CGHC010089462022 2026:CGHC:32781

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPC No. 1365 of 2022

Order Reserved on: 15.6.2026

Order Delivered on: 30.7.2026

1 - Hukum Sai Rajwar S/o Mohan Rajwar Aged About 80 Years R/o Village Kunjnagar, Tahsil Surajpur, District Sarguja Chhattisgarh.

... Petitioner(s)

versus

1 - Sub Divisional Officer Surajpur, District Sarguja Chhattisgarh.

2 - The Collector Sarguja, Ambikapur Chhattisgarh.

3 - The Commissioner Sarguja Division, Ambikapur Chhattisgarh.

4 - Samudri W/o Bahadur Bhima R/o Village Karampur, Tahsil Surajpur, District Surajpur Chhattisgarh.

5 - Lakhan S/o Bahadur Bhima R/o Village Karampur, Tahsil Surajpur, District Surajpur Chhattisgarh.

6 - Madan S/o Bahadur Bhima R/o Village Karampur, Tahsil Surajpur, District Surajpur Chhattisgarh.

7 - Vijay S/o Bahadur Bhima R/o Village Karampur, Tahsil Surajpur, District Surajpur Chhattisgarh.

... Respondent(s)

For Petitioner(s)	:	Mr. Somnath Verma, Advocate.
For Respondent(s)/State	:	Mr. Soumitra Kesharwani, Panel Lawyer.
For Respondents No. 4 to 7	:	Ms. Ankita Goswami, Advocate on behalf of Mr. Pushpendra Kumar Patel, Advocate.

Hon’ble Mr. Justice Amitendra Kishore Prasad

C A V Order

1. By way of this petition, the petitioner has prayed for following reliefs:-

   “10.1. that, the Hon'ble Court may kindly be pleased to issue appropriate writ quashing the order impugned (ann. P/6) dated 14.12.2021 passed by the Commissioner.”

2. Brief facts of the case, is that, one Bahadur had filed an application under Section 170-B of the Madhya Pradesh/Chhattisgarh Land Revenue Code, 1959, before the Sub-Divisional Officer (Revenue), Surajpur, inter alia, stating that he belongs to the Bhima caste, which is a Scheduled Tribe, and that the lands bearing various Khasra numbers, as detailed in Schedule-A to the application, situated at Village Karampur, Revenue Circle Pilkha, District Surajpur, originally belonged to his father, namely, Sundar Sai, and were settled and recorded in his name in the revenue records.

3. It was further stated in the application that, after the death of Sundar Sai, the lands in question were mutated in the names of his sons, namely, Mahaveer and Rooney, in the revenue records. Mahaveer died issueless and, after the death of Mahaveer and Rooney, there was no other successor to the lands in question except the applicant. It was alleged that Mahaveer had mortgaged the lands in question in favour of Mohan, father of Hukum Sai; however, a registered sale deed was fraudulently got executed in favour of Hukum Sai, without the knowledge of the applicant or the other persons concerned. The lands continued to remain in the possession of Mohan, father of Hukum Sai, and when possession thereof was sought to be recovered, the respondents refused to hand over the same. It was, therefore, alleged that the sale deed had been obtained fraudulently and the transaction had never been disclosed to the applicant or the other interested persons. According to the applicant, the aforesaid transaction was in contravention of Section 165(6) of the Madhya Pradesh Land Revenue Code, 1959, and, therefore, the lands were liable to be reverted to the original tribal landholder or his legal heirs. The concerned Sub-Divisional Officer (Revenue) took cognizance of the application, issued notices to Hukum Sai and the other concerned persons and, after conducting a detailed enquiry, passed an order dated 13.06.2002, holding that the registered sale deed had been fraudulently and illegally executed and, accordingly, declared the said transaction to be null and void.

4. Since the lands in question had already been acquired by South Eastern Coalfields Limited (SECL), an order for physical reversion of the lands could not be passed. Consequently, Hukum Sai, son of Mohan, was directed to return the amount of compensation received towards acquisition of the lands in question to the legal heirs of Bahadur, namely, Samudri and others. The aforesaid order was challenged by way of an appeal under Section 44 of the Chhattisgarh Land Revenue Code, 1959, before the Collector. Upon due consideration of the material available on record and the nature of the transaction, the Collector found that the transaction in question had not been effected in accordance with law.

