

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 611 of 2021

Ajay Kumar Sirke S/o Late Krishna Rao Sirke Aged About 69 Years
Residence of Naya Amapara Durg, District Durg, Chhattisgarh ---
Petitioner

Versus

1. State of Chhattisgarh through the Secretary Department of Urban Administration Mahanadi Bhawan, Atal Nagar, Distt. Raipur, Chhattisgarh
2. Chief Municipal Officer Nagar Panchayat Dhamdha Tahsil- Dhamdha District Durg, Chhattisgarh
3. Shri Govind Rao Bhosle S/o Late Khandero Bhosle Aged About 80 Years Residence Of Zone 03, Street 8a, Near Katyani Mandir New Adarsh Nagar Durg, District Durg, Chhattisgarh
4. Pradeep Bhosle S/o Late Anjor Rao Bhosle Aged About 63 Years Residence Of Zone 03, Street 8a, Near Katyani Mandir New Adarsh Nagar Durg, District Durg, Chhattisgarh
5. Ratnaprabha Bhosle W/o Late Sadashiv Bhosle Aged About 76 Years Residence Of Zone 03, Street 8a, Near Katyani Mandir New Adarsh Nagar Durg, District Durg, Chhattisgarh
--- Respondent

For the Petitioner	:	Mr. Soumitra Kesharwani, Advocate
For the State	:	Mr. Sunita jain, Dy.Govt. Adv.

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

09.02.2021

1. Learned counsel for the petitioner submits that respondents 3 to 5 initially have filed an application for mutation of name before the Tahsildar which was dismissed by order dated 13.09.2019 (Annexure P-2). Subsequently again for the same land, the respondents have filed application before the CMO Nagar Panchayat Dhamdha and it is being considered by the CMO without hearing the objection of the petitioner.
2. Learned counsel submits that in respect of the subject land, the petitioner has already filed a civil suit for declaration and injunction which is pending, therefore, the proceeding before the CMO is liable to be quashed.

3. Learned State counsel submits that the petitioner has failed to file an application which was filed before the CMO, only the general objection has been preferred, therefore, it is not clear as to which land claims to be disputed.
4. A perusal of the record would show that earlier in respect of the land bearing Kh.No.1719, the objection having been made, the Tahsildar by its order dated 13.09.2019 has observed that no mutation proceedings can be carried out. It is further contended that as of now, for the same land, another proceeding before the CMO is being conducted, the order dated 13.09.2019 would show that the land is shown as Khasra No.1719 which is declared to be abadi land and in respect of earlier proceeding, the lands of Kh.Nos.325/2 & 325/3 were subject of mutation. The application filed before the CMO is not placed before this Court. Therefore, it is not clear as to for which land, the proceedings are being carried out. The objection only states that the land of bearing Kh.No.325/1, 2, 3 & 4 admeasuring 0.50 hectares has been objected for mutation. In any case, since the civil suit has been filed, the mutation of the name is not going to decide the title and facts are vague to decide that as to which land the petitioner is actually claiming his right specially when the mutation application is not placed before this Court. If it is the specific case of the petitioner that a civil suit has been filed then the decree would eventually decide the fate of land in question about the ownership. On the basis of vague facts which have been placed before this Court, I am not inclined to issue any writ quashing the mutation proceedings. Accordingly, this writ petition is dismissed.
5. With the above observation, this writ petition stands disposed of.

**Sd/-
GOUTAM BHADURI
JUDGE**