HIGH COURT OF CHHATTISGARH, BILASPUR

WP227 No. 722 of 2014

Order Reserved on : 16/12/2020

Order Delivered on : 08/03/2021

1. Khairunnisha(Deleted) Fahim Khan Through Legal Heirs

2. Fahim Khan(Dead) Through Legal Heirs
   a - Smt. Azra Khan, W/o Late Fahim Khan, Aged About 43 Years R/o Near Muslim Saray, Bazarpara, Post Bemetara, Distt. Bemetara Chhattisgarh

   b - Shoeb Khan, S/o Late Fahim Khan, Aged About 23 Years, R/o Near Muslim Saray, Bazarpara, Post Bemetara, Distt. Bemetara Chhattisgarh

   c - Shadab, S/o Late Fahim Khan, Aged About 19 Years, R/o Near Muslim Saray, Bazarpara, Post Bemetara, Distt. Bemetara Chhattisgarh.

   d - Anas, S/o Late Fahim Khan, Aged About 12 Years, Through Natural Guardian Mother Smt. Azra Khan, W/o Late Fahim Khan, Aged About 43 Years, R/o Near Muslim Saray, Bazarpara, Post Bemetara, Distt. Bemetara,Chhattisgarh

3. Abeda Begum, D/o Late Habib Khan, Aged About 48 Years, R/o Village Pachripara, District : Durg, Chhattisgarh.

4. Sajida Begum, D/o Late Habib Khan, Aged About 46 Years, R/o Nurani Chowk Raja Talab, District : Raipur, Chhattisgarh

5. Swaleha Begum, D/o Late Habib Khan, Aged About 44 Years, R/o Nurani Chowk Raja Talab, Raipur C.G., Civil and Revenue District Bemetara Chhattisgarh.

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Versus

1. Santan, S/o Kunwar Singh Nishad, Aged About 42 Years, R/o Villge Ranka, P.S. and Tahsil Berla Distt. Durg, Chhattisgarh

2. Paras Ram Nishad, S/o Jetha, Aged About 42 Years, R/o Village Ranka, P.S. and Tahsil Berla, District : Durg, Chhattisgarh

3. Sawant, S/o Kartik Sahu, Aged About 51 Years R/o Village Ranka, P.S. and Tahsil Berla, District : Durg, Chhattisgarh

4. Tikaram, S/o Hirau Sahu, age not known, R/o Village Ranka, P.S. and Tahsil Berla, District : Durg, Chhattisgarh

5. Hemant, S/o Shri Goverdhan Sahu, age not known, R/o Village Ranka, P.S. and Tahsil Berla, District : Durg, Chhattisgarh

6. Ramu, S/o Lachhi, age not known, R/o Village Ranka, P.S. and Tahsil Berla, District : Durg, Chhattisgarh

7. Shobha, S/o Budhram Sahu, Aged About 60 Years, R/o Village Ranka, P.S. and Tahsil Berla, District : Durg, Chhattisgarh

8. Awadh Ram, S/o Jagdish Ram, Aged About 32 Years, R/o Village Ranka, P.S. and Tahsil Berla, District : Durg, Chhattisgarh

9. Bhagwat Sahu, S/o Nanda Sahu, Aged About 60 Years, R/o Village Ranka, P.S. and Tahsil Berla, District : Durg, Chhattisgarh

10. Pavan Kumar, S/o Samelal Nishan, R/o Village Ranka, P.S. and Tahsil Berla, District : Durg, Chhattisgarh

11. Virendra Kumar Sahu, S/o Narsingh Aged About 36 Years R/o Village Ranka, P.S. And Tahsil Berla, District : Durg, Chhattisgarh

12. Santuram Sahu, S/o Jagdish Nishad, age not known, R/o Village Ranka, P.S. And Tahsil Berla, District : Durg, Chhattisgarh

13. Rupendra, S/o Tulsiram Sahu, age not known, R/o Village Ranka, P.S. And Tahsil Berla, District : Durg, Chhattisgarh

14. Krishna, S/o Chandu Nishad, age not known, R/o Village Ranka, P.S. And Tahsil Berla, District : Durg, Chhattisgarh

15. Ramlal, S/o Mehttar Nishad, age not known, R/o Village Ranka, P.S. And Tahsil Berla, District : Durg, Chhattisgarh

16. Shyamlal, S/o Mehtaru Satnami, age not known, R/o Village Ranka, P.S. and Tahsil Berla, District : Durg, Chhattisgarh

