

(4) 18/00

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IN THE HIGH COURT OF JUDICATURE AT BILASPUR [C.G.]

Writ Petition No. 1876/04

PETITIONER

: Smt. Devki Devi W/o Katti Mistry Caste- Carpenter (Badae), Aged- About 67 Years, R/o- Village- Banki Mogra, Tahsil Katghora, District- Korba [C.G.].

VERSUS

RESPONDENTS

- : 1. State Of Chhattisgarh
Through- Secretary
Revenue department
DKS Bhawan, Raipur(C.G.)
2. Board of Revenue of Chhattisgarh
Through- Chairman,
Bilaspur (C.G.) .
3. Collector, Distt.- Korba (C.G.)
4. Sub Divisional Officer, (Revenue)
Katghora
Distt.- Korba (C.G.)
5. Chandan Singh S/o late Godari Singh
caste- Gond, R/o- Village - Sutarra,
Tahsil- Katghora, Distt.- Korba [C.G.]
6. Smt. Kaushilya Bai W/o Late Jay Lal
Caste- Kanwar, R/o- Village- Mohan
pur, Tahsil-Katghora, Distt.- Korba
[C.G.].
7. Santosh Jaiswal S/o Pusau Ram,
Aged- 40 Years, caste- Kalar,
8. Ram Pratap Jaiswal S/o- Pusau Ram,
Aged-35 years, Caste- Kalar,
9. Santlal Jayswal S/o Pusau Ram,
Aged-30 Years, Caste- Kalar,
(From 7 to 9 are the R/o Village-
Sutarra, Tahsil- Katghora, Distt.- Korba
[C.G.].

P. R. No. 2879/04
Presented by Shri. S. N. Singh
d. mod. 25-8-04

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25-8-04
Click to A. G. Bilaspur

WRIT PETITION UNDER ARTICLE 226/227 OF THE
CONSTITUTION OF INDIA

The above named petitioner most humbly and respectfully
begs to submit as under:



आदेश पत्रक

मामला क्रमांक W.P.No. 2876/04 सन् 2004

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	<p><u>30.9.2004</u></p> <p>Shri Sanjay Patel, counsel for the petitioner.</p> <p>Shri Sumesh Bajaj, Deputy Government Advocate for the State/ respondents No.1 to 4.</p> <p>The petitioner has preferred this writ petition under Article 226/ 227 of the Constitution of India questioning the legality, propriety and correctness of order dated 5.8.2004 passed by the Board of Revenue, Chhattisgarh, in Revision Case No.70/A-23/2003-04, affirming order dated 1.12.2002 passed by the Collector in Appeal Revenue Case No.8/A-23/2000- 2001, affirming the order dated 26.3.2001 passed by the Sub Divisional Officer, Katghora, in Revenue Case No.83/A-23/1999-2000, whereby the S.D.O. directed the reversion of land in favour of respondent No.5 who is the son of Late Godri Singh from whom the petitioner purchased the land bearing Khasra No.9/3 area 0.10 acre of Village: Sutarra, Patwari Halka No.15, Tehsil: Katghora, District: Korba.</p> <p>Relevant facts for the disposal of this writ petition are that Late Godri Singh, who was admittedly a tribe, sold his above agricultural land to the petitioner in the year 1975. Thereafter, in the year 1980, vide Madhya Pradesh Land Revenue Code (Amendment) Act, 1980 (for short 'the Act'), provisions of Section 170-B of the M.P. Land Revenue Code, 1959 (for short 'the Code'), were inserted. Sub-section (1) of Section 170-B of the Code envisages that if any person who on the date of commencement of the above Section is in possession of agricultural land which belonged to a</p>	

आदेश पत्रक

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आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित - 2 -	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	<p>member of a tribe which has been declared to be an aboriginal tribe under sub-section (6) of Section 165 shall, within two years of such commencement, notify to the Sub Divisional Officer in such form and in such manner as may be prescribed, all the information as to how he has come in possession of such land. Admittedly, the petitioner herein had not given such information after commencement of the Act and insertion of the provisions of Section 170-B of the Code to the concerned S.D.O. However, respondent No.5, who is the son of Late Godri Singh, made a complaint to the S.D.O. about the transfer of land, on that complaint proceedings were initiated and vide order dated 26.3.2001 the S.D.O. passed an order for reverting the land to respondent No.5 against which the petitioner preferred an appeal before the Collector, the same was dismissed against which the petitioner preferred a revision before the Revenue Board and the same was also dismissed. Now, the petitioner has approached this Court under Article 226/227 of the Constitution of India.</p> <p>I have heard learned counsel for the parties.</p> <p>Learned counsel for the petitioner argued that in the year 1975, the petitioner constructed a Kachha house on the land and thereafter, in the year 1999 after demolishing the same he constructed a Pakka house, but no benefit has been given to the petitioner herein as provided in clause (b) of sub-section (3) of Section 170-B of the Code.</p> <p>But, I do not find any substance in the argument of the learned counsel for the petitioner for the reason that in the first instance, the</p>	

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	<p>benefit of clause (b) of sub-section (3) of Section 170-B of the Code can be given to the petitioner only when the information under sub-section (1) of Section 170-B of the Code was given by the petitioner; the same was not done by the petitioner. Proceedings were initiated under sub-section (2) of Section 170-B of the Code on the application of respondent No.5; therefore, the above provisions are not attracted. Even otherwise, proviso to sub-section (3) of Section 170-B envisages that "where the building or structure has been erected after the 1st day of January, 1984 the provisions of clause (b) above shall not apply". Admittedly, as per the argument of the learned counsel for the petitioner, Pakka house in question was constructed by the petitioner in the year 1999. Therefore, on this ground also the petitioner is not entitled for the benefit of clause (b) of sub-section (3) of Section 170-B of the Code.</p> <p>For the aforesaid reasons I do not find any substance in this petition. Further, I do not find any illegality, infirmity or incorrectness in the impugned orders. Ultimately, there is no force in this petition hence, it is dismissed.</p> <p>Consequently, M.(W.)P.No.2536/2004 and I.A.No.6230/2004 stand disposed of.</p>	<p>Sd/- L.C. Bhadoo Judge</p>

Soma/Padma

[पीछे देखिये]

3/10
14/10/2004