**NAFR**

**HIGH COURT OF CHHATTISGARH AT BILASPUR**

**WP No. 380 of 2001**

**1.** Ishwar Prasad, S/o Late Sonauram, Aged About 41 Years

**2.** Shiv Prasad, S/o Late Sonauram, Aged About 38 Years

**3.** Dev Prasad, S/o Late Sonauram, Aged About 32 Years

**4.** Suraj Bai, W/o Late Sonauram, Aged About 60 Years

**5.** Savitri Bai, D/o Late Sonauram, Aged About 35 Years

**6.** Ratan Bai, D/o Late Sonauram, Aged About 29 Years

All R/o Sukhripali (Rakh), Tahsil And District Bilaspur, (C.G.)

**---- Petitioners**

**Versus**

**1.** Har Prasad, S/o Kashiram Gond, R/o Rak Tah And Distt Bilaspur, (C.G.)

**2.** Alakhram, S/o Baiga

**3.** Bahur Ram, S/o Baiga

**4.** Konda, S/o Baiga

**5.** Shantibai, D/o Bhaneshwar

**6.** Punnibai, D/o Bhaneshar

**7.** Jankibai, D/o Bhaneshwar

All Gond by case, R/o Village: Rak, Tahsil & District Bilaspur, (C.G.)

**8.** State of Chhattisgarh, Through Collector, Bilaspur, (C.G.)

**9.** Land Acquisition Officer Cum Sub Divisional Officer (Revenue), Bilaspur, (C.G.)

**10.** Add. Collector Bilaspur, (C.G.)

**11.** Addl. Commissioner (Revenue) Bilaspur, Chhattisgarh

**---Respondents**

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| For Petitioners | : | Mr. Sushobhit Singh, Advocate. |
| For State | : | Mr. Jitendra Pali, Dy. Adv. General. |

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**Hon'ble Shri Justice P. Sam Koshy**
**Order on Board**

**09.07.2020**

1. The challenge in the present writ petition is to the order passed by the Commissioner-Bilaspur in revenue revision petition dated 13.06.2020 (Annexure P-13) and the challenge is also to the order passed by the Collector, dismissing the two appeals preferred by the petitioners vide the two orders dated 10.01.2000 and 25.01.2000 respectively. Thereby confirming the order of the SDO directing the disputed property to be reverted to the private respondents, vide order dated 04.03.1998 in a proceedings u/s 170 (B) of the Chhattisgarh Land Revenue Code, 1959.

2. The dispute in the present writ petition revolves around the two properties situated at Village: Rak in revenue circle: Sipat, District: Bilaspur in Khasra No. 1740/01 and Khasra No. 1799/01. Vide the two orders, Annexure P-3 and Annexure P-9, the Sub-Divisional Officer-Bilaspur in a proceeding u/s 170 (B) of the Chhattisgarh Land Revenue Code, 1959 has ordered for reversion of the land in the name of the private-respondents, who are the legal heirs of one namely, Ganjha, S/o Tiharu.

3. The contention of the learned counsel for the petitioners is that the property originally stood in the name of Jodhai, S/o Sunhar, who was a non-aboriginal that is non-tribal. The said property subsequently was purchased by one Baijnath by registered sale deed on 02.02.1960 and in the year 1962, the name of Baijnath was also entered into the revenue records, as the owner of the property. Subsequently, Baijnath died and so far as property situated at Khasra No. 1799/01 is concerned the property stood transferred in the name of Rukmin, D/o Baijnath; and so far as the property situated at Khasra No. 1740/01 is concerned, the property stood

transferred in the name of other three daughters of Baijnath, namely Nirash Bai, Chandan Kuwar Bai and Roopmati Bai. On 03.07.1984, the aforementioned property situated at Khasra No. 1740/01 was sold by Nirash Bai, Chandan Kuwar Bai and Roopmati to Sonauram by way of a sale deed. Meanwhile, the property situated in Khasra No. 1799/01, which was in the name of Rukmin, D/o Baijnath was subsequently inherited in the name of Uday Ram, S/o Rukmin. Later on, Uday Ram, S/o Rukmin also vide the registered sale deed dated 09.06.1993 sold the property situated at Khasra No. 1799/01 to Sonauram.

**4.** From the submissions of the counsel for the petitioners, it appears that both these properties got transferred in the name of Sonauram, the entries also were made in the revenue records during the period between 1994-1995. However lateron the Sub-Divisional Officer-Bilaspur in a proceeding u/s 170 (B) of the Chhattisgarh Land Revenue Code, 1959 has ordered for reversion of the land in the name of the private-respondents, who are the legal heirs of one namely, Ganjha, S/o Tiharu which was also affirmed/confirmed by the Collector and later on by the Commissioner.