17. Ramkishun, S/o Kejaram Sahu, Aged About 55 Years, R/o Village Ranka, P.S. and Tahsil Berla, District : Durg, Chhattisgarh

18. Mantram, S/o Bhagela Nishad Aged About 43 Years, R/o Village Ranka, P.S. and Tahsil Berla, District : Durg, Chhattisgarh

19. Hemlal, S/o Jhumuk Sahu, Aged About 55 Years, R/o Village Ranka, P.S. and Tahsil Berla, District : Durg, Chhattisgarh

20. Ramkishun, S/o Lachhi Sahu, Aged About 43 Years, R/o Village Ranka, P.S. and Tahsil Berla, District : Durg, Chhattisgarh

21. Genduram, S/o Pusau Nishad, R/o Village Ranka, P.S. And Tahsil Berla, District : Durg, Chhattisgarh

22. Vimal, S/o Alal Ram Nishad, R/o Village Ranka, P.S. And Tahsil Berla, District : Durg, Chhattisgarh

23. Ramlal, S/o Bhulau Sahu, Aged About 43 Years, R/o Village Ranka,

P.S. and Tahsil Berla, District : Durg, Chhattisgarh

24. Bhuwan, S/o Buddhu Nishad, Aged About 35 Years, R/o Village Ranka, P.S. and Tahsil Berla, District : Durg, Chhattisgarh

25. Jaitram, S/o Baisakhu Sahu, age not known, R/o Village Ranka, P.S. and Tahsil Berla, District : Durg, Chhattisgarh

26. Khilawan, S/o Durgu Nishad, age not known, R/o Village Ranka, P.S. and Tahsil Berla, District : Durg, Chhattisgarh

27. Uttam, S/o Paltu Nishad, Aged About 42 Years, R/o Village Ranka, P.S. and Tahsil Berla, District : Durg, Chhattisgarh

28. Ramji, S/o Topu Nishad, R/o Village Ranka, P.S. and Tahsil Berla, District : Durg, Chhattisgarh

29. Awadh Ram, S/o Mehttar Sahu, age not known, R/o Village Ranka, P.S. and Tahsil Berla, District : Durg, Chhattisgarh

30. Lakhan S/o Ganga Nishad Aged About 40 Years R/o Village Ranka, P.S. And Tahsil Berla, District : Durg, Chhattisgarh

31. Ramkumar, S/o Manglu Nishad, age not known, R/o Village Ranka, P.S. and Tahsil Berla, District : Durg, Chhattisgarh

32. Rameshar, S/o Chandu Nishad, age not known, R/o Village Ranka, P.S. and Tahsil Berla, District : Durg, Chhattisgarh

33. Somnath, S/o Parganiha Nishad, age not known, R/o Village Ranka, P.S. and Tahsil Berla, District : Durg, Chhattisgarh

34. Gokul, S/o Narottam Nishad, age not known, R/o Village Ranka, P.S. and Tahsil Berla, District : Durg, Chhattisgarh

35. Haradhan, S/o Manglu Nishad, age not known, R/o Village Ranka, P.S. and Tahsil Berla Distt. Durg. C.G. , District : Durg, Chhattisgarh

36. Hansaram Sahu, S/o Chandu Nishad,age not known, R/o Village Ranka, P.S. And Tahsil Berla, District : Durg, Chhattisgarh

37. Ramkumar, S/o Tularam Sahu, age not known, R/o Village Ranka, P.S. and Tahsil Berla, District : Durg, Chhattisgarh

38. Dukalha, S/o Bhagela Nishad, Aged About 40 Years R/o Village Ranka, P.S. And Tahsil Berla, District : Durg, Chhattisgarh

39. Ramkhilawan, S/o Dhansai Nishad, Aged About 36 Years, R/o Village Ranka, P.S. and Tahsil Berla, District : Durg, Chhattisgarh

40. Ashok Kumar, S/o Baburam Mahra, Aged About 42 Years, R/o Village Ranka, P.S. and Tahsil Berla, District : Durg, Chhattisgarh

41. Jhadiram Sahu, S/o Jhumukram, Aged About 50 Years, R/o Village Ranka, P.S. and Tahsil Berla, District : Durg, Chhattisgarh

42. Hemuram Sahu, S/o Baburam, Aged About 32 Years, R/o Village Ranka, P.S. and Tahsil Berla, District : Durg, Chhattisgarh

