NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

W.P.(227) No. 177 of 2021

1. Imtiaz Khan, S/o. Amriuddin Ansari, aged about 34 years, R/o. Purani Basti, Ward No. 17 Manendragarh, Tehsil - Manendragarh, District-Koriya, Chhattisgarh.
2. Jageshwar Rao, S/o. Shri Lakshman Rao Borkar, aged about 65 years, R/o. Purani Basti, Ward No.17, Manendragarh, District – Koriya (C.G.)

---- Petitioners

Versus

1. Santosh Kumar, S/o. Late Bhaiyalal Gond, aged about 28 years, R/o. Purani Basti, Ward No. 17 Manendragarh, Tehsil-Manendragarh, District-Koriya, Chhattisgarh
2. Addittional Collector, Manendragarh, District - Koriya, Chhattisgarh
3. Sub-Divisional Officer (Revenue), Manendragarh, District Koriya, Chhattisgarh

-----Respondents

For Petitioners : Mr. Hemant Kumar Agrawal, Advocate

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

26/03/2021

1. This petition has been brought being aggrieved by the order dated 12.02.2021 (Annexure P/1), passed by the Additional Collector, Manendragarh, District – Korea, dismissing the revision petition filed by the petitioners.

2. It is submitted by the learned counsel for the petitioners that the respondent No.1 filed an application under Section 170-B of the C.G. Land Revenue Code, 1959. That application has been decided by the revenue Court of S.D.O., Manendragarh by order dated 29.02.2016 (Annexure P/2) and allowed, granting relief of reversion in favour of the respondent No.1. The revision was preferred by this petitioners before the Court of Additional Collector, Manendragarh although the petitioners had remedy to file an appeal under Section 44 of C.G. Land Revenue Code, 1959. Respondents did not raise any objection regarding maintainability of that revision petition and also the Additional Collector, Manendragarh did not give any consideration to this fact that order of Sub-Divisional Officer was appealable and has decided the revision petition by dismissing the same. Therefore, the petitioner has no option but to file this petition under Article 227 of the Constitution of India. It is prayed that this petition be admitted for hearing and interim relief be granted in favour of the petitioner.

3. Considered on the submissions.

4. The remedy that was available to the petitioner against the order passed by the S.D.O. dated 29.02.2016 (Annexure P/2), was to file appeal before the Collector under Section 44 of the Land Revenue Code, 1959. The filing of revision petition before the Collector was clearly erroneous. The petitioners can not be blamed for filing of this revision petition instead of appeal

because the petitioners must have advised by the counsel, who has appeared on their behalf.

5. The first clause in proviso to Section 50 of C.G. Land Revenue Code, 1959, clearly provides that no application for revision shall be entertained against the order appealable under this Code. Therefore, it is very much clear that Additional Collector, Manendragarh erroneously entertained the revision petition and has decided the same on merits. Therefore, the impugned order passed is passed totally without jurisdiction, which is not at all sustainable. Hence, the petition is disposed off at motion stage. The impugned order dated 12.02.2021 (Annexure P/1) passed by the respondent No.2 is hereby quashed. The petitioners are granted liberty to file appeal before the Court of Collector, Manendragarh under Section 44 of the C.G. Land Revenue Code, 1959. It is also ordered that the time that has elapsed in prosecuting this petition shall not come in the way of filing appeal and that shall be reckoned for limitation purpose.

6. Accordingly, this petition is disposed off with the aforesaid observation.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Balram