**5.** The writ petition was filed challenging the order passed by the Sub-Divisional Officer, affirmed/confirmed by the Collector and the Commissioner. The writ petition was filed as early as in the year 2001, pending the writ petition, the petitioners vide application dated 02.03.2015 filed on 11.03.2015 produced certain documents on records. The documents enclosed along with said records would show that in the "Jamabandi" of the year 1954-1955, the said property stood in the name of Jodhai, S/o Sunhar, who was a non-tribal (non-aboriginal tribe).

**6.** Relying upon the said documents, the learned counsel for the petitioners submits that the findings of the Sub-Divisional Officer, which has been subsequently affirmed by the Collector and the Commissioner is incorrect, illegal and without proper verification of facts from the records. It was also argued by the counsel for the petitioners that the findings of the Sub-Divisional Officer in view of the two orders Annexure P-3 and Annexure P-9 dealing with respect to the two properties i.e., Khasra No. 1740/01 and Khasra No. 1799/01 to the extent that in the year 1959, the two properties stood in the name of Ganjha, S/o Tiharu was totally incorrect without any basis nor is there any such records available with any persons either in the revenue records of the State Government or with any of the private respondents. This Court in the previous couple of hearings had specifically directed the State counsel to verify this aspect as to whether the property in the year 1959 clearly stood in the name of Ganjha, S/o Tiharu if yes, to produce the records for proper verification of the same.

**7.** The learned counsel of the respondents-State on seeking instructions from the respondents submits that they were not in a position to trace such a record. That from the details, which were otherwise available with the State authorities, it appears that in the year 1954-1955, the property stood in the name of Jodhai, S/o Sunhar, which in fact is the contention also of all the petitioners. Further, learned Deputy Advocate General submits that these are documents, which have been produced by the petitioners for the first time through an application for taking additional documents on record dated 02.03.2015 filed on 11.03.2015.

**8.** That since these documents were never produced before any of the competent authorities for appreciation and as such, unless these documents would had been produced before the concerned authorities, the findings cannot be said to be proper. It was also the contention of the learned State counsel that in a proceeding, challenging the order u/s 170

(B), the High Court also would not be justified in taking into account the documents which could not be scrutinized and verified by the Sub-Divisional Officer or the Collector or for that matter the Commissioner in exercise of their original, appellate as also the revisional powers respectively. That from the submissions, it is evident that the documents brought on record by an application for taking additional documents on record dated 02.03.2015 filed on 11.03.2015 by the petitioners were not duly placed before the competent authorities at any point of time. These authorities never had at any occasion for verifying the same from the records nor was it the contention of the petitioners before any of these authorities. However, this Court cannot close its eyes from the factual matrix of the case which have been brought on record by the petitioners and had on verification, the State counsel **also found it to be correct**.

**9.** Given the said facts, this Court is therefore of the opinion that it would not be proper for this Court to give a finding only on the basis of the said documents brought on record by the petitioners by way of an application that too much after the filing of the present writ petition. In the interest of justice, this Court is of the opinion that it would be more appropriate, if the matter is remanded-back to the Sub-Divisional Officer-Bilaspur to re-appreciate the entire revenue records including the documents, which have been brought on record by the petitioners in the year 2015, which may still be brought by the petitioners before the knowledge of the Sub-Divisional Officer-Bilaspur, who shall after due verification of the entire revenue records shall pass a fresh order on merits of course after hearing all the concerned parties and a reasonable and fair opportunity of hearing is afforded to all the parties involved in the litigation.

**10.** The writ petition, accordingly stands allowed and the orders Annexure P-3 and P-9 passed by the Sub-Divisional Officer and Annexure P-4 and P-12 passed by the Collector and Annexure P-13 passed by the Commissioner stands set-aside/quashed and the matter stands remitted-back to the Sub-Divisional Officer-Bilaspur for passing a fresh order altogether taking-into-consideration the documents brought on record by the petitioners pertaining to the year 1954-1955. Considering the duration of lapse in between, it is expected that the Sub-Divisional Officer shall after granting a fair and reasonable opportunity of hearing to the concerned parties pass a fresh order, at the earliest within an outer limit of six months from the date of receipt of copy of this Order.

**11.** The writ petition accordingly stands allowed and disposed off.

**Sd/-**
**(P. Sam Koshy)**
**Judge**

Rahul