43. Keskar, age not known, R/o Village Ranka, P.S. and Tahsil Berla, District : Durg, Chhattisgarh

44. Anand Ram, age not known, R/o Village Ranka, Police Station And Tehsil Berla, District Durg, Chhattisgarh

45. State of Chhattisgarh Through The Collector, District : Durg, Chhattisgarh

---- Respondents

For petitioners	:Mr. B.P. Sharma, Mr. Raza Ali, Mr. M.L. Sakat & Ms. Anuja Sharma, Advocates.
For respondents No. 1 to 6, 8, 10, 11, 13, 14, 15, 23, 24, 25,26,28,29, 36, 37 & 38	:Mr. Rajkumar Pali and Mr. Amit Kumar Sahu, Advocates.
For State/respondent No.45	:Mr. Adil Minhaj, Govt. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

CAV Order

08/03/2021

Heard.

1. This petition under Article 227 of Constitution of India has been brought praying to quash the order dated 18.7.2014 passed by the Board of Revenue Chhattisgarh and to restore the order dated 19.3.2013 passed by the Additional Commissioner, Raipur Division.

2. It is submitted by counsel for petitioner, that the disputed property in this case is the tank situated on khasra No.688 measuring 2.79 acres, which is known as Baijnath Band Talab, Husain Sagar etc., and land of paithu bearing khasra No.686 measuring 0.27 hectare situated at village-Ranka. The petitioners are claiming themselves to be bhumiswami of this disputed property. The possession on the same was retained by them. After the enactment of M.P. Abolition of Proprietary Rights (Estates, Mahals, Alienated Lands) Act, 1950, the property in possession of the persons affected was saved, therefore, this property could not have been vested in the Government. The

revenue record shows vesting of the property in the Government, therefore, the application was filed for mutating name of petitioners in the records as bhumiswami against the property mentioned herein above. The application was rejected by the SDO vide order dated 5.12.2002 against which an appeal was preferred by the petitioners before the Additional Collector, Bemetara, which was also dismissed by order dated 18.9.2003. The petitioners then preferred a revision before the Board of Revenue, which was allowed vide order dated 15.12.2009 (Annexure P-2), in which it was ordered that the revenue records be corrected by entering name of the petitioners as the recorded owners of the disputed property. The respondents then filed a petition bearing Writ Petition (227) No.27/2010 before this Court, in which order dated 15.12.2009 of Board of Revenue was set aside, holding that the order passed by the Additional Collector is appealable in second appeal.

3. The petitioners then preferred a review petition No.106/2010 seeking review of order dated 5.8.2010 in WP(227) No.27/2010 on which this Court passed order dated 20.10.2010 granting liberty to petitioners to file appeal before the Commissioner, Raipur, then petitioner preferred appeal before the Commissioner, Raipur Division. The delay was condoned and the appeal was decided on merits by order dated 19.3.2013 (Annexure P-5). The appeal was allowed and it was ordered that name of the petitioners be mutated in revenue records showing them bhumiswami of the disputed property. Private respondents, who are villagers of village-Ranka, preferred a revision before the Chhattisgarh Revenue Board on which the impugned order dated 18.7.2014(Annexure-P1) has been passed. The revision was allowed and order was passed for deleting the name of the petitioners from the revenue records.

4. It is submitted that the impugned order is erroneous, illegal and arbitrary. The Nistari right of the villagers was recognized and reserved by the Additional Commissioner in the order dated 19.3.2013, therefore, the private respondents had no reason to feel aggrieved. It is mentioned in the order 20.10.2010, that in the year 2002 the post of Commissioner was abolished in the State of Chhattisgarh which was reintroduced in the year 2008, therefore, the petitioners had no

opportunity to file second appeal before the Commissioner, when the impugned order was passed by the Additional Collector, In such circumstances, liberty was given to the petitioner to file appeal before the competent forum. The entitlement of the petitioners was recognized by the Revenue Board in order dated 15.12.2009. It is submitted that the private respondents, who have no reason to be aggrieved, have filed the revision before the Revenue Board in their personal capacity. The Gram Panchayat should have been made a party in such case, but the board has not considered the same, hence, the private respondents had no personal interest to prosecute the case and they had no ground to challenge the entitlement of the petitioners on the disputed property. Hence, the order of Revenue Board is not sustainable, which may be quashed.