5. The Collector further held that the transaction was in contravention of Section 165(6) of the Chhattisgarh Land Revenue Code, 1959, and that the concerned Sub-Divisional Officer (Revenue) had rightly declared the sale deed to be null and void. It was further observed that, since the lands in question had already been acquired by SECL, their physical reversion was no longer possible and, therefore, the Sub-Divisional Officer (Revenue) had rightly directed the return of the compensation amount to the legal heirs of Bahadur, namely, Samudri, Lakhan, Madan and Vijay. Accordingly, the order passed by the Sub-Divisional Officer (Revenue) was affirmed by the Collector. Being aggrieved by the said order, the petitioner preferred a revision before the Commissioner, Sarguja Division, Ambikapur. The

Commissioner, upon reconsideration of the entire matter and the material available on record, arrived at the conclusion that the registered sale deed had been obtained by playing fraud upon the original tribal landholder and, therefore, had rightly been declared null and void. The Commissioner further observed that, ordinarily, the consequence of such a finding would be reversion of the lands to the original landholder or his legal heirs; however, since the lands had already been acquired by SECL, actual reversion thereof was not possible. In such circumstances, the direction for return of the compensation amount received in respect of the acquired lands to the legal heirs of the original landholder was held to be just and in accordance with law. Consequently, the revision preferred by the petitioner was dismissed by the impugned order dated 14.12.2021.

6. Learned counsel for the petitioner submits that Section 170-B of the Madhya Pradesh/Chhattisgarh Land Revenue Code, 1959, does not contain any provision empowering the revenue authorities to direct the return or repayment of compensation received upon acquisition of the land. He submits that Section 170-B of the Code deals with fraudulent transactions relating to the lands of members of Scheduled Tribes and, where, upon enquiry, it is found that the transaction was fraudulent or in contravention of Section 165(6) of the Code, the competent authority is empowered to pass an order for reversion of the land to the original tribal landholder or his legal heirs. He further

submits that, in the present case, the lands in question had already been acquired by SECL and the compensation amount was paid to the petitioner as his name was duly recorded in the revenue records at the relevant point of time. According to learned counsel, there is no provision under the Madhya Pradesh/Chhattisgarh Land Revenue Code, 1959, authorising the revenue authorities to direct the petitioner to return the compensation received by him in lieu of acquisition of the lands. It is further submitted that SECL, being the acquiring body and a necessary party to the dispute, has not been impleaded as a party to the proceedings and, therefore, the proceedings also suffer from non-joinder of a necessary party. Learned counsel, therefore, submits that the orders passed by all the three revenue authorities are beyond the scope and ambit of Section 170-B of the Code and are contrary to law and, as such, the impugned orders deserve to be quashed.

7. Per contra, learned counsel appearing for the State as well as learned counsel appearing for respondents No. 4 to 7 oppose the submissions made on behalf of the petitioner and submit that all the three revenue authorities have concurrently recorded a finding that the transaction in question was fraudulent and was effected in contravention of Section 165(6) of the Chhattisgarh Land Revenue Code, 1959. It is submitted that, once the transaction itself has been declared null and void, the petitioner cannot be permitted to retain the compensation amount received on the

strength of such an illegal and fraudulent transaction. Learned counsel further submit that, since the lands in question had already been acquired by SECL, physical reversion of the lands to the original tribal landholder or his legal heirs had become impossible and, therefore, the revenue authorities rightly directed the petitioner to return the compensation amount to the private respondents in lieu of reversion of the lands. It is, therefore, submitted that the orders passed by the three revenue authorities are based upon concurrent findings of fact, are just and proper and do not suffer from any illegality or perversity warranting interference by this Court in exercise of its writ jurisdiction.

