

**(1993) 08 MP CK 0014**  
**In the Madhya Pradesh High Court**  
**Case No : M.P. No. 36 of 1992**

Murari Lal and Others

APPELLANT

Vs

State of Madhya Pradesh and Others

RESPONDENT

**Date of Decision :** 19-08-1993

**Acts Referred:**

Madhya Pradesh Land Revenue Code, 1959 — Section 50

**Citation :** (1994) 39 MPLJ 378 : (1994) MPLJ 378

**Hon'ble Judges :** R.P. Awasthy, J; Gulab C. Gupta, J

**Bench :** Division Bench

**Advocate :** S.L. Kochar, for the Appellant; A.K. Khaskalam, for the Respondent

**Final Decision :** Dismissed

## Judgement

R.P. Awasthy, J.

Short question involved in the present case is as to whether appealability of an order and an appeal having been filed by an unconcerned and third person, is a bar to suo motu exercise of revisional powers u/s 50 of the M. P. Land Revenue Code of 1959 (Code in short).

The facts relevant for the purpose of this order are as below :-

The relevant lands of village Padoriya and Simariya Khurd, situated in Tahsil Kareli, Distt. Narsinghpur were recorded in patwari papers in the name of the deity of Shri Deo Ramchandraji. The name of Yashoda Bai, predecessor in title of the present petitioners, was recorded as sarwarahkar on the said lands in patwari papers. The present petitioners applied for mutation of their names on the said lands in the year 1985. By an order passed by Naib Tahsildar, Kareli presumably u/s 110 of the Code, the names of the petitioners were mutated on the relevant lands in revenue records. From the contents of the impugned order dated 20-12-1991 passed u/s 50 of the Code by the Collector, it appears that the said order passed by Naib Tahsildar, Kareli could not be traced and remained untraceable. Subsequently, the said lands were partitioned by the petitioners and

thereafter, their names were recorded separately on the said lands in revenue records in accordance with the said partition.

Respondent No. 4 made a complaint to the Collector, Narsinghpur (respondent No. 2) regarding the said activity of the petitioners. Respondent No. 4 also filed an appeal on 16-10-1990 u/s 44 of the Code against the said order passed u/s 110 of the Code by Naib Tahsildar, Kareli, with an application to condone delay of about five years in filing the said appeal. Obviously, respondent No. 4 is neither a beneficiary nor is in any way concerned with the said lands. On the other hand, he is a complete stranger as far as the said lands and the matter is concerned. The said appeal is still pending.

The respondent No. 3, Sub-Divisional Officer, Kareli who also happens to be the Registrar of Public Trusts also started some proceedings under M. P. Public Trusts. However, we are not concerned with the said proceedings because the said proceedings do not bar any application for revision under proviso to Section 50 of the Code.

On receiving the said complaint, Collector, Narsinghpur, in exercise of suo motu power of revision, registered the relevant case and issued show cause notices to the petitioners. The petitioners appeared in the court of Collector, but, after seeking several opportunities to file reply, did not file any. After taking into consideration the documentary evidence available on record, the Collector passed the impugned order dated 20-12-1991, by virtue of which the order passed by Naib Tahsildar, Kareli, mutating the names of the petitioners on relevant lands, in revenue records, has been set aside.

By bare reading of Section 50 of the Code, it became clear that bar prescribed under the proviso to the said section relates to an application for revision and it does not create any bar to suo motu exercise of the revisional power of the Collector and other authorities enumerated in the said section. If any authority is needed for the said proposition, *Shiwaji Ram v. Board of Revenue and Ors.* 1979 MPRN 493 (an authority of this High Court) can be cited. The same view has been reiterated and confirmed in Full Bench decision of this Court in *Usha Devi v. State of MP* 1990 MPLJ 353.

It has been argued for the petitioner that in the cited Full Bench authority (*supra*) no appeal had been filed and therefore, the said authority is distinguishable on facts, from the present case. It has also been pointed out that in the said authority it has been laid down that suo motu power of revision can be exercised even in a case of an appealable order and in a case in which no appeal has been filed.

However, this aspect also does not deserve a very serious consideration and need not detain us, any longer, for the purposes of the present case. Filing of appeal postulates, filing of appeal by a competent person and that too within the frame work of the law. An appeal filed by a totally unconcerned person after five years of passing of the relevant order, cannot, in the opinion of this court, put a fetter,

on the legitimate exercise of the said power conferred u/s 50 of the Code. Such an appeal is no appeal in the eyes of law. It has further to be seen that otherwise, it would be quite easy to forestall and thwart the exercise of the said power by getting a time barred appeal filed by some unconcerned person.

It has been further argued that since the said proceedings were drawn on the basis of a complaint lodged by the respondent No. 4, the said proceedings should be treated as proceedings initiated on the basis of an application for revision. This argument has also no merit and deserves outright rejection. By the said complaint, certain facts only were brought to the notice of the competent authority, who on his motion, drew the proceedings u/s 50 of the Code.

It has been, in the last, argued for the petitioners that though no time limit has been prescribed for exercising suo motu powers of revision, yet they should be exercised within a reasonable time. For the said proposition in *The State of Gujarat Vs. Patil Raghav Natha and Others*, has been cited for the petitioners. In this regard, it has to be seen that it is a cardinal principle of law of limitation that prescribed period (if any) of limitation starts running from the date of acquiring the knowledge of the relevant fact giving rise to the cause of action. In the present case, the relevant lands were recorded in the name of a deity. The Collector started proceedings as soon as the fact of alleged mutation in the names of the petitioners was brought to his notice. Taking action "within a reasonable time" is a relative term. In the facts and circumstances of the present case, action was taken within a reasonable time.

In view of the reasonings mentioned above, the present petition is devoid of any substance and is rejected with costs. The petitioners shall bear their own costs and shall also bear the costs of the respondents. Counsel's fee Rs. 500/- if certified.