HIGH COURT OF CHHATTISGARH, BILASPUR

WP227 No. 254 of 2012

Order Reserved on : 20/07/2021

Order Delivered on : 12/08/2021

1. Narad, S/o Loknath Soura (Adivashi), R/o Village Tetla, Tahsil and District Raigarh Chhattisgarh.

2. Ramsingh, S/o Gabtu Gond (Adivashi) R/o Village Bansiya Tahsil and District Raigarh Chhattisgarh.

3. Mohan, S/o Thakur Ram Kanwar (Adivashi) R/o Village Tilgi, Tahsil and District Raigarh Chhattisgarh.

4. Sakirtan, S/o Rengtu @ Khedu Khadiya (Adivashi), R/o Village Gudgahan, Tahsil and District Raigarh Chhattisgarh.

5. Narottam, S/o Dhajaram Soura (Adivashi) R/o Village Tilgi, Tahsil and District-Raigarh, Chhattisgarh.

---- Petitioners

Versus

1. Rukmani, Wd/o Chamar Singh, Caste Gond, R/o Village Suloni, Tahsil and District-Raigarh, Chhattisgarh.

2. Ramwati, D/o Chamar Singh, Caste Gond , R/o Village Suloni, Tahsil and District-Raigarh, Chhattisgarh.

3. Munu, S/o Chamar Singh, Caste Gond , R/o Village Suloni, Tahsil and District-Raigarh, Chhattisgarh.

4. Chhoti, D/o Chamar Singh, Caste Gond , R/o Village Suloni, Tahsil and District-Raigarh, Chhattisgarh.

5. Tikali, S/o Chamar Singh, Caste Gond , R/o Village Suloni, Tahsil and District-Raigarh, Chhattisgarh.

6. Kushi, D/o Chamar Singh, Caste Gond , R/o Village Suloni, Tahsil and District-Raigarh, Chhattisgarh.

7. Nohar Singh, S/o Sobharam, Caste Gond , R/o Village Suloni, Tahsil and District-Raigarh, Chhattisgarh.

8. Angad Singh, S/o Mohar Singh, Caste Gond , R/o Village Suloni, Tahsil and District-Raigarh, Chhattisgarh.

9. Paduman Singh, S/o Mohar Singh, Caste Gond , R/o Village Suloni, Tahsil and District-Raigarh, Chhattisgarh.

10. Jharanhin, Wd/o Antar Singh, Caste Gond , R/o Village Suloni, Tahsil and District Raigarh Chhattisgarh.

11. Pushpendra, S/o Antar Singh, Caste Gond , R/o Village Suloni, Tahsil and District-Raigarh, Chhattisgarh.

12. Kalashmati, Wd/o Dani, Caste Gond , R/o Village Suloni, Tahsil and District-Raigarh, Chhattisgarh.

13. Sub - Divisional Officer (R) Raigarh, District-Raigarh, Chhattisgarh.

14. Collector, Raigarh, District-Raigarh, Chhattisgarh.

15. Commissioner, Bilaspur, Division, Bilaspur, District-Bilaspur Chhattisgarh.

---- Respondents

For petitioners :Mr. H.B. Agrawal, Sr. Advocate with Mrs. Swati Agrawal, Advocate
For respondent No.1-12 :Mr. Vivek Shrivastava, Advocate.
For Respondent/State :Mr. Alok Nigam, Govt. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant
CAV Order

12/08/2021

Heard.

1. The petition has been brought being aggrieved by the order dated 10.4.2000 passed by Sub-Divisional Officer, Raigarh in revenue case No.07/A-23/99-2000, order dated 05.09.2000 passed by Collector, Raigarh, in appeal case No.33/A-23/1999-2000 and order dated 28.01.2012 passed by Commissioner, Bilaspur, Zone Bilaspur, Chhattisgarh in revision case No.43/A-23/2008-09.

