CGHC010394022026 2026:CGHC:43748

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HIGH COURT OF CHHATTISGARH AT BILASPUR

SUMIT KUMAR Digitally signed by SUMIT KUMAR Date: 2026.10.13 14:37:13 +0530

WP227 No. 1302 of 2026

Biras Devi W/o Shri Jaggu Ram Aged About 70 Years Caste Uraon- R/o Nagar Balrampur, Police Station And Tehsil Balrampur District Balrampur Ramanujganj Chhattisgarh.

... Petitioner(s)

versus

Sunita Devi W/o Shri Nand Lal Soni Aged About 50 Years Caste Sonar R/o Nagar Balrampur, Police Station And Tehsil Balramapur, District Balrampur Ramanujganj Chhattisgarh.

... Respondent(s)

For Petitioner(s) : Mr. Pushpendra Kumar Patel, Advocate

(Hon'ble Shri Justice Ravindra Kumar Agrawal, J.)

Order on Board

08/10/2026

1. Heard.

2. The present writ petition has been filed under Article 227 of the Constitution of India, assailing the order dated 23.09.2025 passed by the Chhattisgarh Board of Revenue, Bilaspur, in Revenue Case No. RN/27/R/A-21/357/2021, whereby the revision preferred by the petitioner has been dismissed.

3. Learned counsel for the petitioner would submit that the petitioner is the owner of the diverted land bearing Khasra No. 425, admeasuring

0.12 hectare, situated at Village Balrampur, Tehsil and District Balrampur-Ramanujganj. As the petitioner was in need of money for her treatment, she intended to sell the subject land to the respondent and obtained Rs. 1,20,000/- from her. Since the proposed purchaser does not belong to an aboriginal tribe, permission under Section 165(6) of the Chhattisgarh Land Revenue Code, 1959 (for short, 'the Code') was sought from the District Collector, Balrampur-Ramanujganj. However, the District Collector, vide order dated 20.01.2021, rejected the application on the ground that the subject land is situated within a Scheduled Area, where the transfer of land belonging to a member of an aboriginal tribe in favour of a person who does not belong to such tribe is prohibited. The appeal preferred by the petitioner against the said order was also dismissed by the Commissioner, Surguja Division, vide order dated 28.06.2021, and the subsequent revision preferred before the Board of Revenue came to be dismissed by the impugned order dated 23.09.2025.

4. Learned counsel would further submit that the revenue authorities have failed to consider the provisions of Section 165(6-c) of the Code, which require the Collector to take into account the factors enumerated therein while deciding an application for permission to transfer land. The petitioner is in dire need of money and has no other source of income except the proposed alienation of the subject land. It is, therefore, submitted that the very purpose of the statutory provision enabling the Collector to consider an application for permission to transfer land would be frustrated if such permission is refused solely on the ground that the land is situated within a Scheduled Area. On these grounds, learned counsel prays that the impugned order be set aside

and permission be granted to the petitioner to sell the subject land to the respondent.

5. I have heard learned counsel for the petitioner, perused the documents placed on record, and examined the relevant provisions of the Code.

6. The main grievance raised on behalf of the petitioner is that the District Collector, while rejecting the application for permission to transfer the subject land, failed to consider the factors enumerated under Section 165(6-c) of the Code. It is, therefore, necessary to examine the scope and applicability of the said provision in the context of the restriction imposed under Section 165(6) of the Code.

7. Section 165(6-c) of the Code provides that, while passing an order under sub-section (6-a) granting or refusing permission to transfer land, or under sub-section (6-b) ratifying or refusing to ratify a transaction, the Collector shall have due regard to the factors specified therein. The said provision reads as follows:

> "(6-c) The Collector, shall in passing an order under sub-section (6-a) granting or refusing to grant permission or under sub-section (6-b) ratifying or refusing to ratify the transaction shall have due regard to the following:—
>
> (I) whether or not the person to whom land is being transferred is a resident of the Scheduled Area;
>
> (ii) the purpose to which land shall be or is likely to be used after the transfer;
>
> (iii) whether the transfer serves, or is likely to serve or prejudice the social, cultural and economic interest of the residents of the Scheduled Area;
>
> (iv) whether the consideration paid is adequate;
>
> (v) whether the transaction is spurious or benami; and
>
> (vi) such other matters as may be prescribed.
>
> The decision of the Collector granting or refusing to grant the permission under sub-section (6-a) or ratifying or refusing to ratify the transaction of transfer under sub-

> section (6-b) shall be final, notwithstanding anything to the contrary contained in this Code."

