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HIGH COURT OF CHHATTISGARH, BILASPUR

W.P.(C) No. 4863 of 2021

Uma Shankar Gupta S/o Shri Mishrilal Gupta Aged About 60 Years Cast Teli R/o Village Bhanora Balrampur District Balrampur Ramanujganj Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of Revenue Mahanadi Bhawan New Raipur District Raipur Chhattisgarh.
2. The Collector Balrampur District Balrampur Ramanujganj Chhattisgarh.
3. The Tahsildar Balrampur District Balrampur Ramanujganj Chhattisgarh.
4. Patiya S/o Late Tumala Aged About 55 Years Cast Uraon,
5. Maina Devi W/o Patiya Aged About 53 Years Caste Uraon

   No.4 and 5 both are R/o Village Bhanoura (Khutahanpara) Police Station And Tahsil Balrampur District Balrampur Ramanujganj Chhattisgarh.
6. Kameshwar Giri S/o Shiprasad Giri Aged About 60 Years Cast Gosai, R/o Village Bhanoura Police Station And Tahsil Balrampur District Balrampur Ramanujganj Chhattisgarh.

---- Respondents

For Petitioner : Mr. A.N. Pandey, Advocate

For Respondents/State : Ms. Sameeksha Gupta, P.L.

Hon'ble Shri Rajendra Chandra Singh Samant

Order on Board

02.12.2021

Heard

1. It is submitted by the learned counsel for the petitioner that the petitioner is the owner of the land bearing Kh.No. 329 area 0.03 hectares, situated in village – Bhanoura, District – Balrampur which has been purchased by the petitioner on 20.07.2019 by registered sale deed, which was executed by the vendor respondent No.6. The name of the petitioner was mutated in the revenue records and he is

in possession of the same, which is continued till date. The respondents No.4 and 5 filed a complaint, before the respondent No.2 praying for cancellation of the sale deed in favour of the petitioner on which the proceeding has been initiated and delegated to Tahsildar i.e. respondent No.3. The respondent No.3 has passed the impugned order in Revenue Case No.4/A-19(1)/2 dated 14.09.2018 granting temporary injunction regarding the disputed land.

2. It is submitted that respondent No.3 has exercised the jurisdiction, which was not available to it under the provisions of C.G. Land Revenue Code, 1959, therefore, the order passed is totally illegal and arbitrary, therefore, unsustainable. Reliance has been placed on the order of this Court dated **16.09.2021,** passed in **W.P.(C) No. 235 of 2020** between the parties **Smt. Vandana Gupta Vs. State of C.G.** and others. Hence, it is prayed that impugned order be quashed.

3. Learned State counsel opposes the petition and the submissions made in this respect. It is submitted that the order passed by the Tahsildar is appealable under Section 44 of the C.G. Land Revenue Code, 1959. Therefore, the petitioner is not entitled for any relief in this petition.

4. Considered on the submissions and perused the documents placed on record.

5. The operative part of the order dated 16.09.2021, passed in W.P.(C) No. 235 of 2020 is reproduced as under :-

> "8. This Court in ***Seraj Ahmad Vs. State of Chhattisgarh & others*** **2017 (4)** ***C.G.L.J. 559*** has held that the order to grant injunction is surely vested in the jurisdictional Civil Court and the Revenue Courts cannot

grant the order of injunction and it was held that the revenue order granting temporary injunction restraining the transfer would be without jurisdiction and without authority of law. The said judgment was based on a decision of the Madhya Pradesh High Court rendered in ***Maya Lalchandani (Mrs.) Vs. Board of Revenue 2009 (3) MPLJ 660*****.** I am also in respectful agreement with the judgment passed by this Court in *Seraj Ahmad Vs. State of C.G. (Supra)* on earlier occasion and the relevant part of the decision is reproduced herein below:

> 2. Learned Counsel for the petitioner submits that the Sub-Divisional Officer (Revenue) has passed order on 10.03.2016 granting temporary injunction for which he has no jurisdiction, therefore, the order passed by the Sub-Divisional Officer (Revenue) is without jurisdiction and without authority of law. He relies upon a decision of the High Court of Madhya Pradesh in the matter of Maya Lalchandani (Mrs.) and others Vs. Board of Revenue and others in which the M.P. High Court has held as under:
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> > *"4. After going through the order passed by the learned President, Board of Revenue and taking into consideration the legal provisions, we are of the opinion that the directions sisued in paragraph 7 of the order passed by the Board of Revenue cannot be allowed to stand. Section 32 of the Land Revenue Code talks of the inherent powers of the Revenue Authorities while Section 43 talks of applicability of the Code of Civil Procedure. It is to be seen from Section 32 that nothing in the Land Revenue Code shall be deemed to limit or otherwise affect the inherent power of the Revenue Court to make such orders as may be necessary to meet the ends of justice or as may*

> *be necessary to prevent the abuse of the process of Court. Section 43 simply provides that unless otherwise expressly provided in the Code, the procedure laid down in the Code of Civil Procedure shall, so far as may be, followed in all proceedings under the Code. Section 43 in no case would authorise a Revenue Authority to grant an injunction. Section 43 simply provides that the procedure laid down in the Code of Civil Procedure so far as may be followed in all proceedings under the Code. It is also to be seen from the provision of the Code of Civil Procedure that an injunction can be granted only by civil Court and by none else. Section 32 of the M.P. Land Revenue Code only talks of the inherent powers of the Revenue Courts where they are required to make such order as may be necessary for the ends of justice or to prevent the abuse of the process of the Court. The powers under Section 32 can be exercised within the Code itself and not beyond the Code. If the Revenue Authority does not have the power to grant injunction then the Board of Revenue also could not grant injunction."*

6. In view of the principles laid down by the Supreme Court and on perusal of the impugned order, it is clear that it is in the form of temporary injunction as provided under Order 39 Rule 1 and 2 of C.P.C., the respondent No.3 does not have any jurisdiction to pass order invoking the provision under Order 39 Rule 1 and 2 of C.P.C. it being a revenue Court, which exercises under the powers available to it under the Code, 1959. Therefore, without any doubt the respondent No.3 has exercised the jurisdiction, which was not available to it. Hence, the impugned order dated 14.09.2018 is not sustainable. The

petition is disposed off at motion stage. The impugned order passed by the respondent No.3 is hereby quashed.

7. With these observations, this petition stands disposed off.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Balram