

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Reserved for orders on :02/03/2020

Order passed on :15/07/2020

WP227 No. 7061 of 2011

- Saroj Bai, widow of Meghaudas @ Punnidass, aged about 37 years, R/o Village - Telaikuda, Tahsil Bemetara, District- Durg (C.G.) (widow and L.R's of Meghudass)

---- Petitioner

Versus

1. Tarandas, S/o Mehtrudas, aged about not known, R/o Telaikuda, Tahsil Bemetara, District Durg (C.G.) (Applicant)
2. Kawluram, S/o Parsa Verma, aged about not known,
3. Loksingh, S/o Kashi Verma, aged about not known,
4. Ashok Kumar, S/o Dharma Verma, aged about not known,
5. Rajkumar, S/o Pahar Nishad, aged about not known,
Respondent No. 2 to 5 are R/o Telaikuda, Tahsil Bemetara, District Durg (C.G.)
6. The Tahsildar, Bemetara, District Durg (C.G.)
7. The Sub-Divisional Officer, Bemetara, District Durg (C.G.)
- (Respondents)

---- Respondents

For Petitioner – Shri Rajkumar Pali, Advocate.

For Respondent No.1 – Shri Ashutosh Trivedi and Shri Shashi Bhushan Tiwari, Advocates.

Hon'ble Shri Justice Rajendra Chandra Singh Samant
CAV Order

15-07-2020

Heard.

1. This petition has been brought being aggrieved by the order dated 22-06-2009 passed by the Chhattisgarh Revenue Board by allowing the revision petition filed by respondent No.1 and restoring the order passed by Sub-Divisional Officer Bemetara.
2. It is submitted that the petitioner is legal representative of Meghaudas @ Punnidass. It is submitted that the proposal was passed by the Gram Panchayat, Khilora for appointment of Meghaudas @ Punnidass as Kotwar for village Telaikuda on 24-09-2001, on the basis of which Meghaudas was

appointed Kotwar of Village Telaikuda by the order dated 17-10-2001, passed by Tahsildar, Bemetara. Respondent No.1 challenged that order before the Court of SDO Bemetara. The order of Tahsildar, Bemetara was set aside in the appeal by the order dated 26-02-2002. Meghaudas challenged the order of the SDO by filing revision before the Court of Additional Collector, Bemetara. The revision was allowed and the order of Tahsildar was restored. This order has been challenged before the Revenue Board. During pendency of the revision petition Meghaudas has expired on 26-10-2006. The Revenue Board has without bringing the LRs. of Meghaudas in the revision petition has passed the order against the dead person, therefore, the order passed is not maintainable which is liable to be set aside.

The petitioner has placed reliance on the judgment of Hon'ble the Supreme Court in the matter of **Baidhnath Nag Vs. The Board of Revenue Bilaspur & others**, 2007 (2) C.G.L.J. 285.

3. Learned counsel for respondent No.1 opposes the petition and the submission made in that respect. It is submitted that firstly the petition under Article 227 of the Constitution of India is not maintainable against the order of the Board. This Court has in WPC No.2113/2015 (Dr. Ramsharan Lal Tripathi Vs. State of Chhattisgarh and others) decided on 01-12-2015, held that the Board of Revenue is not a civil Court but it is a revenue authority established under the CG Land Revenue Code, therefore, any petition under Article 227 of the Constitution of India shall not be maintainable against the order passed by the Board.

It is submitted that the original petitioner Meghaudas has expired in the year 2006. The issue was connected with the personal qualification of Meghaudas to be appointed as a Kotwar. The present petitioner has no locus standi to participate in the litigation. It is further submitted that this is second round of litigation. The petitioner had earlier filed a petition under Article 227 of

the Constitution of India which was registered as Writ Petition (227) No.4035/2009. However, the same was withdrawn on 03-11-2011 by the petitioner herself with liberty to file a fresh petition. Filing of fresh petition itself does not give any entitlement to the petitioner for the simple reason that the petitioner cannot be appointed in place of Maghaudas if petition is allowed and neither she can derive any other benefit from it. Therefore, there is no error committed by the Board in passing the impugned order. The petition be dismissed.

4. Heard learned counsel for the parties present and perused the documents.

5. The objection raised by the respondent side that the petition filed under Article 227 of the Constitution of India is not maintainable, is first taken into consideration.

6. In the matter of **Dr. Ram Sharan Lal Tripathi V. State of Chhattisgarh**, AIR 2016 Chhattisgarh 17, coordinate Bench of this Court has held that Board of Revenue is not a Civil Court but is a revenue authority established under the CG Land Revenue Code, therefore, the petition under Article 226 of the Constitution of India for issuance of writ of certiorari to annul the order passed by the Board of Revenue is maintainable. The observation made in the same judgment is clear that, the petition under Article 227 of the Constitution of India shall not be maintainable because the revenue authority not being a court this court cannot exercise any supervisory jurisdiction with respect to any order passed by the same, hence, this petition is not maintainable on the basis of this proposition in law. Therefore, this Writ Petition (227) is dismissed as not being maintainable.

Sd/-

(Rajendra Chandra Singh Samant)
Judge

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCC No. 454 of 2020

Saroj Bai Wd/o Meghaudas @ Punnidass Aged About 46 Years R/o Village Telaikuda, Tahsil Bemetara, District- Bemetara, Chhattisgarh.

---- Applicant

Versus

1. Tarandas S/o Mehtudas, R/o Telaikuda, Tahsil Bemetara, District- Bemetara, Chhattisgarh.
2. Kawluram S/o Parsa Verma R/o Telaikuda, Tahsil Bemetara, District- Bemetara, Chhattisgarh.
3. Loksingh S/o Kashi Verma R/o Telaikuda, Tahsil Bemetara, District- Bemetara, Chhattisgarh.
4. Ashok Kumar S/o Dharma Verma R/o Telaikuda, Tahsil Bemetara, District- Bemetara, Chhattisgarh.
5. Rajkumar S/o Pahar Nishad R/o Telaikuda, Tahsil Bemetara, District- Bemetara, Chhattisgarh.
6. The Tahsildar, Bemetara, District- Bemetara, Chhattisgarh.
7. The Sub-Divisional Officer, Bemetara, District- Bemetara, Chhattisgarh.

---- Non-applicants

For Applicant : Mr. Rajkumar Pali, Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

05-10-2020

1. This MCC has been filed seeking modification in the order dated 15.7.2020 passed in W.P.(227) No. 7061 of 2011.
2. It is submitted by learned counsel for the applicant that the petition of the applicant was dismissed by the impugned order holding that the petition is not maintainable, however, the petitioner has the remedy to file appropriate petition before the appropriate forum, regarding which, no liberty has been granted. Therefore, the order may be modified by granting liberty to the petitioner to file an appropriate petition before the appropriate forum.
3. With the aforesaid liberty, this MCC is disposed off.

Sd/-
(Rajendra Chandra Singh Samant)
Judge