

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPC No. 4453 of 2019

1. Anand Tiwari S/o Late P.K. Tiwari Aged About 37 Years R/o Street No. 1, Kashyap Colony, Kabala Road Bilaspur, Police Station City Kotwali, Tahsil And District Bilaspur Chhattisgarh. Mo. No. 9827955245.
2. Smt. Poonam Tiwari W/o Anand Tiwari Aged About 26 Years R/o Street No. 1, Kashyap Colony, Kabala Road Bilaspur, Police Station City Kotwali, Tahsil And District Bilaspur Chhattisgarh. Mo. No. 9827955245

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Versus

1. State Of Chhattisgarh Through Secretary, Law Department, New Mantralaya, Mahanadi Bhawan, Raipur, Police Station Kewli, Tahsil Civil And Revenue District Raipur Chhattisgarh
2. Smt. Sushila Tiwari W/o Late P.K. Tiwari Aged About 61 Years R/o Street No. 1, Kashyap Colony, Kabala Road Bilaspur, Police Station City Kotwali, Tahsil And District Bilaspur Chhattisgarh
3. Sub Divisional Officer (Revenue) Tahsil Compound Nehru Chowk Bilaspur, Tahsil And District Bilaspur Chhattisgarh. ---**Respondents**

For Petitioner	:	Shri Ratnesh Kumar Agrawal, Adv.
For State	:	Shri V. R. Tiwari Addl. A.G.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

06.12.2019

1. The challenge in the present writ petition is to the proceedings initiated by the Sub Divisional Officer (Revenue) Bilaspur in Revenue Case No. 85/B-121/2018-19 under the provision of the Maintenance & Welfare of Parents and Senior Citizen Act 2007.
2. The contention of the Counsel for the Petitioners is that the petitioners herein who are respondents in the said proceedings have filed a preliminary objection in respect of maintainability of the proceedings before the Sub Divisional Officer under the provision of the aforesaid Act of 2007. However without deciding the issue of maintainability, the Sub Divisional Officer had ordered for deciding the case itself on merits. While deciding the case on merits, the preliminary objection of maintainability would also be decided. It is this order dated 09.09.2019 passed by the

Sub Divisional Officer the respondent No. 3 which is under challenge in the instant case.

3. During the course of argument, Counsel for the Petitioners raised certain contentions which are all matter of evidences and which can only be decided after the evidences from both sides are recorded before the authorities concerned. Moreover, even as regards the maintainability, the authority himself has held that let the evidences be recorded and while deciding the case on merits the preliminary objection shall also be decided.
4. Given the said observations by the counsel for the respondents, this Court does not find any illegality or perversity in the said finding calling for an interference by this Court in exercise of its extraordinary writ jurisdiction. The respondent No. 3 is expected that while finally deciding the case, first deal with the issue of maintainability and thereafter, if required, proceed to pass the final order on merits.
5. With the aforesaid observation, the writ petition stands rejected.

Sd/-

(P. Sam Koshy)
Judge

Jyotijha