NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPC No. 916 of 2020

Ramaswami Pillai S/o Late Subramanium Pillai, Aged About 91 Years Through Power Of Attorney Holder Shri Ravichandra Pillai, S/o Ramaswami Pillai Aged About 55 Years, R/o C-4, Sector 2, Udaigrih Nirman Samiti, Opposite Mishra Aata Chakki, Taatibandh Raipur Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through Its Secretary, Department Of Revenue, Mantralaya, Mahanadi Bhawan, Naya Raipur, Post Office And Police Station Naya Raipur, District Raipur Chhattisgarh
2. Board Of Revenue, Through Its Chairman, Board Of Revenue (Circuit Court Raipur), Bilaspur, District Bilaspur Chhattisgarh
3. Collector, Raipur, District Raipur Chhattisgarh
4. District Registrar, Office Of District Registrar, Raipur, District Raipur Chhattisgarh

---- Respondents

For Petitioner	:	Mr. Vinod Deshmukh, Advocate
For State	:	Mr. Anshuman Shrivastava, P.L.

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

13/03/2020

1. The challenge in the present writ petition is to the order Annexure P/1 dated 02.03.2020 passed by the Collector, Raipur in Revenue Case No. 18/A-21/Year 2014-15.

2. That, facts of the case in brief is that the petitioner is a senior citizen and is an ex-service man aged around 91 years of age. On account of being an ex-service man the petitioner was alloted land as per the scheme of the State Government located in khasra No. 286/2012 measuring 2 hectares vide order dated 28.04.2003. Subsequent to the allotment being made, the petitioner was declared the bhumiswami over the said land and he also got the bhumiswami right over the

same. The petitioner was using the said land for the agriculture purpose for his sustenance. Due to the advance age that the petitioner has reached and on health condition he was not able to reach carry on the agricultural work on the said land and in between the petitioner also suffered certain serious ailments and for which considerable amount of money was spent for his treatment. In order to meet the financial liabilities that were there on the petitioner he thought of selling a portion of land which was allotted to him by the government. The petitioner therefore moved an application before the Collector under the provisions of Section 165(7)(b) of the Chhattisgarh Land Revenue Code.

3. Initially, the Collector vide order dated 03.08.2015 rejected the same, against which the petitioner preferred an appeal before the Commissioner under Section 44(1) of the Land Revenue Code. The appeal stood allowed and the matter was remitted back to the Collector for passing a fresh order vide the order of the Commissioner dated 09.10.2015. The Collector again vide its order dated 20.01.2016 rejected the same. Against the said order the petitioner approached the High Court vide WPC No. 327/2016, which was disposed of directing the petitioner to prefer an appeal before the Commissioner as the order passed by the Collector was an appealable order. Pursuant to which the petitioner preferred an appeal before the Commissioner, Raipur division, which got dismissed on 06.05.2016 confirming the order passed by the Collector on 20.01.2016. The petitioner thereafter preferred a Revision petition before the Board of Revenue against the order of the Commissioner. That, the Board of Revenue vide order dated 19.12.2016 allowed the Revision petition setting-aside the order

of the Collector as well as by the Commissioner.

4. The order of the Board of Revenue was not subsequently challenged and the same has attained its finality. The petitioner in the light of the order of the Board of Revenue approached the Collector, but the Collector did not decide for a considerable long period of time, which led to the petitioner filing **WPC No. 4150/2019 (Ramaswami Pillai v. State of Chhattisgarh & Ors.).** The said writ petition got disposed of on 20.11.2019. While disposing of the writ petition this Court made the following observations:

> **"3. After the order of the Board of Revenue, there is no further impediment for the respondent No.3 in granting such permission. He has already moved an application in this regard vide Annexure P/11, but till date the same has not been decided. Annexure P/11 was an application filed by the petitioner as early as on 10.12.2018 and almost one year has passed, till date the application has not been finally decided.**
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> **4. Given the aforesaid factual matrix of the case, particularly taking note of the decision of the Board of Revenue, Bilaspur dated 19.12.2016, which has categorically held that the rejection of the application of the petitioner seeking permission to sell the property to be bad in law and the same having attained finality, the respondent No.3 is duty bound to consider the application of the petitioner afresh immediately keeping in view the order passed by the Board of Revenue dated 19.12.2016 (Annexure P/10)."**

5. Pursuant to the disposal of the writ petition, the Collector has now passed the impugned order Annexure P/1 dated 02.03.2020. The main contention of the petitioner is that while rejecting the application again the Collector has taken the same stand that he had taken on the earlier occasion vide order dated 20.01.2016.

6. What needs consideration is that the reason given by the Collector rejecting the application of the petitioner for grant of permission stood set-aside/quashed by the Board of Revenue in its order dated 19.12.2016. Once when the Board of Revenue has already quashed/set-aside the order of Collector rejecting the application

seeking permission, the only recourse available to the Collector was to allow the application of the petitioner seeking permission. Unless there is any other impediment other than the reason, which has been taken by the Collector on the previous occasion which has not been accepted by the Board of Revenue.

7. Plain perusal of the impugned order Annexure P/1 would clearly reflect that the Collector has not given any discussion so far as the order passed by the Board of Revenue while setting aside the order of the Collector earlier passed. In all fairness, the Collector ought to have discussed the same and should have decided the application in a more pragmatic manner taking into consideration the order of the Board of Revenue.

8. Given the said facts and circumstances of the case, this Court is of the opinion that it is not necessary at this juncture to relegate the petitioner to avail the remedy of approaching the Appellate Authority i.e. the Commissioner in the given fact. Particularly when the matter has already been pending for a considerable long period of time before the various authorities/forums.

9. The facts that the impugned order is silent so far as the order passed by the Board of Revenue is concerned and the fact that the ground of rejection of the application of the petitioner being the same, which already had been held to be not proper by the Board of Revenue, this Court is of the opinion that the order passed by the Collector would not be sustainable and the same deserves to be and is accordingly set-aside/quashed. The matter stands remitted back to the Collector for passing a fresh order keeping in view the observations made by this

Court on 20.11.2019 in WPC No. 4150/2019 and the order passed by this Court today in the present writ petition. Let the Collector pass a fresh order within a period of 90 days from the date of receipt of the copy of this order

10. With the aforesaid observations, the present writ petition stands allowed and disposed of.

Sd/-
(P. Sam Koshy)
Judge

Ved