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HIGH COURT OF CHHATTISGARH, BILASPUR

Order Reserved on: 10/12/2020

Order Delivered on : 11/12/2020

M.C.C. No. 546 of 2020

{Arising out of Order dated 13.09.2017 passed in WP(PIL) No. 51 of 2015 by the learned Division Bench}

1. Anup Kumar Agrawal S/o Late Ram Murty Agrawal Aged About 50 Years
2. Swarup Kumar Agrawal S/o Late Ram Murty Agrawal Aged About 37 Years
3. Bharat Kumar Agrawal S/o Late Ram Murty Agrawal Aged About 33 Years

All R/o Bhatapara, Tahsil Bhatapara, District Baloda Bazar Bhatapara Chhattisgarh

---- Applicants

Versus

1. Nitin Ahuja S/o Sukhdeo Ahuja Aged About 31 Years R/o Sanjay Ward, Bhatapara, P.S. Bhatapara District Baloda Bazar Bhatapara Chhattisgarh.
2. Roshan Verma S/o Manohar Verma Aged About 48 Years R/o Village Devri, P.S. Bhatapara, District Baloda Bazar Bhatapara Chhattisgarh.
3. Bahoran Lal S/o Itwari Verma Aged About 80 Years R/o K.K. Ward, Bhatapara, P.S. Bhatapara, District Baloda Bazar Bhatapara Chhattisgarh.
4. Shiv Kumar Tandan S/o Jula Ram Tandan Aged About 42 Years R/o Village Sendari, Post Bijaradih, Tahsil And P.S. Bhatapara, District Baloda Bazar Bhatapara Chhattisgarh.
5. State of Chhattisgarh Through The Secretary, Revenue Department, Mahanadi Bhawan Mantralaya, Raipur Chhattisgarh.
6. Registrar of Public Trust, Sub Divisional Officer Bhatapara, District Baloda Bazar Bhatapara Chhattisgarh
7. Sub Divisional Officer (Revenue) Bhatapara, District Baloda Bazar Bhatapara Chhattisgarh.
8. Tahsildar Bhatapara, District Baloda Bazar Bhatapara Chhattisgarh.
9. Kishore Kumar Agrawal S/o Late Ram Murty Agrawal Aged About 53 Years R/o Bhatapara, Tahsil Bhatapara, District Baloda Bazar Bhatapara Chhattisgarh.

10. Commissioner Raipur Division Raipur, District Raipur Chhattisgarh.
11. Mahabal Das Baghel R/o Bhatapara, Tahsil Bhatapara District Baloda Bazar Bhatapara Chhattisgarh

---- Respondents

For Applicants	:	Shri H.B.Agrawal, Senior Advocate with Shri Pankaj Agrawal, Advocate.
For Respondent No. 1 to 4.	:	Shri Raghavendra Pradhan, Advocate.
For Respondents No. 5, 6, 7, 8 and 10/State	:	Shri Siddharth Dubey, Deputy Government Advocate.

Hon'ble Shri P.R. Ramachandra Menon, Chief Justice
Hon'ble Shri Parth Prateem Sahu, Judge

C.A.V. Order

Per P.R. Ramachandra Menon, Chief Justice

1. This MCC has been filed by the Applicants stating it as arising out of WP(PIL) No. 51 of 2015 wherein they were arrayed as the Respondents 5 to 7. The prayer is to set aside the impugned order dated 13.11.2020 passed by the Chhattisgarh Revenue Board, Bilaspur, in Case No. R.N./21/R/B-121/69/2017, contending that it is a nullity and runs against paragraph 8 of the Annexure-F verdict dated 13.09.2017, passed by this Court in WP(PIL) No. 51 of 2015.

2. The Registry has noted the matter as defective doubting the maintainability of the MCC and the matter has been listed for consideration before this Court at the instance of the Applicants.

3. We heard Shri H.BAgrawal, the learned Senior Counsel appearing for the Applicants who submits that there is no basis for the defect noted by the Registry and that the matter requires to be considered by this Court on merits. It is pointed out that the Chhattisgarh Revenue Board has dealt with the matter contrary to the mandate given by this Court and particularly without any regard to the observations/directions in paragraph 8 of Annexure-F judgment. It is contended that the impugned order is beyond the scope of reference and is not sustainable both in law and on facts.

4. During the course of hearing, the learned counsel for the Applicants submitted that WP(PIL) No. 51 of 2015 is to be restored (after setting aside the order passed by the Chhattisgarh Revenue Board) to be dealt with afresh, which prayer is not there in the MCC.