8. Having heard learned counsel for the parties and perused the material available on record.

9. This Court is of the view that the sole question which arises for consideration and determination in the present case is whether, in exercise of the powers conferred under Section 170-B of the Madhya Pradesh/Chhattisgarh Land Revenue Code, 1959, the competent revenue authority is empowered to pass an order directing the return of the compensation amount received in lieu of the land, where the transaction and registration of such land in favour of the petitioner has subsequently been found to be fraudulent and contrary to the provisions of the Code. In other words, the issue which requires determination is whether a direction for restitution or return of the compensation amount received on account of acquisition of such land can be issued in

proceedings under Section 170-B of the Code, particularly when physical reversion of the land has become impossible owing to its subsequent acquisition. In order to examine and adjudicate upon the aforesaid question, it would be apposite to refer to the provisions contained in Section 170-B of the Madhya Pradesh/Chhattisgarh Land Revenue Code, 1959, which read as under:-

> *“**170-B. Reversion of land of members of aboriginal tribe which was transferred by fraud.-**(1) Every person who on the date of commencement of the Madhya Pradesh Land Revenue Code (Amendment) Act, 1980 (hereinafter referred to as the Amendment Act of 1980) is in possession of agricultural land which belonged to a member of a tribe which has been declared to be an aboriginal tribe under sub-section (6) of section 165 between the period commencing on the 2nd October, 1959 and ending on the date of the commencement of Amendment Act, 1980 shall, within 2[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.*
>
> *(2) If any person fails to notify the information as required by sub-section (1) within the period specified*

therein it shall be presumed that such person has been in possession of the agricul-tural land without any lawful authority and the agricultural land shall, on the expiration of the period aforesaid revert to the person to whom it originally belonged and if that person be dead, to his legal heirs.

[(2-A) If a Gram Sabha in the Scheduled area referred to in clause (1) of Article 244 of the Constitution finds that any person, other than a member of an aboriginal tribe, is in possession of any land of a Bhumiswami belonging to an aboriginal tribe, without any lawful authority, it shall restore the possession of such land to that person to whom it originally belonged and if that person is dead to his legal heirs.

Provided that if the Gram Sabha fails to restore the posses-sion of such land, it shall refer the matter to the Sub-Divisional Officer, who shall restore the possession of such land within three months from the date of receipt of the reference.]

(3) On receipt of the information under sub-section (1), the Sub- Divisional Officer shall make such enquiry as may be deemed necessary about all such transactions of transfer and if he finds that the member of aboriginal tribe has been defrauded of his legitimate

right he shall declare the transaction null and void and pass an order revesting the agricultural land in the transferer and, if he is dead, in his legal heirs.]

[(3) On receipt of the information under sub-section (1) the Sub-Divisional Officer shall make such enquiry as may be neces-sary about all such transactions of transfer and if he finds that the member of aboriginal tribe has been defrauded of his legitimate right he shall declare the transaction null and void and-

(a) Where no building or structure has been erected on the agricultural land prior to such finding pass an order revesting the agricultural land in the transferer and if he be dead, in his legal heirs,

(b) Where any building or structure has been erected on the agricultural land prior to such finding, he shall fix the price of such land in accordance with the principles laid down for fixation of price of land in the Land Acquisition Act, 1894 (No. 1 of 1894) and order the person referred to in sub-section (1) to pay to the trans-ferer the difference, if any, between the price so fixed and the price actually paid to the transferer:

Provided 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:*

Provided further that fixation of price under clause (b) shall be with reference to the price on the date of registration of the case before the Sub-Divisional Officer.]”

10. From a plain reading of the aforesaid provision, it is evident that Section 170-B of the Madhya Pradesh/Chhattisgarh Land Revenue Code, 1959, is intended to deal with transactions concerning the lands of members of Scheduled Tribes which are found, upon enquiry, to be fraudulent, illegal or otherwise contrary to the provisions of the Code. Where such a transaction is found to be fraudulent, the statutory consequence ordinarily contemplated under the said provision is reversion of the land to the original tribal landholder or his legal heirs. The question which, however, arises in the present case is as to what appropriate relief can be granted where the land in question has already been acquired and, consequently, its physical reversion to the original landholder or his legal heirs has become impossible. In the present case, it is not in dispute that, on the basis of the transaction subsequently found to be fraudulent, the petitioner got his name mutated in the revenue records. It is also not in dispute that the land in question had already been acquired by SECL prior to the filing of the application under Section 170-B of the Code. The material available on record further indicates that the transaction in question was not within the knowledge of the

original landholder, namely, Sundar Sai, or his legal heirs. From the documents available on record, it appears that the original tribal landholders had never intended to alienate the land by way of an absolute sale and that the transaction was, in substance, intended to be a mortgage. However, a registered sale deed was obtained in favour of the petitioner, on the basis of which his name was subsequently mutated in the revenue records. The concurrent findings recorded by the revenue authorities demonstrate that the tribal landholders were defrauded and that the sale deed in favour of the petitioner had been obtained by way of a fraudulent transaction.

