

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 3558 of 2019**

1. Shiv Prasad Prajapati, S/o Shri Lalaram Prajapati, Aged About 45 Years, R/o Village Gangapur, Gram Panchayat Unchidih, Police Station And Tahsil Lundra, District Surguja, Chhattisgarh.
2. Smt. Shyambai W/o Shri Shiv Prasad Prajapati Aged About 40 Years R/o Village Gangapur, Gram Panchayat Unchidih, Police Station And Tahsil Lundra, District Surguja, Chhattisgarh.

---- Petitioners**Versus**

1. State Of Chhattisgarh Through Secretary Department Of Revenue And Disaster Managament Mantralaya, Mahanadi Bhawan Capital Complex, Naya Raipur, District Raipur, Chhattisgarh.
2. Commissioner Surguja Division, District Surguja, Chhattisgarh.
3. Collector Ambikapur, District Surguja, Chhattisgarh.
4. Sub Divisional Officer (Revenue) Ambikapur, District Surguja (C.G.)
4. Nayab Tahsildar Lundra, District Surguja, Chhattisgarh.
5. Sarpanch Gram Panchayat Unchidih, Police Station And Tahsil Lundra, District Surguja, Chhattisgarh.

---- Respondents

For Petitioner	:	Shri Sunil Sahu, Advocate
For Respondent /State	:	Ms. Astha Shukla, Panel Lawyer

Hon'ble Shri Justice Goutam Bhaduri, Judge**Order On Board****04/10/2019**

Heard.

1. Learned counsel for the petitioners would submit that the order impugned dated 31.07.2019, whereby, permission to review the earlier order of the Tehsildar dated 15.11.2017 was passed by the SDO, without hearing the petitioners. It is stated that the Tehsildar by the earlier order dated 15.11.2017 has directed to give a right of way to the petitioners from their house which is situated over Khasra No. 308/3 at village Gangapur. It is further contended that the said order was directed to be complied by the

Commissioner in the month of July 2018. It is stated that thereafter the Tehsildar sought a permission to review the earlier order from the higher authority. The SDO being the higher authority without hearing the petitioners have passed the impugned order under Section 51 of the C.G. Land Revenue Code.

2. I have heard learned counsel for the parties and perused the impugned order dated 31.07.2019.

3. Perusal of the order dated 31.07.2019, shows that the permission to review the order was passed under sub section (i) of Section 51 of C.G. Land Revenue Code. The primary grievance of the petitioners is that they were not heard, while such order of permission for review was granted. Since the earlier order was passed in favour of the petitioners to give them a right to way, the said order was allowed to be reviewed thereby right accrued in favour of petitioners would be affected without hearing. Prima facie it is shows that no hearing was given to the petitioners by the SDO while permission to review the order by Tahsildar was accorded. So role of *audi alteram partem* was defeated. Consequently, the order dated 31.07.2019 is set aside. The case is referred back to the SDO, Ambikapur with a direction that the petitioners and other affected parties may be heard and after hearing any order under Section 51 of the Land Revenue Code may be passed.

4. It is made clear that this Court has not expressed any opinion on the merits of the case.

5. Accordingly, the petition stands disposed of.

Jyoti

Sd/-
(Goutam Bhaduri)
Judge