2. The petitioners have made purchase of agricultural land. The petitioners and the vendors of the landed property both are members of Schedule Tribes. It is submitted that in the case of such transaction where both the parties are member of Scheduled Tribes, the Section 170(B) of M.P/C.G.LR Code is not attracted. The learned SDO has erroneously passed the order dated 10.4.2000 directing reversion of

the land transfered in sale-deeds, in favor of the private respondents. The appeal was preferred before the Court of Collector, which has been dismissed by order dated 5.9.2000. The revision preferred before the Court of Commissioner, Bilaspur Division by the petitioners has also been dismissed.

3. It is submitted by the counsel for petitioner, that the impugned orders are erroneous. There was no requirement of permission under Section 165(6) of Code, 1959, therefore, the provision 170(B) of M.P.L.R. Code is also not attracted, hence, the impugned orders are erroneous. It is prayed that the case be remanded to the Court of SDO, Raigarh, for making fresh inquiry and passing appropriate order in accordance with law.

4. Learned counsel for respondent No.1 to 12 opposes the submissions made by counsel for petitioners and submits that the learned SDO has not committed any error in passing the order of reversion and similarly the orders passed by Collector and Commissioner both are sustainable. There is no requirement for remand of the case for fresh inquiry to the Court of SDO, therefore, the petition be dismissed.

5. I have heard both the parties and perused the documents on record.

6. Considered on the submissions. Chamar Singh, the applicant before the Court of SDO, had filed an application under Section 170(B) of Code, 1959, whose legal representatives are respondents No.1 to 6, submitting that his agricultural lands have been purchased in the names of the tribal persons, which are benami transactions and the land is infact in the possession of non-tribals, who were arrayed as respondents in the application. Prayer was made for reversion. The learned SDO by the order dated 10.4.2000 has considered on the

application and the reply given by the respondents and the documents filed on the basis of the report given by Patwari it was held that the land purchased in the name of tribal was infact possessed and enjoyed by the non-tribal persons, who were respondents before SDO and on that basis the order of reversion was passed, which is not interfered with by the Collector and Commissioner.

7. Sub-section 3 of Section 170(B) of the Code, 1959 is as follows:-

> "(3) On receipt of the information under sub-section (1), the Sub-Divisional Officer shall make such enquiry as may be deemed necessary about all such transactions of transfer and if he finds that the member of aboriginal tribe has been defrauded of his legitimate right he shall declare the transaction null and void and pass an order revesting the agricultural land in the transferor and, if he is dead, in his legal heirs.]

8. The word inquiry mentioned in the provision has a meaning. The procedure before revenue officer and revenue Courts is provided in chapter 4 of the Code, 1959. Section 33 & 34 and this chapter is specific about the powers of Revenue Officers for making any inquiry. The non tribal respondents before the Court of SDO had denied the averments in the application of the applicant Chamar Singh and others in clear terms, that they are neither the purchaser nor the possessor of the property in dispute. Therefore the claim of the applicants before SDO needed an inquiry. The report of Patwari is not an evidence by itself unless it is proved by the Patwari himself by making a statement before the Court and, further, the perusal of the order dated 10.4.2000 shows, that not a single witness was examined neither any document was directed to do produced. Another discrepancy present is this that the petitioners were not the parties before the Court of SDO, Raigarh, who are the purchaser of the disputed property. Therefore, the proceeding before the SDO, Raigarh was an erroneous proceeding,

hence, on this basis this petition is allowed. The order of SDO, Raigarh dated 10.4.2000, order of Collector, Raigarh dated 5.9.2000 and order of Commissioner dated 28.01.2012 are set aside and quashed. The case under Section 170(B) of Code, 1959 is remanded to the Court of SDO, Raigarh with a direction to array the petitioners as party in the proceeding and give opportunity of hearing to both the parties as contemplated in Section 170(B)(3) of Code, 1959 and pass appropriate orders in accordance with law.

Sd/-

(Rajendra Chandra Singh Samant)
Judge

Nisha