IN THE HIGH COURT OF MADHYA PRADESH AT GWALIOR

BEFORE

HON'BLE SHRI JUSTICE RAJENDRA KUMAR-IV

ON THE 2nd OF FEBRUARY, 2024

MISC. PETITION No. 854 of 2018

BETWEEN:-

SMT. BANO BEE W/O SHRI TAHIR ALI D/O SHRI HAIDER ALI, R/O VILLAGE GANESHPURA TEHSIL AND DISTRICT GUNA (MADHYA PRADESH)

.....PETITIONER

(BY SHRI YOGESH SINGHAL - ADVOCATE)

AND

1. **STATE OF MADHYA PRADESH THROUGH COLLECTOR DISTRICT GUNA (MADHYA PRADESH)**

2. **HARI SINGH YADAV S/O SHRI BHARAT SINGH YADAV, R/O VILLAGE GANESHPURA, TEHSIL AND DISTRICT GUNA (MADHYA PRADESH)**

.....RESPONDENTS

(MS PADAMSHRI AGRAWAL - PANEL LAWYER FOR RESPONDENT NO.1/STATE)
(NONE FOR RESPONDENT NO.2)

This petition coming on for admission this day, the court passed the following:

ORDER

By this petition under Article 227 of the Constitution of India, challenge is made to the order dated 14/11/2017 passed by Board of Revenue, Gwalior in case No.636-PBR/17, order dated 24/5/2017 passe by Collector, Guna in Case No.04/Suo Moto Revision/2016-17 as well as show-cause notice dated 31/12/2016 issued by Collector, District Guna in case No.04/Suo Motu Revision/2016-17.

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2. Main submission of learned counsel for the petitioner is that the Collector has no power to take suo motu cognizance after 180 days from the date of Patta in the light of judgment passed in the case of **Ranveer Singh (Dead) Through L.Rs. & another Vs. State of M.P., ILR [2011] MP, 1 (para 38)** and order of Collector issuing notice is out of jurisdiction. It is further submitted that on receiving notice, petitioner has filed a preliminary objection before the Collector, which has been dismissed by order dated 24/5/2017, against which revision was filed before the Board of Revenue, who also not considered the legal point and submissions made by learned counsel for the petitioner and revision has been dismissed. Legal submission has not been considered by the Board of Revenue.

3. Learned Panel Lawyer for respondent no.1/State submits that although the preliminary objection raising legal question was filed by the petitioner, but citation, which is being cited today, was not brought before the Collector or Board of Revenue while this judgment has come in the year 2011. Learned counsel for respondent no.1/State further submits that there is no limitation for taking suo motu cognizance. When the illegality is brought to the notice of the authority, suo motu cognizance can be taken by the authority concerned. Since an another allotment/Patta has also been done in favour of petitioner's husband before the allotment in dispute, thus the second settlement in favour of petitioner could not be made and settlement/Patta was done in favour of the petitioner in contravention of the law. Thus, it should be cancelled.

4. In response thereto, learned counsel for petitioner submits that before the year 1984 petitioner was divorced by her husband. Thus, she cannot be a member of the family of her husband.

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5. Heard learned counsel for the petitioner as well as learned counsel for respondent no.1/State and perused the record.

6. Perusal of record shows that complaint made by Hari Singh is not annexed. Show Cause Notice has been issued to the petitioner on the basis of complaint of Hari Singh. In the case cited by the petitioner, limitation to take suo moto revision is 180 days from the knowledge of fact, thus, ratio laid down in case of **Ranveer Singh (Supra)** does not come to help the petitioner. Collector rightly rejected the application of petitioner.

7. So far as divorce of petitioner is concerned, it is a matter of fact which can be considered on the merit after evidence is adduced by both party. Collector has to decide the case on merit.

8. No illegality or irregularity is formed in the impugned orders. No interference is warranted.

9. In view of above, petition is **dismissed** directing the Collector concerned to decide the case/suo moto revision preferably within four months. Petitioner is directed to appear before the Collector concerned on 19/2/2024.

(RAJENDRA KUMAR-IV)
JUDGE

Arun*

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