5. Learned State counsel appearing for respondent No.45, submits that vide order of the SDO dated 6.4.1961 the disputed tank and paithu land was ordered to be vested in the State, which is an order passed under Section 251 of Chhattisgarh Land Revenue Code, 1959. After the vesting of this disputed property, the same was handed over to the Gram Panchayat on 2.3.1968, therefore, the petitioners have no entitlement to raise any claim over the disputed property. Hence, the order of the Revenue Board is lawful which needs no interference.

6. Learned counsel for respondents submits that the petitioners are making false claim over the disputed property. Deceased petitioner No.2 Fahim Khan had not challenged the decision taken by SDO regarding the vesting of the property in the State and the handing over of the same to the Gram Panchayat. On 5.3.1992 vide Annexure R-1 the disputed tank was granted on lease to deceased petitioner No.2 for a period of 10 years, therefore, the petitioners had no entitlement to make a prayer for entering their names in the revenue records as bhumiswami of the property, which is already vested in the State. The petition filed be dismissed.

7. It is further submitted that the SDO had rightly rejected the prayer of the petitioners vide order dated 5.12.2002. Similarly, the order of the Additional Collector, Bemetara dated 18.9.2003 was also correctly passed. The Board of Revenue had no jurisdiction to entertain revision

petition, the same has been held in WP227 No.27/2010 order dated 5.8.2010, although liberty was granted to the petitioners to file appeal, but the same was barred by limitation, as it was filed after a delay of 7 years. The appeal was allowed without condoning delay by the Commissioner, hence, the order in appeal was not sustainable.

Reliance has been placed on the judgment of Supreme Court in Jagpal Singh & Ors. v. State of Punjab & Ors, reported in (2011) 11 SCC 396, in which the concern has been shown for the first time regarding misappropriation of the public property.

8. It is further submitted that the present petition is directed against the order of the Revenue Board. It has been held by this Court in WPC No.2113/2015 between Dr. Ram Saran Lal Tripathi v. State of Chhattisgarh vide order dated 1.12.2015, that Board of Revenue is not a civil Court but a revenue authority established under Chhattisgarh Revenue Board, hence, the petition under Article 227 of Constitution for issuance of writ of certiorari to quash the order passed by the Board is not maintainable. The same has been followed by this Court in WP227 No.7061/2011 and the petition has been dismissed, hence, the present petition is not maintainable.

9. In reply, it is submitted by the counsel for petitioner that the State has opposed the ground of entitlement of the petitioners before the Revenue Board whereas the State had made no opposition of the claim made by the petitioners in the appeal before the Additional Commissioner. It is submitted that the petition is brought on legal grounds and the petitioners are entitled for relief.

10. I have heard both the parties and perused the documents on record.

11. Considered on the submissions. The ancestors of the petitioners were Malgujars. The disputed property is a tank and the land adjoining to it was vested with the State under Section 251 of Land Revenue Code, 1959 by order dated 6.4.1961, which is found mentioned in the order of the Additional Commissioner dated 19.3.2013. As in Case No.152/ A-71, year 1960-61 the order dated 6.4.1961 was passed, therefore, a separate application was filed by the petitioner under Section 57(2) of the Code. Although the objection was raised by the petitioner side after the passing of this order regarding which another Case No.1A/1 year

2002-03 was registered and the same was dismissed by order dated 5.12.2002.

12. In the matter of vesting, a civil suit against the order passed under Section 251 of Code 1959 is barred under Section 257 of the Code 1959. However, after passing of this vesting order, the petitioners had remedy under Section 57 of the Code and in accordance with that the application was filed by them. There is no need of repetition on this point, that the petitioners had filed their petition before the SDO and before the Additional Collector, Bemetara, and it was the appellate order of the Additional Commissioner dated 19.3.2013, the petitioner succeeded in getting a favorable order, which has been again set aside by the learned Board by the impugned order.

13. The relevant provision for initiation of proceeding by the petitioners is Section 57, which is reproduced as it is:-

> **"57. State ownership in all lands.** - (1) All lands belong to the State Government and it is hereby declared that all such lands, including standing and flowing water, mines, quarries, minerals and forests reserved or not, and all rights in the sub-soil of any land are the property of the State Government :
>
> [3][Provided that nothing in this section shall, save as otherwise provided in this Code, be deemed to affect any rights of any person subsisting at the coming into force of this Code in any such property.]
>
> (2) Where a dispute arises between the State Government and any person in respect of any right under sub-section (1) such dispute shall be decided by the [Sub-Divisional Officer].
>
> (3) Any person aggrieved by any order passed under sub-section(2) may institute a civil suit to contest the validity of the order within a period of one year from the date of such order.
>
> [5][3-a)(a) Notwithstanding anything contained in the Code of Civil Procedure, 1908 (V of 1908) no Civil Court shall, in a suit instituted under sub-section (3) on or after 24th October, 1983, by order of temporary injunction disturb the person to whom possession is restored under Section 250 if such person furnishes a reliable surety to recompensate the aggrieved party against any loss in case the Civil Court grants a decree in favour of the aggrieved party :
>
> Provided that no surety shall be required to be furnished by a member of a tribe declared to be an aboriginal tribe under sub-section (6) of Section 165;
>
> (b) Where a Civil Court by an order of temporary injunction

