

(2024) 04 MP CK 0013
In the Madhya Pradesh High Court
Case No : Writ Petition No. 7948 Of 2024

Shambhulal

APPELLANT

Vs

State Of Madhya Pradesh And Others

RESPONDENT

Date of Decision : 02-04-2024

Acts Referred:

Madhya Pradesh Land Revenue Code, 1959 — Section 44(1), 44(2), 46, 46(b), 50, 50(1)(c), 131(1)

Citation : (2024) 04 MP CK 0013

Hon'ble Judges : Pranay Verma, J

Bench : Single Bench

Advocate : Yashpal Singh Sisodiya, Pranjali Yajurvedi

Final Decision : Allowed/Disposed Of

Judgement

Pranay Verma, J

1. Heard on the question of admission.
2. Since the impugned order relates to jurisdictional matter and has been passed by the Additional Collector, District Neemuch by grossly misinterpreting the relevant provisions of M.P. Land Revenue Code, 1959, I do not deem it necessary to issue notice to private respondents i.e. respondents No.5 to 9 and particularly in view of the order which is proposed to be passed.
3. The record indicates that the petitioner had filed an application under Section 131 of the Code, 1959 before the Tehsildar Singoli, District Neemuch. The same was decided on merits by him by order dated 31.08.2019. Being aggrieved by the said order respondents No.5 to 9 preferred First Appeal under Section 44(1) of the Code, 1959 before the Sub Divisional Officer (Revenue), Sub Division Jawad, District Neemuch which was allowed by order dated 30.01.2020 and the order passed by the Tehsildar was set aside.
4. As per Section 46 (b) of the Code, 1959 no Second Appeal shall lie from an

order passed in First Appeal against an order passed under the provisions of Sub Section (1) of Section 131 of the Code, 1959. Thus the petitioner could not have preferred Second Appeal against order dated 30.01.2020 passed by the Sub Divisional Officer. He hence could have only preferred a Revision before him under Section 50(1)(c) of the Code which was rightly done by him.

5. By the impugned order the Revision preferred by the petitioner has been dismissed by the Additional Collector by observing that order passed by the Sub Divisional Officer ought to have been challenged by preferring a Second Appeal under Section 44 (2) of the Code, 1959 before the second appellate authority. The said order is wholly illegal and is in failure to exercise jurisdiction vested in the Additional Collector by virtue of provisions of Section 50 read with Section 46 of the Code, 1959. The Revision preferred by the petitioner before the Additional Collector was very much maintainable and ought to have been decided by him on merits and ought not to have been dismissed as not maintainable as has been done by the impugned order.

6. Thus in view of the aforesaid, the impugned order dated 09.02.2021 passed by the Additional Collector, District Neemuch cannot be sustained and is hereby set aside. The Revision preferred by the petitioner before him under Section 50 of the Code, 1959 against the order dated 30.01.2020 passed by the Sub Divisional Officer is held to be maintainable and is directed to be decided on merits in accordance with law after affording due opportunity of hearing to respondents No.5 to 9. The petition is accordingly allowed and disposed off.