

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WP227 No. 153 of 2021

Aftab Ahmad Khan, S/o Shri Altaf Khan, Aged About 55 Years R/o. Farid Nagar, Kohka, Bhilai, District Durg Chhattisgarh Through Its Power Of Attorney Holder Shujauddin, S/o Sirajuddin, Aged About 52 Years, R/o. 16/9, Radhika Nagar, Supela, Bhilai, District Durg Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh, Through - Secretary, Revenue And Disaster Management, Mahanadi Bhawan, Mantralaya, Capital Complex, Atal Nagar, Nawa Raipur, District Raipur Chhattisgarh.
2. Director, Town And Country Planning, Raipur, Indrawati Bhawan, Atal Nagar, Nawa Raipur, District Raipur Chhattisgarh.
3. Joint Director, Town And Country Planning, Durg, District Durg Chhattisgarh.
4. Commissioner, Land Records, Chhattisgarh, Directorate, Indrawati Bhawan, Atal Nagar, District Raipur Chhattisgarh.
5. Collector (Land Records Branch) Durg, District Durg Chhattisgarh.
6. Sub - Divisional Officer (Revenue) Durg, District Durg Chhattisgarh.
7. Additional Tehsildar, Durg, District Durg Chhattisgarh.
8. Tehsildar, Durg, District Durg Chhattisgarh.
9. Municipal Corporation Bhilai, Through Its Commissioner, Municipal Corporation Bhilai, District Durg Chhattisgarh.

---- Respondents

For Petitioner	: Shri Manoj Paranjpe, Advocate.
For the Respondent/ State	: Shri Amrito Das, Addl. A.G.
For Respondent No.9	: Shri H.B. Agrawal, Senior Advocate with Ms. Preeti Yadav, Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

8-3-2021

Heard.

1. It is submitted by counsel for the petitioner that the petitioner is title-holder and possessor of the property in dispute. Respondent No.6 – Sub-Divisional Officer (Revenue), Durg has passed an order on

10.2.2021 granting review of the order dated 19.11.2014, which is directly affecting the rights of the petitioner. It is also submitted that respondent No.6 has not followed the procedure as provided under Section 51 of the Chhattisgarh Land Revenue Code. The petitioner wants to challenge the impugned order dated 10.2.2021 but even after filing a copying application on 11.2.2021, he has not been provided with a copy of the impugned order, which is being done intentionally to prevent the petitioner to approach this High Court, therefore, the copy of unsigned order has been filed in this petition for perusal of this Court as there is no certified copy available, hence, the writ of certiorari shall not be entertained. Hence, this petition has been brought under Article 227 of the Constitution of India.

2. Reliance has been placed on the judgments of Supreme Court in the case of **Joint Action Committee of Air Line Pilots' Association of India (ALPAI) and Others vs. Director General of Civil Aviation and Others**, reported in (2011) 5 SCC 435, **Madhya Pradesh Housing Board vs. Shiv Shankar Mandil and Others**, reported in (2008) 14 SCC 531, the judgment of Madhya Pradesh High Court in the case of **Om Prakash vs. Surjan Singh**, reported in 2004 Revenue Nirnay 31, and the judgment of this Court in the case of **Kishan Kumar Das and Another vs. Sukhram Nag and Ors.**, in W.P.(C) No. 3334 of 2007 dated 19.7.2019, hence, it is prayed that the petition be admitted.
3. Learned counsel for respondent No.1 submits that this is second round of litigation brought by the petitioner. Further, it is submitted that the petition under Article 227 of the Constitution of India is not maintainable, therefore, the petition be dismissed at motion stage.
4. Learned counsel for respondents No.2 to 9 submits, that the only reason for bringing this petition as mentioned by the petitioner is that he has

been unable to get certified copy of the impugned order. It is for the petitioner to explain as to in what manner he has procured the unsigned copy of the impugned order. The submissions of the petitioner's side are baseless only to justify the filing of the Article 227 of the Constitution of India whereas, it should have been filed under Article 226 of the Constitution of India. The petitioner has remedy available under Section 44(b) of the Chhattisgarh Land Revenue Code, therefore, he can file such appeal before the Revenue Appellate Court itself, hence, there is objection on the maintainability of the present petition. Reliance has been placed on the judgments of Supreme Court in the case of **Shalini Shyam Shetty and Another vs. Rajendra Shankar Patil**, reported in **(2010) 8 SCC 329**, **Ram Kishan Fauji vs. State of Haryana and Others**, reported in **(2017) 5 SCC 533** and the order of this Court in the case of **Ashok Kumar Sahu vs. Registrar, Co-operative Society, Chhattisgarh and Anr.** in W.P.(227) No. 9 of 2021 dated 11.1.2021 and other cases.

5. Considered the submissions. In view of the law laid down by the Supreme Court in the case of **Shalini Shyam Shetty and Another** (supra) and taking into consideration the submissions made by the counsels, I am of this view that the present petition is not maintainable, as the petition filed under Article 227 of the Constitution of India. The petitioner has the remedy available to file an appeal under Section 44(b) of the Chhattisgarh Land Revenue Code and further, he has entitlement to challenge the impugned order under Article 226 of the Constitution of India, therefore, this petition is disposed off at motion stage.
6. Accordingly, the petition stands disposed off.

Sd/-
(Rajendra Chandra Singh Samant)
Judge