



2026:CGHC:14817

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPC No. 1613 of 2021

1 - Smt. Pooja Dulai (Wrongly Mentioned As Dulal) W/o Yadiwinder Singh Dulai, (Wrongly Mentioned As Dulal) Aged About 35 Years R/o In Front Of Iti, G.E. Road Bhilai, And Tehsil And Distt. Durg (Chhattisgarh), District : Durg, Chhattisgarh.

--- Petitioner(s)

versus

1 - Nimish Agrawal S/o Sunil Agrawal Aged About 45 Years Residence Of Motilal Nehru Nagar Bhilai, Tehsil And Distt. Durg (Chhattisgarh), District : Durg, Chhattisgarh.

2 - Sunil Agrawal S/o Late L.N. Agrawal Aged About 45 Years Residence Of Motilal Nehru Nagar Bhilai Tehsil And Distt. Durg (Chhattisgarh), District : Durg, Chhattisgarh

--- Respondent(s)

WPC No. 1609 of 2021

1 - Smt. Tankrathi W/o I.A. Dhas Aged About 50 Years R/o In Front Of Iti, G.E. Road Bhilai, Tehsil And District Durg Chhattisgarh., District : Durg, Chhattisgarh.

---Petitioner(s)

Versus

1 - Nimish Agrawal S/o Sunil Agrawal Aged About 45 Years Resident Of Motilal Nehru Nagar Bhilai Tehsil And District Durg Chhattisgarh., District : Durg, Chhattisgarh.

2 - Sunil Agrawal S/o Late L.N. Agrawal Aged About 45 Years Residence Of Motilal Nehru Nagar Bhilai Tehsil And District Durg Chhattisgarh., District : Durg, Chhattisgarh.

--- Respondent(s)

WPC No. 1640 of 2021

1 - I.A. Dhas S/o I.S.K (Wrongly Recorded As Issak) Dhas, Aged About 56 Years R/o In Front Of I T I, G.E. Road Bhilai, And Tehsil And District Durg Chhattisgarh., District : Durg, Chhattisgarh.

---Petitioner(s)

Versus

1 - Nimish Agrawal S/o Sunil Agrawal Aged About 45 Years R/o Motilal Nehru Nagar Bhilai Tehsil And District Durg Chhattisgarh., District : Durg, Chhattisgarh.

2 - Sunil Agrawal S/o Late L.N. Agrawal Aged About 45 Years R/o Motilal Nehru Nagar Bhilai Tehsil And District Durg Chhattisgarh., District : Durg, Chhattisgarh.

--- Respondent(s)

WPC No. 1621 of 2021

1 - Yadvinder Singh Dulai (Wrongly Mentioned Dulal) S/o Sabarjit Singh Dulai (Wrongly Mentioned Dulal) Aged About 46 Years R/o Infront Of Iti, G.E. Road Bhilai, Tehsil And Distt. Durg (Chhattisgarh), District : Durg, Chhattisgarh.

---Petitioner(s)

Versus

1 - Nimish Agrawal S/o Sunil Agrawal Aged About 45 Years Residence Of Motilal Nehru Nagar Bhilai, Tehsil And Distt. Durg (Chhattisgarh), District : Durg, Chhattisgarh.

2 - Sunil Agrawal S/o Late L.N. Agrawal Aged About 45 Years Residence Of Motilal Nehru Nagar Bhilai, Tehsil And Distt. Durg (Chhattisgarh), District : Durg, Chhattisgarh.

--- Respondent(s)

For Petitioner(s)	:	Mr. Awadh Tripathi, Advocate.
For Respondent(s) in WPC No. 1613/2021 & WPC No. 1621/2021	:	Mr. Mukul Chaturvedi, Advocate.
For Respondents in WPC No. 1609/2021 & WPC No. 1640/2021	:	Mr. Swapnil Thawaney, Advocate on behalf of Mr. P.R. Patankar, Advocate.

Hon'ble Mr. Justice Amitendra Kishore Prasad

Order on Board

30/03/2026

1. Since common question of facts and law is involved in these cases, as such, all these petitions are being disposed of by this common order.

2. The petitioners have prayed for certain reliefs in the writ petitions.

Though there are some sort of differences in respect of prayer made by the petitioners in all the petitions, however, in sum and substance, the reliefs are altogether similar and identical. The reliefs prayed in ***WPC No. 1613/2021 (Smt. Pooja Dulai (wrongly mentioned as Dulal) vs. Nimish Agrawal & Another)*** are quoted hereinbelow in order to consider these cases and to decide the same.

"i) That this Hon'ble Court may kindly be pleased to quash the impugned order dated 22.02.2021(Annexure P/1) and restore the order of Commissioner dated 02.07.2019 (Annexure P/3).

ii) That, any other relief which this Hon'ble Court deems fit and proper may also kindly be granted to the petitioner in the interest of justice along with costs of the petition."

