

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****CIVIL REVISION No. 54 of 2020**

Reserved on 10-2-2021

pronounced on 12-2-2021

- Chhattisgarh State Waqf Board Through The Chief Executive Officer, In Front Of Dr. Bhimrao Ambedkar Statue, Collectorate Chowk, Raipur District Raipur Chhattisgarh

---- **Applicant****Versus**

1. Harbhajan Singh Saluja S/o Shri Hajri Lal Saluja Saluja Medical Store, Bilha, Tahsil And District Bilaspur Chhattisgarh
2. Jogender Singh Saluja S/o Shri Kartar Singh Saluja Saluja Software Computer, Bilha, Tahsil And District Bilaspur Chhattisgarh
3. Shyam Sundar Rajpal S/o Shri Kishori Rajpal Mamta Transport, Bilha, Tahsil And District Bilaspur Chhattisgarh
4. Indrajit Singh Saluja S/o Shri Ram Lal Saluja Saluja Travels, Bilha, Tahsil And District Bilaspur Chhattisgarh
5. Akhilesh Sahu Sub Divisional Magistrate, Bilha, Tahsil And District Bilaspur Chhattisgarh

--- **Non-applicants**

For applicant	: Mr. Prateek Sharma, Adv.
For non-applicants	: Not noticed.

Hon'ble Mr. Sharad Kumar Gupta, Judge**C.A.V. ORDER**

1. Applicant has preferred instant Civil Revision against the order dated 3-12-2020 passed by the Presiding Officer, CG State Waqf Tribunal, Raipur in MJC No. 48/2020 whereby and whereunder he rejected the applicant's application filed under Order 39 Rule 3 read with Section 151 of the Civil Procedure Code (in brevity 'CPC').
2. The applicant has filed an application under Section 83 (2) of the Waqf Act, 1995 along with an application under Order 39 Rule 1 read with Section 151 of CPC against non-applicants. On 3-12-2020 applicant filed another application under Order 39 Rule 3 read with Section 151 of CPC. The Presiding Officer heard argument of applicant on very day and rejected the same.
3. Being aggrieved, applicant preferred this civil revision under Section 83 (9) of the Waqf Act, 1995.

4. In brief, the applicant's case regarding the revision is that the Presiding Officer did not consider the urgency and passed the impugned order which suffers from illegality. Non-applicants No. 1 to 4 are doing illegal construction over the disputed land, the Presiding Officer should have restrained the non-applicants No. 1 to 4 exparte.

5. Section 115 of the CPC is also relevant which reads as under :-

“115. Revision [(1)] The High Court may call for the record of any case which has been decided by any Court subordinate to such High Court and in which no appeal lies thereto, and if such subordinate court appears—

(a) to have exercised a jurisdiction not vested in it by law, or

(b) to have failed to exercise a jurisdiction so vested, or

(c) to have acted in the exercise of its jurisdiction illegally or with material irregularity,

the High Court may make such order in the case as it thinks fit:

xxx xxx xxx”

6. In the case in hand, while passing the order on the aforesaid application, the Presiding Officer gave the reason that it would not be not proper to pass an exparte order. This is the discretion of the Court / Presiding Officer that he / she would pass exparte order or biparte order. If the Competent authority refuses to pass an exparte order then the way is open to pass the order after hearing of both the parties, considering prima facie case.

7. In the case in hand, the Presiding Officer declined to pass an exparte order giving the reason that it would not be proper to pass an order without giving opportunity to opponent. In the case in hand, it does not appear that while rejecting said application filed by the applicant, the Presiding Officer committed any illegality or material irregularity while exercising its jurisdiction.

8. Looking to the above mentioned facts and circumstances of the case, this Court finds that instant revision is not fit for admission. Consequently, instant revision is not admitted for final hearing and dismissed at motion hearing stage.

9. In view of above, I.A. No. 1 is also rejected.

Sd/-
(Sharad Kumar Gupta)
Judge