11. The object and purpose underlying Section 170-B of the Code is to protect members of Scheduled Tribes from illegal, fraudulent and unauthorised transactions concerning their lands and to prevent non-tribals or other persons from retaining possession or deriving benefit from such transactions. For achieving the aforesaid object, the Sub-Divisional Officer, being the prescribed authority, has been conferred with the power and jurisdiction to conduct an enquiry into the nature and validity of such transactions and to grant appropriate relief in accordance with the statutory scheme. Though the provision primarily contemplates reversion of the land to the original tribal landholder or his legal heirs, in a case where physical reversion of the land has become impossible on account of its subsequent acquisition, the beneficial object of Section 170-B cannot be rendered nugatory merely for

the reason that the land is no longer available for restoration. In such circumstances, the tribal landholder or his legal heirs cannot be left remediless, particularly when the compensation for acquisition of the land has been received by a person whose title was founded upon a transaction subsequently declared to be fraudulent and null and void. Thus, where the petitioner has received the compensation amount solely on the strength of a sale deed which has been declared null and void, the benefit derived from such transaction cannot be permitted to be retained by him to the prejudice of the original tribal landholders or their legal heirs.

12. It is also pertinent to note that Section 170-B of the Code itself contemplates a situation where reversion of the land may not be practicable on account of the construction of a building or structure over the agricultural land and provides for payment of the price of such land determined in accordance with the principles laid down for fixation of the price of land under the Land Acquisition Act, 1894. The provision further contemplates adjustment of any amount already paid and payment of the differential amount, if any. The aforesaid statutory scheme makes it clear that the legislative intent is not confined merely to the physical reversion of the land but is also aimed at securing the monetary value of the land to the tribal landholder in cases where actual restoration of possession is not possible. Therefore, in the peculiar facts and circumstances of the present case, where the

land has already been acquired by SECL and physical reversion thereof is no longer possible, an appropriate monetary relief can be granted to the original tribal landholders or their legal heirs. However, such monetary liability is required to be determined in conformity with the mechanism contemplated under Section 170-B of the Code and the principles governing determination of the price of the land.

13. In view of the aforesaid facts, circumstances and legal position, this Court is of the considered opinion that the orders passed by the Sub-Divisional Officer (Revenue), Surajpur, and affirmed by the Collector, Sarguja, as well as the Commissioner, Sarguja Division, Ambikapur, require modification only to the extent of determination of the monetary amount payable in respect of the land in question. Accordingly, the impugned orders are modified to the extent that the concerned Sub-Divisional Officer (Revenue), Surajpur, shall determine the price of the land in question in accordance with the principles laid down for fixation of the price of land under the Land Acquisition Act, 1894, as contemplated under Section 170-B of the Madhya Pradesh/Chhattisgarh Land Revenue Code, 1959. Upon such determination, the petitioner shall be liable to pay the amount so determined to the entitled legal heirs of the original tribal landholder. While determining the amount payable, the Sub-Divisional Officer (Revenue), Surajpur, shall also take into consideration and appropriately adjust the compensation amount already received by the petitioner in

respect of the acquisition of the land in question. The aforesaid exercise shall be carried out by the concerned authority strictly in accordance with law and after affording a reasonable opportunity of hearing to all the parties concerned.

14. Accordingly, with the aforesaid modification in the orders passed by the revenue authorities, the present writ petition stands disposed of. The concerned Sub-Divisional Officer (Revenue), Surajpur, is directed to undertake and complete the exercise of determination of the price of the land in question, in terms of the observations and directions made hereinabove, within a period of 90 days from the date of receipt of a copy of this order, after affording a reasonable opportunity of hearing to all the parties concerned. Upon determination of the amount payable, the petitioner shall deposit/pay the amount so determined in favour of the entitled legal heirs of the original tribal landholder within a further period of 60 days from the date of such determination. It is made clear that, except to the extent of the modification made hereinabove with regard to the determination of the amount payable, the concurrent findings recorded by the revenue authorities regarding the fraudulent nature of the transaction and the invalidity of the sale deed shall remain undisturbed.

15. With this observation and direction, the writ petition is disposed of.

Sd/-

(Amitendra Kishore Prasad)
Judge

Raghu Jat