8. Section 165(6)(i) of the Code imposes a restriction on the transfer of land in the areas specified by the State Government, from the date specified by notification, in favour of a person who does not belong to the aboriginal tribe concerned. The relevant provision reads as follows:

> "(6)(i) in such areas as are predominately inhabited by aboriginal tribes and from such date as the State Government may, by notification, specify, not be transferred nor it shall be transferable either by way of sale or otherwise or as a consequence of transaction of loan to a person not belonging to such tribe in the area specified in the notification;"

9. The Explanation appended to Section 165(6-c) defines a 'Scheduled Area' as an area declared to be a Scheduled Area within the State of Chhattisgarh under paragraph 6 of the Fifth Schedule to the Constitution of India. In the present case, the petitioner has not disputed that the subject land, situated in Tehsil Balrampur, District Balrampur-Ramanujganj. District Balrampur-Ramanujganj came into existence on 17.01.2012 (erstwhile District Surguja), falls within a notified Scheduled Area under the notification dated 29.09.2005. After reorganization of State of Madhya Pradesh and carving out of new State of Chhattisgarh, the State of Chhattisgarh in supersession of Departmental Notification No.5-3-76-384 Seven-N stipulated dated 26.1.1977, published Notification in the Official Gazette dated 29.9.2005, which reads as under:- "In supersession of Departmental Notification Number 5-3-76-384 Seven-N stipulated dated 26.1.1977, the State Government hereby declare the following area shown as schedule as specified area for the purpose of sub-section (6) of section 165 of Chhattisgarh Land Revenue Code, 1959 (No.20 of 1959)

S.No. (1)	Area comprised within the limits of Tahsil (2)	District (3)
1.	Whole District Surguja	Surguja
2.	Whole District Koria	Koria
3.	Whole District Bastar	Bastar
4.	Whole District Dantewada	Dantewada
5.	Whole District Kanker	Kanker
6.	Marwahi Gorella-1, Gorella-2, Tribal Development Blocks and Kota Revenue Inspector Circle in Bilaspur	Bilaspur
7.	Whole District Korba	Korba
8.	Whole District Jashpur	Jashpur
9.	Dharamjaigarh, Gharghoda, Tamnar, Lailunga and Kharsia. Tribal Development Blocks in Raigarh	Raigarh
10.	Dondi Tribal Development Blocks in Durg	Durg
11.	Chauki, Manpur and Mohla Tribal Development Blocks in Rajnandgaon	Rajnandgaon
12.	Gariaband, Mainpur and Chhura Tribal Development Blocks in Raipur	Raipur
13.	Nagri (Sihawa) Tribal Development Blocks in Dhamtari	Dhamtari

10. The restriction imposed under Section 165(6) of the Code must, therefore, be considered in the light of the statutory prohibition applicable to transfers of land belonging to members of aboriginal tribes in such areas.

11. Article 244 of the Constitution of India deals with "administration of scheduled areas and tribal areas". It envisages that the 5th Schedule to Article 244 of the Constitution of India shall apply to the administration and control of scheduled areas and scheduled tribes in any State other than the State of Assam, Meghalaya, Tripura & Mizoram. Clause (A) in Part-A of the 5th Schedule to Article 244 of the Constitution of India mentions the executive power of the State in scheduled areas. The then State of Madhya Pradesh issued a Notification, which was

published in the Official Gazette in the year 1960, specifying aboriginal tribes under sub-section (6) of Section 165 of the Code of 1959. The Schedule of aboriginal tribe under sub-section (6) of Section 165 of the Code of 1959 was amended from time to time.

12. The factors enumerated under Section 165(6-c) are required to be considered while exercising the power of granting or refusing permission under sub-section (6-a), or ratifying or refusing to ratify a transaction under sub-section (6-b). However, such factors cannot be construed as conferring an unrestricted power upon the Collector to permit a transfer that is otherwise prohibited by Section 165(6) of the Code. The petitioner's financial necessity, by itself, cannot override an express statutory restriction on the transfer of tribal land to a non-tribal in a notified Scheduled Area. Consequently, where the proposed transfer falls within the prohibition imposed by the applicable provision, the Collector cannot grant permission merely on the ground that the transferor requires money or that the consideration offered is adequate.

13. Having considered the statutory scheme and the material available on record, this Court find no perversity or jurisdictional error in the impugned order passed by the Board of Revenue warranting interference under Article 227 of the Constitution of India. The petitioner has failed to demonstrate that the revenue authorities acted beyond their jurisdiction or committed any error of law warranting the exercise of supervisory jurisdiction by this Court.

14. Accordingly, the writ petition deserves to be and is hereby **dismissed**.

Sd/-
(Ravindra Kumar Agrawal)
JUDGE

Sumit