(2011) 11 CHH CK 0065

In the Chhattisgarh High Court

Case No : Misc. Petition No. 3899 of 1993

Gautam Chand Duggar APPELLANT

Vs

Smt. Somari Bai and Others RESPONDENT

Date of Decision : 02-11-2011

Acts Referred:

Constitution of India, 1950 — Article 226, 227
Madhya Pradesh Land Revenue Code, 1959 — Section 170B

Citation : (2012) 1 CGLJ 300

Hon'ble Judges : T.P. Sharma, J

Bench : Division Bench

Advocate : Renu Kochar, for the Appellant; Sumit Jhanwar, P.L., for the State/ respondents No. 3 to 6. and None for the Respondents No. 1(A), 1(B), 1(C) and 2, for the Respondent

Final Decision : Dismissed

Judgement

Shri T.P. Sharma, J.—By this petition under Article 226/227 of the Constitution of India petitioner has challenged the legality and propriety of the order dated 5/2/1993 passed by Board of Revenue, Madhya Pradesh, Gwalior in case No. 9-three/ 92, order dated 10/6/1992 passed by Board of Revenue, Madhya Pradesh, Gwalior in revision No. 303-1/87, order dated 27/7/87 passed by Commissioner, Bastar Division, Jagdalpur in Appeal Case No. 69/A-23/85-86, order dated 30/ 5/86 passed by Additional Collector, Jagdalpur in Appeal Case No. 19/A-23/ 83-84, order dated 16/5/83 passed by Sub Divisional Officer (Revenue) Jagdalpur in Ra. Case No. 175/A-23/77-78 and order dated 11/ 11/80 passed by Sub Divisional Officer, Jagdalpur in Case No. 175/A-23/77-78 whereby Revenue Courts has directed to return the agricultural land which was in possession of the petitioner to Laxman son of Sukhdeo. Ms. Renu Kochar, Advocate for the petitioner and Mr. Sumit Jhanwar, P.L. for the State/respondents No. 3 to 6 are heard.

2. Learned counsel for the petitioner submits that after obtaining permission

Sukhdeo owner of the land which was member of scheduled tribe who has sold the land to the petitioner and after lapse of considerable time inquiry was initiated by Sub Divisional Officer, Jagdalpur in which Laxman has given contradictory statement relating to transaction but has specifically admitted that it was sell transaction although, he had not received full consideration, in these circumstances all the Revenue Courts were under obligation to hold that transaction was not fraudulent but all the Revenue Courts has illegally directed the petitioner for return of possession of the land to Laxman i.e. son of original land owner Sukhdeo and thereby committed gross illegality.

3. Learned counsel for the petitioner further submits that proper opportunity of hearing has not been provided to the parties before passing such order.

4. On the other hand, learned counsel for the State/respondents No. 3 to 6 opposed the petition and submits that Revenue Courts has rightly acted in accordance with provisions of Section 170B of the C.G. Land Revenue Code, 1959. All the orders impugned reveal that on the basis of inquiry Revenue Courts has arrived at a finding that transaction was fraudulent transaction. Definitely, there is some contradiction in the statement of Laxman dated 10/9/80 and application dated 24/4/78 but in both the statements/application he has specifically mentioned that transaction was fraudulent transaction. Only sell after obtaining permission from Collector does not give presumption that transaction was genuine and not fraudulent. It was obligatory upon the petitioner to ensure that transaction was not fraudulent. In exercise of supervisory jurisdiction High Court, cannot exercise appellate jurisdiction while exercising supervisory jurisdiction under Article 227 of the Constitution of India Court is required to consider whether there is a case of gross illegality or jurisdictional error which has materially effected the decision. On perusal of aforesaid orders, 1 do not find such jurisdictional error or glaring mistake or illegality in the procedure adopted by Revenue Courts requiring any interference in exercise of supervisory jurisdiction. Consequently, petition is liable to be dismissed and is hereby dismissed. No order as to costs.

