

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No. 67 of 2021**

*{Arising out of order dated 25.01.2021 passed by the learned Single Judge in Writ
Petition (C) No. 248 of 2021}*

- Narayan Diwakar, S/o Late Puran Diwakar, age 58 (age not mentioned in impugned order) years, R/o Village – Sonpari, Tahsil – Abhanpur, District Raipur (C.G.)

---- Appellant

Versus

1. Manglu, S/o Baniya

2. Tejram, S/o Manglu

(Age not mentioned in impugned order)

Both Resident of Village – Sonpari, Tahsil – Abhanpur, District Raipur (C.G.)

(Respondent no. 1&2 in Writ Petition)

---- Respondents

For Appellant	:	Shri Sandeep Dubey, Advocate.
For Respondents	:	None.

Hon'ble Shri P. R. Ramachandra Menon, Chief Justice**Hon'ble Shri Narendra Kumar Vyas, Judge****Judgment on Board****Per P. R. Ramachandra Menon, Chief Justice****22.03.2021**

1. Challenge is against the interference declined by the learned Single Judge with regard to the relief sought for w.r.t. the rights over the property on the basis of a Will; declining to deal with it in exercise of the power under Article 226 of the Constitution of India.
2. The sum and substance of the case is that the property in dispute devolved on

the Petitioner / Appellant under a 'Will' dated 18.06.2015; but the claim of the 2nd Respondent-stated to be adopted son of the deceased was accepted and entries were made in the revenue records by the Tahsildar on the ground that the 'Will' was suspicious.

3. Met with the situation, it was taken up by filing an appeal before the SDO, where the order passed by the Tahsildar was interdicted and it was held in favour of the Appellant. This made the other side to pursue the matter by filing relevant proceedings before the Commissioner, who decided the issue in favour of the 2nd Respondent and against the Appellant herein. Thereafter, the matter was taken by the Appellant before the Board of Revenue by way of Revision where interference was declined. That made the Appellant to approach this Court by filing the writ petition with the following prayers:

“i. To kindly quash the impugned order dated 02.01.2021 passes CG Revenue Board Bilaspur, arising order dated 09.03.2020 passed by the court of Commissioner and order dated 03.06.2019 passed by tahsildar.

ii. To kindly call regard from CG Revenue board Revision case number R.N./14/R/A-6/62/2020.

iii. To kindly make any other order that may be deemed fit and just in the facts and circumstances of the case including awarding of the costs to the petitioner.”

4. After considering the nature of grievance, the learned Single Judge observed that the relief sought for was not liable to be granted by the writ Court; by virtue of the 'disputed questions of fact' involving the genuineness of the 'Will'. It was also observed that the entries in the revenue records by itself would not confer the title in view of the law declared by the Apex Court in ***Municipal Corporation, Gwalior vs. Puran Singh alias Puran Chand & Others*** reported in **AIR 2014 SC 2665**. It was accordingly that interference was declined, observing that the remedy was elsewhere. We do not find any reason to interdict the said verdict as the same is perfectly within the four walls of the law.

5. It is for the parties concerned to agitate the issue before the Competent Civil Court. We however make it clear that the observations made by the Revenue Authorities will of course be subject to the outcome of the decision to be rendered by the Civil Court, if any such proceedings are filed. It is also made clear that no merit has been considered or decided and no opinion is expressed as to the title or the genuineness of 'Will' either in the Writ Petition or in this Appeal and it is left open.

Sd/-

(P. R. Ramachandra Menon)
Chief Justice

Sd/-

(Narendra Kumar Vyas)
Judge