Parth Prateem Sahu)
Judge

Hem