NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WA No. 166 of 2021

1. Leelam Chand Jain S/o Shri Tarachand Jain Aged About 51 Years,
2. Rajesh Kumar Jain S/o Shri Tarachand Jain Aged About 46 Years,
3. Vinod Kumar Jain S/o Shri Tarachand Jain Aged About 42 Years

All R/o Gawlipara, Durg Tahsil And District Durg Chhattisgarh

----Appellants

Versus

1. Smt. Bena Bai W/o Late Bhuwan Lal Soni Aged About 72 Years
2. Enu Kumar S/o Late Bhuwan Lal Soni Aged About 57 Years,
3. Goverdhan Soni S/o Late Bhuwan Lal Soni Aged About 45 Years,
4. Rajendra Kumar S/o Late Bhuwan Lal Soni Aged About 42 Years,
5. Hemant Kumar S/o Late Bhuwan Lal Soni Aged About 34 Years

Respondents No.1 to 5 are R/o Subhash Chowk, Bhilai-Tahsil Patan, District Durg Chhattisgarh

6. Om Prakash Swarnkar, Son of Late Bhuwan lal Soni, Aged about 55 years, resident of Sadar Bazar Street, Durg Tahsil & District Durg.
7. Bhagirathi S/o Late Samliya Sao Aged About 79 Years R/o

Subhash Chowk, Bhilai-3 Tahsil Patan, District Durg Civil And Revenue District Durg Chhattisgarh

---- Respondents

For Appellants	:-	Mr. Y.C. Sharma, Senior Adv with Mr. Yogesh Sharma, Advocate
For Respondents	:-	Mr. Ravindra Agrawal, Adv

Hon'ble Shri Prashant Kumar Mishra, Ag. CJ
Hon'ble Shri Parth Prateem Sahu, J.
Judgment On Board

By

Prashant Kumar Mishra, Ag. CJ

24/06/2021

1. Heard.

2. The writ appeal would call in question the order passed by learned Single Judge, allowing the writ petition preferred by respondents No.1 to 7 which in turn called in question an order passed by the Board of Revenue, Bilaspur on 27.4.2016, upholding the order passed by the Commissioner, Durg Division, Durg on 20.11.2014 (Annexure P-6).

3. Shorn of unnecessary details, suffice it would be to mention that the matter arises out of mutation proceedings drawn by the Nazul Officer, Durg who mutated the name of the appellants in the subject property vide order dated 5.12.2011 (Annexure P-2). This order was assailed before the

Additional Collector which was allowed on 31.5.2014 (Annexure P-5) and the matter was remitted back to the Nazul Officer for fresh adjudication. Appellant's appeal before the Commissioner was allowed on 20.11.2014 (Annexure P-6) and the revision preferred by the respondents No.1 to 7 before the Board of Revenue was dismissed vide order dated 27.4.2016 (Annexure P-1). It is this order which was under challenge before the learned Single Judge.

4. The learned Single Judge would observe, and rightly so, that when the Additional Collector condoned the delay, allowed the appeal and remitted the matter back to the Nazul Officer, the same ought not to have been interfered by the Commissioner. It is not that the order passed by the Additional Collector and thereafter two superior Revenue Courts have proceeded to deal with the merits of the matter. Even the Additional Collector has remitted the matter back to the Nazul Officer to decide afresh after hearing both the parties.

5. In this view of the matter, learned Single Judge was well justified in making interference to restore the order passed by the Additional Collector so that the parties would appear before the Nazul Officer to raise their respective cases on merits. The order passed by learned Single Judge does not suffer from any such error warranting interference by this

Court in exercise of jurisdiction under the Chhattisgarh High Court (Appeal to Division Bench) Act, 2006.

6. No case for entertaining the writ appeal is made out. Accordingly, it deserves to be and is hereby dismissed. However, it is observed that any observation by learned Single Judge on merits of the matter shall not influence the decision making process, before the Nazul Officer.

7. No order as to costs.

SD/-
(**Prashant Kumar Mishra**)
Acting Chief Justice

SD/-
(**Parth Prateem Sahu**)
Judge

Ayushi