

(2018) 06 CHH CK 0042
In the Chhattisgarh High Court
Case No : WPIL No. 142 Of 2017

Maresh Das Ratre

APPELLANT

Vs

State Of Chhattisgarh And Ors

RESPONDENT

Date of Decision : 18-06-2018

Acts Referred:

Citation : (2018) 06 CHH CK 0042

Hon'ble Judges : Thottathil B. Radhakrishnan, CJ; Parth Prateem Sahu, J

Bench : Division Bench

Advocate : Rajnish Singh Baghel, Y. S. Thakur

Judgement

Thottathil B. Radhakrishnan, CJ

1. This writ petition is instituted as a Public Interest Litigation. The allegation of the Petitioner is that the 7th Respondent is putting up an illegal construction utilizing erroneous classification of the land in the revenue records with reference to the identifying khasra numbers. The Petitioner's complaint against the illegal construction has not been properly addressed by the 6 th Respondent Nagar Panchayat and its Chief Municipal Officer, according to the Petitioner.

2. Through order dated 13.12.2017, the 2 nd Respondent-Collector, Rajnandgaon district was required to look into the complaint of the Petitioner and place an affidavit disclosing whether any action has been taken on the Petitioner's complaint. The relevant portion of the said order dated 13.12.2017 read as follows :

"The Second respondent will look into the complaint of the petitioner and place an affidavit disclosing whether any action had been taken on the complaint stated to have been made to the said authority. It will be open to the Collector concerned to take such action, if any, as may be found on the facts and in the circumstances of the case.

The learned Deputy Advocate General will obtain instructions and make

submissions at the next date of hearing in the light of this order."

3. With the passage of time, the Collector has placed an affidavit sworn to on 22.01.2018 which inter-alia states as follows :

"2. That, the humble deponent herein to ensure a strict compliance of the order of the direction issued by this Hon'ble Court summoned the revenue record pertaining to the land in issue involved in present writ petition and went through the complaint and the record with utmost care and circumspection.

3. That, on perusal of the complaint and the record, the humble deponent herein found that certain error has been committed by the revenue authorities while recording mutation after the death of the owner Mukhtar Singh of the land bearing Khasra No. 124 of Patwari Halka no.20 of Tehsil Chhuikhadan, village Gandai. The discrepancy led to creation of khasra no.124/1, 124/2, 124/3, which consisted of the total land area of 0.13 acre/0.052 hectare, whereas originally the khasra no.124 consisted only 0.04 acre/0.016 hectare. Therefore, it became evident that certain revenue entries which have led to inflation of the area under khasra no.124, need to be corrected.

4. That, it is humbly submitted that on the instructions of the deponent herein, the concerned revenue authority has initiated the necessary proceedings to correct the discrepancy in the revenue record and it is expected that such proceeding would reach to its logical conclusion within a very short period."

4. With the aforesaid, what is required is for the Collector who is the head of Revenue Management in the system concerned has to take the proceeding stated to have been initiated, as noted above, to its logical end. Obviously, if any person is in possession of any parcel of that land, such person would be given requisite opportunity of hearing. The Petitioner, as the complainant, will also be entitled to be heard by the Collector or any other statutory authority in this regard. The Collector will issue requisite instructions / information to the Chief Municipal Officer of the 6th Respondent - Nagar Panchayat so that any action that may be found necessary in relation to the construction could also be taken at that end. However, that shall also be only with due notice to any person who may be affected by any such action.

5. It is clarified that the 7 th Respondent is not issued any notice from this Court since any further action by any among Respondents No. 1 to 6 shall be effectuated only following the due procedure and after hearing any person who would be affected by any such procedure. This may include the 7 th Respondent as well. All contentions of that person will stand open for consideration by the District Collector or any other statutory authority, including those among the Respondents.

6. In the result, this writ petition is ordered directing that the 2 nd Respondent, the 6th Respondent as well as Respondents No. 1 and 3 to 5 shall give effect to what is stated hereinabove following the due procedure. We also clarify that it

will be open to the Chief Municipal Officer of the 6th Respondent - Nagar Panchayat or the District Collector to pass such order as may be found necessary, including restraining further construction activity, if issuance of such order is called for.