> disturbed the person referred to in clause (a) on or after 24th October, 1983 but before the publication of Revenue Department's Notification No. 1-70-VII-N-2-83, dated 4th January, 1984 such order shall abate on such publication and the Tahsildar shall restore possession to a person who is disturbed by such order.]
>
> (4) Where a civil suit has been instituted under sub-section (3) against any order such order shall not be subject to appeal or revision.

14. Although Sub-section (3) of Section 57 provides that the person aggrieved from order passed by SDO may institute a civil suit to contest the validity of the order within a period of one year from the date of such order, but this provision is not compulsive, in case the person aggrieved does not institute a civil suit, he has the option to file appeal or revision.

15. The Additional Commissioner in order dated 19.3.2013 has assigned reasons for setting aside the vesting order dated 6.4.1961, the orders of the SDO dated 5.12.2002 and the order of the Additional Collector, Durg dated 18.9.2003, on the ground that after the eactment of M.P. Abolition of Proprietary Rights (Estates, Mahals, Alienated Lands) Act, 1950, name of the ancestors of the petitioners continued in the revenue records with respect to the property in question. It was further observed that the SDO, Bemetara without issuing any notice and without affording any opportunity of hearing to the persons interested had passed the order dated 6.4.1961.

16. It was argued before the Revenue Board by the respondent side, that no such document was produced by the petitioners showing entry of the name of their ancestors with respect to the property in question. Therefore, the observation made by the Commissioner was incorrect. It was also argued that the Additional Commissioner should not have directly passed the order mutating the land records in favor of the petitioners with respect to the disputed property.

17. On the basis of present petition and the documents produced by the parties in support of their claim, any conclusion cannot be drawn in definite manner as to whether the order dated 6.4.1961 was correctly passed or not. Second proviso to Section 251(1) of Code of 1959 provides that:-

> “(i) after making such enquiry as he deems fit, the Collector is satisfied that the tank fulfills the conditions laid down in this sub-section;”

It is reflected from the order of the Additional Commissioner that this provision has not been complied with. The principle is clear that a public authority must act in accordance with law to arrive at any conclusion or pass any order for sustaining its legality. This being the position, finding of the Additional Commissioner that the order dated 6.4.1961 was passed without following the procedure, as provided in Second Proviso to Section 251(1) of the Land Revenue Code, holds ground. This being the situation, the proper course which should have been adopted by the Additional Commissioner was to direct the SDO to make an inquiry in accordance with Second proviso to Section 251(1) of Code. Therefore, the order of the Additional Commissioner directing mutation in favor of the petitioners was not correct.

18. The objection that has been raised by the respondent side that the petition under Article 227 of Constitution of India is not maintainable in view of the decision of this Court in Dr. Ram Sharan Lal Tripathi v. State of Chhattisgarh & ors, reported in AIR 2016 CG 17, is taken into consideration. In para-18 of the said judgment it was observed by this Court as under:-

> “18. On careful analysis of the legal position settled by the Supreme Court in the above referred judgments, it would clearly emerge that while writ of certiorari cannot be issued against the order passed by the civil court which is established by the State under its sovereign function and duty, such writ can be issued against all other authorities or tribunals which exercise judicial or quasi judicial or administrative function.
>
> 19. Since undoubtedly the Board of Revenue is not a Civil Court but is a revenue authority established under the CG Land Revenue Code, a writ petition under Article 226 of the Constitution for issuance of writ of certiorari to annul the order passed by the Board of Revenue is maintainable. Office objection to the contrary that the petitioner should have preferred a writ petition under Article 227 of the Constitution of India is thus overruled.”

19. It is not the view of the co-ordinate Bench that the jurisdiction under Article 227 Constitution of India, the supervisory jurisdiction of High Court on an order passed by a Board of Revenue is totally outsted. The order had been on the default pointed the Registry that the petition

under Article 226 Constitution would not be maintainable was overruled.

