

HIGH COURT OF CHHATTISGARH, BILASPUR

W.P.(C) No. 2095 of 2021

Purushottam Agrawal, S/o. Late Ishwar Das Agrawal, Aged About 70 Years,
R/o. Post Office Road-Kharsia, Tahsil Kharsia, District Raigarh, Civil And
Revenue District Raigarh, Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh, Through Collector, Raigarh, District Raigarh, Chhattisgarh
2. The Commissioner, Bilaspur Division, Bilaspur, District Bilaspur, Chhattisgarh
3. The Board Of Revenue, Bilaspur, District Bilaspur, Chhattisgarh
4. The Sub Divisional Officer (Revenue) Kharsia, District Raigarh, Chhattisgarh
5. The Tahsildar, Raigarh, District Raigarh, Chhattisgarh
6. The Nazul Officer, Raigarh, District Raigarh, Chhattisgarh
7. Kailash Agrawal, S/o. Late Ishwar Das Agrawal, Aged About 70 Years, R/o. Chandantal Road-Kharsia, Tahsil Kharsia, District Raigarh, Chhattisgarh

---- Respondents

For Petitioner	:	Mr. M.K.Sinha, Advocate
For Respondent/ State	:	Mr. S. Dubey, Dy. Govt. Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

11.06.2021

Heard

1. Primarily the petition is against the order dated 26.10.2020 the mutation order.
The background of the case is that one Smt. Durga Devi had initially filed an application for renewal of the lease which was not allowed. Subsequently, against that order, an appeal was filed before the Commissioner and the Commissioner allowed the same and directed for renewal of the lease. In the meanwhile, the original lessee who was claiming the renewal of lease, namely Smt. Durga Devi died in the year 2016. At that point of time, the petitioner and

the respondent No.7 both claimed to be the legal heirs to whom the subject property is devolved prayed for mutation of the name in the nazul record and for renewal of the lease. In such litigation, the S.D.O. by order dated 26.10.2020 mutated name of respondent No.7 on the basis of the fact that the WILL executed in favour of Kailash Agrawal by late Smt. Durga Devi. The S.D.O. also ordered for renewal of lease.

2. Learned counsel for the petitioner would submit that the WILL which has been relied upon by S.D.O. is sham and bogus. Therefore, in the mutation the name of all the heirs should have been done. He submits that the order of the S.D.O. dated 26.10.2020 is bad in law and is liable to be set aside.
3. Perusal of the record would show that the mutation order reflects that on the basis of the WILL the name of the respondent No.7 was directed to be recorded. Therefore, prima facie in mutation proceeding when cognizance have been taken of the WILL, this Court cannot by a mere stroke of pen on the basis on affidavit hold that the WILL is not sham and bogus. It is for the petitioner to prove their fact before the competent Court for which detailed evidence would be required.
4. The Supreme Court in case of ***Municipal Corporation, Gwalior v. Puran Singh alias Puran Chand & Others*** reported in ***AIR 2014 SC 2665*** has laid down that the revenue record do not decide the title, it is only for the physical purpose. Therefore, even the mutation of the name cannot be a conclusive proof of the ownership. Since disputed question of law is involved in this case, as such, I am not inclined to entertain this petition. Accordingly, the petition is dismissed.

Sd/-
(Goutam Bhaduri)
Judge