NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 5275 of 2021

1. Deepak Kumar S/o Tejilal, Aged About 24 Years R/o Village Kalyanpur, Police Station And Tahsil Ramanujnagar (Now Tahsil Devnagar), District Surajpur (Chhattisgarh)

2. Vishnu Kumar, S/o Tejilal, Aged About 22 Years R/o Village Kalyanpur, Police Station And Tahsil Ramanujnagar (Now Tahsil Devnagar), District Surajpur (Chhattisgarh) **---- Petitioners**

Versus

1. State Of Chhattisgarh Through The Secretary, Revenue And Disaster Management Department, Mahanadi Bhawan, Mantralaya, Nawa Raipur Chhattisgarh,

2. The Sub Divisional Officer (Revenue), Surajpur, District Surajpur (Chhattisgarh),

3. The Naib Tahsildar, Devnagar, District Surajpur Chhattisgarh,

4. Sumanti Bai @ Sumitri Bai D/o Ramnath, R/o Village Kalyanpur, Tahsil Surajpur, District Surajpur Chhattisgarh.,

5. Shivpati D/o Ramnath, R/o Village Patna, Tahsil Ramanujnagar, District Surajpur (Chhattisgarh),

6. Gulab Bai D/o Ramnath, R/o Village Sumerpur, Tahsil Ramanujnagar, District Surajpur Chhattisgarh,

7. Hanslal, S/o Pannalal, R/o Village Kalyanpur, Tahsil Ramanujnagar, District Surajpur Chhattisgarh,

8. Tejilal S/o Ramnath, R/o Village Kalyanpur, Tahsil Ramanujnagar, District Surajpur Chhattisgarh,

9. The Collector, District Surajpur (Chhattisgarh),

----Respondents

For Petitioner	:	Mr. S. A. Ansari, Advocate.
For State	:	Mr. P. Acharya, P.L.

Hon'ble Shri Justice P. Sam Koshy

Order On Board

17.12.2021

1. The challenge in the present writ petition is to the order Annexure P/1 dated 28.10.2021 passed by the Naib Tahsildar Devnagar District Surajpur.

2. The impugned order is one which has been passed invoking the provision of Sections 109, 110 of the Chhattisgarh Land Revenue Code 1959. Vide the said impunged order the Naib Tahsildar has allowed an application on behalf of the respondents No. 4 to 6 mutating the property in favour of the respondents No. 4 to 6.

3. Learned counsel for the petitioners submits that a dispute in-respect of the same property between the same parties is already pending consideration in an Appeal before the Commissioner Surguja Division and in between the subsequent mutation order passed by the Naib Tahsildar is totally in excess of jurisdiction and competency. He further submits that there is already a succession certificate issued in favour of the petitioners, based upon a will deed executed by one late Shri Ramnath and the succession certificate was issued based upon a registered will.

4. Counsel for the petitioners also submits that the Naib Tahsildar in the given factual backdrop would not be in a position to decide the veracity of the registered will deed exercising the provision of Chhattisgarh Land Revenue Code 1959.

5. Given the aforesaid submission and contentions by the counsel for the petitioners taking note of the fact that as per the petitioners themselves, there is already an appeal pending before the

Commissioner Surguja Division in-respect of the same property between the same party, the writ petition at this juncture would not be sustainable. The writ petition again would also not be sustainable for the reason that the impugned order Annexure P/1 dated 28.10.2021 is also an appealable order under Section 44 of the Chhattisgarh Land Revenue. The petitioner can raise the ground of competence and jurisdiction also before the Appellate Authority. Thus reserving the right to avail such appellate remedies available to the petitioners under the Code of 1959, the writ petition in its present form stands disposed of.

6. Subject to the petitioners moving an appropriate appeal, the Appellate Authority is expected to consider the appeal at the earliest, including the application for interim relief, if any.

Sd/-

P. Sam Koshy
Judge