3. Brief facts of the case, is that, the petitioner purchased the subject land through a duly registered sale deed executed by the recorded owner, Smt. Anguri Devi Agrawal, and thereafter filed an application for mutation before the Court of the Tahsildar, which

was allowed in his favour on the basis of the said registered sale deed, that, aggrieved by the mutation order, the non-applicant/respondents preferred an appeal before the Sub-Divisional Officer, registered as Appeal Case No. 17A-6 for the year 2017–18, which came to be decided on 12.07.2018 whereby the mutation order dated 07.05.2007 was set aside on account of the petitioner having remained ex parte, that, thereafter, the petitioner preferred a second appeal before the Commissioner, Durg, which was allowed vide order dated 02.07.2019, setting aside the order of the S.D.O. dated 12.07.2018. That the respondents had also instituted a civil suit before the learned Civil Judge, Durg, seeking temporary injunction, which was dismissed on 17.09.2010, and the appeal thereagainst was also dismissed on 28.10.2011. That the respondents further initiated proceedings under Sections 145 and 146 of the Cr.P.C., which were decided in favour of the petitioner vide order dated 04.10.2019, and the revision preferred thereagainst was dismissed on 09.12.2020. Thereafter, the respondents preferred a revision before the learned Board of Revenue, which, vide impugned order dated 22.02.2021, arbitrarily and without jurisdiction allowed the revision, set aside the order of the Commissioner dated 02.07.2019 as well as the mutation order dated 07.05.2010, and erroneously directed that possession of the land in question be retained with the respondents.

4. Learned counsel for the petitioners submits that the matter is

presently sub judice before the competent Civil Court, and therefore, any determination with respect to possession ought to remain subject to the adjudication of the said court; however, it has been directed that possession shall continue with the respondents. It is further contended that respondents No. 1 and 2 had instituted a civil suit seeking declaration and permanent injunction, along with an application for temporary injunction, which was duly considered and dismissed by the learned Trial Court. Aggrieved thereby, the respondents preferred a miscellaneous appeal, which too came to be dismissed by the learned Appellate Court, thereby affirming the findings of the Trial Court. In light of these concurrent findings, it is submitted that the impugned order passed by the Board of Revenue is ex facie illegal, arbitrary, and without jurisdiction. The Board of Revenue, it is argued, cannot assume or exercise powers that effectively encroach upon or override the authority of the Civil Court, particularly when the issue is directly under consideration before it. In the present case, since the competent Civil Court, as well as the Appellate Court, have declined to grant any interim protection in favour of the respondents, the Board of Revenue lacked the jurisdiction to pass any order concerning possession. Accordingly, the impugned order is wholly unsustainable in law and deserves to be quashed and set aside.

5. On the other hand, learned counsel for the respondents submits that the Board of Revenue, upon due consideration of the facts

and circumstances of the case, has passed a reasoned and justified order directing that, until the final adjudication of the civil suit pending before the competent Civil Court, the possession of the respondents shall be maintained and protected. It is contended that such a direction has been issued with a view to preserve the status quo and to prevent any undue disturbance or irreparable harm to the parties during the pendency of the proceedings, and therefore, the impugned order does not suffer from any illegality or jurisdictional error warranting interference.

6. I have heard learned counsel for the parties and perused the material available on record.
7. The Hon'ble Supreme Court in the matter of ***ECE Industries Limited vs. S.P. Real Estate Developers Private Limited and another, (2009) 12 SCC 773***, the Hon'ble Supreme Court has observed as under:-

“9. After hearing the learned counsel for the parties and after going through the Commissioner's report, we are of the prima facie view that before deciding this special leave petition finally on merits, it would be proper in order to do complete justice to find out the actual position of the suit property i.e.:

(i) Whether constructions have been made on the different blocks of the suit property and how many blocks are still remaining vacant?

(ii) If constructions have been made, what is the nature and extent of such constructions?

(iii) Whether such constructions can be said to be substantial constructions or not.

(iv) Whether constructions have been completed in some blocks of the suit property and the flats constructed in such blocks are ready for use and occupation.

(v) Also to see the local features.

To find out the aforesaid, we appoint Shri Ram Krishna Prasad, a learned advocate of this Court, who will visit the suit property in course of this week by giving prior notice to both the sides and submit a report on the abovementioned items by next Monday i.e. on 27-7-2009. The matter will be placed again for consideration of the said report on 28-7-2009. We make it clear that there will be no further hearing in the matter.

10. *The entire expenses of the learned Advocate Commissioner for visiting the site and coming back to Delhi, shall be met by the respondents and the remuneration of the Commissioner shall also be borne by the respondents, which is assessed at Rs*

30,000 to be paid in course of this Friday i.e. 24-7-2009.”

8. The Hon’ble Supreme Court in the matter of ***Mohd. Abid and others vs. Ravi Naresh and others, 2022 SCC Online SC 2416***, the Hon’ble Supreme Court has observed as under:-

“It is, however, an admitted fact that the petitioners have already filed a suit for injunction in which ex-parte ad-interim injunction has been granted by the Civil Court, Faizabad, Uttar Pradesh on 05.12.2020. Once the Civil Court is seized of the matter, it goes without saying that the proceedings under Section 145/146 Cr. P.C. cannot proceed and must come to an end. The inter-se rights of the parties regarding title or possession are eventually to be determined by the Civil Court.”

9. From a bare perusal of the record, it is evident that the subject matter of the dispute already stands seized by the competent Civil Court of jurisdiction, wherein an application for temporary injunction filed by the plaintiffs under Order 39 Rule 1 and 2 of the Code of Civil Procedure has been duly considered and dismissed; moreover, the appeal preferred against the said order has also been dismissed, thereby affirming the findings of the Trial Court. In such circumstances, insofar as the question of possession is concerned, the Board of Revenue lacks the authority and jurisdiction to pass any order which effectively encroaches upon or overrides the powers of the Civil Court.

10. Consequently, the impugned order dated 22.02.2021 passed by the Chhattisgarh Revenue Board, Bilaspur, Chhattisgarh, being without jurisdiction and unsustainable in law, is hereby set aside.
11. Accordingly, the writ petitions filed by the petitioners are hereby **allowed.**

Sd/-

**(Amitendra Kishore Prasad)
Judge**

Raghu Jat