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HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition (Art.227) No.6343 of 2011

Petitioners Applicants

1. Saroj @ Vinita, Aged about 40 years, Widow of Late Bajrang Lal Agrawal.

2. Ankit Kumar @ Salu, Aged about 18 years, S/o. Late Bajrang Lal Agrawal.

3. Ku.Sanchi, Aged about 14 years, D/o. Late Bajrang Lal Agrawal, Minor through guardian mother (petitioner No.1).

All are resident of Surajpur, Colony Nawapara, Tahsil Surajpur, District Surguja (C.G.)

Versus

Respondents

1. Santosh Kumar Agrawal, S/o. Late Shri Harchand Agrawal, Aged about 52 years.

2. Mulchand Agrawal, S/o. Late Shri Harchand Agrawal, Aged about 40 years,

All R/o. Ward No.6 Baradwar Tah. Sakti, Distt.Janjgir Champa (C.G.)

3. Board of Revenue, Chhattisgarh Bilaspur (C.G.)

4. State of Chhattisgarh, Through the Secretary, Revenue Department, D.K.S.Bhawan, Raipur (C.G.)

(Writ Petition under Article 227 of the Constitution of India)

Mr.Ashok Kumar Shukla, counsel for the petitioners.

Mr.Sumit Jhanwar, Panel Lawyer for respondent No.4/State.

(SB: Hon'ble Mr. T.P. Sharma, J.)

ORDER
(31-10-2011)

1. By this writ petition under Article 227 of the Constitution of India the petitioners have challenged the legality and propriety of the order dated 21.5.2010 passed by the Board of Revenue, Bilaspur, in Revision Case No.414/A-6/2003-04, affirming the order dated 28.7.2004 passed by the Additional Collector, Janjgir-Champa, in Revision Case No.81/A-6/2002-

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03, whereby the Additional Collector has quashed the order dated 22.8.2001 passed by the Naib-Tahsildar, Baradwar, in Revenue Case No.18/A-6/2000-01.

2. I have heard learned counsel for the parties, perused the order impugned and other orders filed on behalf of the petitioners.

3. Learned counsel for the petitioners submits that interim order dated 19.6.2001 was under challenge before the Additional Collector, Janjgir Champa but by passing the order the Additional Collector has quashed the order dated 22.8.2001 which was not under challenge before it, therefore, the Additional Collector has committed illegality and by affirming such order the Board of Revenue has also committed illegality.

4. Although the order dated 22.8.2001 was not under challenge before the Additional Collector but at the time of passing such order the aforesaid order dated 22.8.2001 was in existence. By passing the order dated 28.7.2004 the Additional Collector has committed procedural illegality but it has corrected illegal order passed by the Naib-Tahsildar vide order dated 22.8.2001, whereby the Naib-Tahsildar has recalled and amended the mutation order without following the procedure prescribed i.e. without obtaining permission for review.

5. Considering the aforesaid orders and order passed by the Board of Revenue, it would not be proper to recall or quash the order passed by the Additional Collector and also to quash the order passed by the Naib-Tahsildar.

6. With the aforesaid observation, the writ petition stands disposed of. However, the petitioners are at liberty to adopt proper procedure available under the law. No order as to costs.

7. Interim application stands disposed of.

Sd/-
T.P. Sharma
Judge