20. The division Bench of this Court in the judgment of Dr. Bhagwant v. Pt. Ravi Shankar Shukla and another, reported in 2013 SCC Online CG 89 has made observations in paragraph-27, 28, 29, 30 and 31 of the judgment:-

> “27. In the present case, the power of adjudication is conferred upon the Kuladhipati by statute; he exercises judicial powers u/s 12(4) of the Act as held under the first point; there is lis between the parties; and his decision is final. Thus, all three parameters are satisfied.
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> 28. The fact that the Kuladhipati, while exercising power u/s 12(4) of the Act, is a Tribunal under supervisory jurisdiction of Article 227 of the Constitution, is also clear from the Supreme Court decision in Manmohan Singh Jaitla Vs. Commissioner, Union Territory of Chandigarh and Others,
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> 29. In the Jaitla case, the facts were as follows:
>
> The services of a Headmaster or Teacher of the schools governed by Punjab Aided Schools (Security of Services) Act, 1969 (the Punjab Act) could not be dispensed with, without taking approval of the Deputy Commissioner. Thereafter, an appeal lay to the Commissioner;
>
> The services of a Headmaster and a Teacher were terminated and they filed the appeals, that were dismissed. They filed writ petitions before the Punjab and Haryana High Court challenging the orders;
>
> The High Court dismissed the writ petitions on the ground that they were not 'other authorities' under article 12 of the Constitution though it was admitted that the Deputy Commissioner and the Commissioner were exercising quasi judicial functions.
>
> 30. The Supreme Court allowed the appeals in the Jaitla case and observed:”
>
> The High Court clearly overlooked the point that Deputy Commissioner and Commissioner are statutory authorities operating under the 1969 Act. They are quasi-judicial authorities and that was not disputed. Therefore, they will be comprehended in the expression 'Tribunal' as used in Article 227 of the Constitution which confers power of superintendence over all courts and tribunals by the High Court throughout the territory in relation to which it exercises jurisdiction. Obviously, therefore, the decision of the statutory quasi-judicial authorities which can be appropriately described as tribunal will be subject to judicial review namely a writ of certiorari by the High Court under Article 227 of the Constitution.
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> 31. In our opinion, the Kuladhipati, while deciding proceeding u/s 12(4) of the Act, acts as tribunal under supervisory jurisdiction of

this Court.

3rd & 4th POINTS: WRIT APPEAL NOT MAINTAINABLE."

21. The Board of Revenue is constituted under Section 3 of the Code. Section 7 of the Code deals with the jurisdiction of Board, according to which, the Board shall exercise the powers and discharge the functions conferred upon it by or under this Code and such functions of the State Government as may be specified by notification by the State Government. Section 44 of the Code prescribes for the appeal and appellate authorities. Under sub-section (1) (e) & (g) and under sub-section (2) (ii), the Board has been empowered to hear appeal and second appeal, as the case may be. The revision is provided under Section 50 of the Code in which the Board of Revenue finds the first mention as being a revisional authority. Therefore, these provisions show Board of Revenue also performs as judicial authority. Further, under Section 51 of the Code, the Board has been empowered to review its own orders. Hence, these are the provisions which empower the Board to perform judicial acts, it may be so that the Board of Revenue is not a civil Court, but it can be regarded as a tribunal. This being the position, the Board of Revenue is a tribunal within the territory of the State under the jurisdiction of this High Court, hence, distinction can be made that while exercising the revisional jurisdiction the Board of Revenue has exercised its judicial powers, hence, such order passed by the Board is under the supervisory jurisdiction of this Court under Article 227 Constitution of India, hence, the objection raised by the respondent side is overruled.

22. On the basis of the discussions made herein above and the conclusions drawn, the impugned order is set aside. The order of the Additional Commissioner dated 19.3.2013 is modified. The order of the Additional Commissioner directing mutation in favor of the petitioners is quashed. The order passed for setting aside the order dated 6.4.1961 in case No.152A/71 year 1960-61 is confirmed. The SDO of the concerned Revenue sub-division in District-Bemetara is directed to proceed afresh in case No.152A/71, make an inquiry as per second proviso to Section 251(1) of the Code, give proper opportunity of hearing to the parties concerned and pass appropriate order in accordance with law.

23. Accordingly, the revision petition stands disposed off.

Sd/-

(Rajendra Chandra Singh Samant)
Judge

Nisha