5. At the very outset, it is to be noted that there was no challenge for the Applicants who were the Respondents No. 5 to 7 in the writ petition with regard to the judgment passed by this Court on 13.09.2017 vide Annexure-F and the direction given to the Chhattisgarh Revenue Board to have the matter considered. In fact, the grievance projected in the writ petition by the 04 writ petitioners was given in a condensed form in the opening paragraph of the judgment which is reproduced below:

> "1. The four Writ Petitioners have filed this matter as a Public Interest Litigation in relation to the lands which they allege are unlawfully brought under the cover of Janak Nandini Trust under the control of Respondents No.5 to 8 and that the entries are obtained in the revenue records accordingly. They plead that the official respondents be directed to constitute a High Level Committee to find out such Government lands and restore the same in the name of the Government and its possession. This relief is sought for with relation to those lands which according to the Petitioners have vested in ceiling and also the property of Janak Nandini Trust. According to the Petitioners, all such lands have to be brought under the possession of the Government."

6. After considering the various interim orders passed and also after going through the materials on record and hearing the submissions on both the sides, the writ petition was disposed of vide Annexure-F judgment, the operative portion of which as contained in paragraphs 8 and 9, is to the following effect:

> "8. With the aforesaid materials on record, we notice that the plea of the Petitioner is that the lands which should be identified and treated as Government lands, either on account of ceiling laws or as relatable to the entries in the revenue records, or otherwise, are essentially in the hands of the private Respondents in this writ petition. This is not an issue which can be decided in proceedings under Article 226 of the

> Constitution, having regard to the contrasting contentions of the private parties. However, it is definitely within the domain of the revenue authorities to take a final decision on the issue as to whether the lands in question are Government lands and if so, whether they are required to be secured in terms of the title and/or possession in terms of and in accordance with the relevant laws and following due process. Since the materials on record disclose that the lands involved have large extent and may even have ramifications referable to the title of Ala Rai Bahadur Dau Kalyan Singh @ Mattu Lal Bani, who is stated to have been the then Malguzar of his time and was holding the lands, it is appropriate that the entire records in relation to the case in hand, which are available through the enquiry reports and the materials submitted therewith, are considered by the Board of Revenue and due decision is rendered by the Board of Revenue in accordance with law. Needless to say that such action has to be expeditious.
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> 9. In the result, this writ petition is ordered directing that Respondents No. 1 and 9 shall ensure that the entire facts and factors relating to this matter and all materials including all the reports upto the report of the 9th Respondent-Commissioner referred to above are placed before the Board of Revenue for consideration within a period of one month from the date of receipt of a copy of this judgment. The Board of Revenue shall thereupon, adverting to and considering all facts, factors and materials, take a final decision on all relevant issues within an outer limit of six months therefrom, after hearing the necessary parties. If the Petitioners desire to avail opportunity of hearing before the Board of Revenue, they may mark their appearance in the office of the Board of Revenue at the earliest and place a request in that regard."

7. No error apparent on the face of record is brought to the notice of this Court so as to unsettle the position, as decided by this Court three years ago vide Annexure-F, invoking the power of review. No such pleading or prayer is raised as to the necessity to re-visit the said judgment after allowing the MCC.

8. As pointed out already, the prayer in the MCC is only to set aside the order dated 13.11.2020 passed by the Chhattisgarh Revenue Board pursuant to the Annexure-F judgment passed by this Court. The said prayer is extracted below:

> "It is therefore, prayed that the Hon'ble Court may kindly be pleased to allow the application by accepting objection regarding impugned order dated 13.11.2020 and kindly set aside the same as nullity and against para 8 of earlier order made in WP(PIL) No. 51/2015 between Nitin Ahuja & Others v. State of CG & Others dated 13.09.2017 being without scope and reference of the same, in the interest of justice."

9. The main ground of challenge is against the said order is that it is beyond the scope of reference and contrary to the contents of paragraph 8 of Annexure-F judgment passed in the writ petition. Obviously, the order dated 13.11.2020 passed by the Chhattisgarh Revenue Board is a consequential order passed pursuant to Annexure-F judgment. If the Applicants are aggrieved with the said order of the Chhattisgarh Revenue Board in any manner, it is open for them to have it challenged by way of appropriate proceedings in accordance with law; which in any view of the matter cannot be by filing an MCC before this Court, as sought to be done now.

10. This being the position, we are of the firm view that the defect noted by the Registry is quite valid and proper. We hold that the MCC is not maintainable. Accordingly, interference is declined and the MCC stands dismissed. It is made clear that this will not bar the way of the Applicants in challenging the order dated 13.11.2020 passed by the Chhattisgarh Revenue Board by way of any other appropriate proceedings in accordance with law.

Sd/-	Sd/-
(P.R. Ramachandra Menon)	(Parth Prateem Sahu)
CHIEF JUSTICE	**JUDGE**

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