CGHC010190132014

2026:CGHC:40723

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WP227 No. 256 of 2014

Order reserved on 19/08/2026

Order delivered on 17/09/2026

Veeran S/o Nanku Rathore, Aged About 67 Years R/o Vilalge Sadhwani, Tahsil 7 Ps. Pendraroad, Distt. Bilaspur C.G., Chhattisgarh

... Petitioner

versus

1 - Deleted (Nansai) (Died) Honble Court Order Dated 25/04/2024

1.1 - Smt. Terasia W/o Late Ram Singh Aged About 48 Years R/o Village Sadhwani, Nawapara, Ps Gaurela, Tah. Pendra District Gaurela Pendra Marwahi Chhattisgarh.

1.2 - Pappu S/o Late Ram Singh Aged About 34 Years R/o Village Sadhwani, Nawapara, Ps Gaurela, Tah. Pendra District Gaurela Pendra Marwahi Chhattisgarh.

1.3 - Kanak D/o Late Ram Singh, Aged About 24 Years R/o Village Sadhwani, Nawapara, Ps Gaurela, Tah. Pendra District Gaurela Pendra Marwahi Chhattisgarh.

2 - State Of Chhattisgarh Through Collector, Pendra Road, District-Gaurela Pendra Marwahi (C.G.)

3 - The Sub Divisional Officer, Pendra Road, District- Gaurela Pendra Marwahi (C.G.)

4 - The Additional Collector, Pendra Road, District- Gaurela Pendra Marwahi (C.G.)

5 - Additional Commissioner, Bilaspur Division, Bilaspur, District- Bilaspur (C.G.)

6 - The Board Of Revenue, Bilaspur Divisional, Bilaspur (C.G.)

Respondents

(Cause title taken from Case Information System)

For Petitioner	:	Mr. Manoj Kumar Sinha, Advocate
For Respondents No. 1.1 to 1.3	:	Mr. Syed Afaque Hussain Rizvi, Advocate
For Respondents No. 2 to 5	:	Mr. Ashutosh Trivedi, Panel Lawyer

Hon'ble Shri Ravindra Kumar Agrawal, Judge

C.A.V. Order

1. The present petition has been preferred by the petitioner assailing the legality, validity and propriety of the order dated 06.01.2014 passed by the Additional Commissioner, Bilaspur Division, Bilaspur in Revision Case No. 120/A-23/2011-12, whereby the revision preferred by the petitioner against the order dated 28.01.2011 passed by the Additional Collector, Bilaspur has been dismissed, and the order passed by the Additional Collector has been affirmed.

2. The case of the petitioner, in brief, is that the respondent/applicant initiated proceedings under Section 170-B of the Chhattisgarh Land Revenue Code, 1959 (for short, ‘the Code, 1959’) before the Sub-Divisional Officer, Pendra Road (for short, “the SDO”), claiming that the lands bearing Khasra Nos. 917/2 and 1206, admeasuring 1.49 acres and 0.64 acres respectively, situated at P.H. No. 25, R.I. Circle

Gourela, Tahsil Pendra Road, were ancestral lands recorded in the name of Nansai, son of Ramdayal Bhariya, a member of Scheduled Tribe, and that the respondent was in possession thereof. He alleged that the lands had never been sold to the petitioner or his family members and that the petitioner had fraudulently got his name entered in the revenue records on 25.10.1989. On such application, Revenue Case No. 196/A-23/2000-2001 was registered, and statements of the parties were recorded. The petitioner had taken a defence that he had acquired the disputed land pursuant to a transaction dated 30.03.1958, evidenced by a non-judicial stamp paper of 50 paise, and that he was in possession thereof. The concerned Patwari also submitted a possession report showing the possession of the petitioner. It was further pointed out that a civil suit bearing Civil Suit No. 03-A/1990 had also been decided on 30.11.1990. The SDO, Pendra Road, by order dated 25.09.2001, rejected the application under Section 170-B of the Code, 1959, holding that the transaction in question was before 02.10.1959 and, therefore, the provisions of Section 170-B were not attracted.

3. The respondent challenged the order dated 25.09.2001 before the Additional Collector, Pendra Road, in Appeal Case No. 8/A-23/2001-02, which was initially dismissed on 23.08.2003, affirming the order of the SDO. Thereafter, in Revision Case No. 56/A-23/2003-04, the Chhattisgarh Board of Revenue, Bilaspur, by order dated 02.01.2008, partly allowed the revision and remanded the matter to the Additional Collector for reconsideration. Upon remand, the Additional Collector, Pendra Road, by order dated 28.01.2011, reversed the order dated

25.09.2001 and partly allowed the respondent's appeal insofar as Khasra No. 917/2 was concerned, directing restoration of the said land to the respondent, while the claim relating to Khasra No. 1206 was rejected on the ground that the petitioner had failed to produce any documentary evidence establishing purchase of the land before 02.10.1959. The Additional Collector also proceeded on the premise that the burden of establishing the respondent's non-tribal status was upon the petitioner and that the petitioner had failed to discharge such burden. Aggrieved by the said order dated 28.01.2011, the petitioner preferred Revision Case No. 120/A-23/2011-12 before the Additional Commissioner, Bilaspur Division, Bilaspur, which came to be dismissed by the impugned order dated 06.01.2014, affirming the order of the Additional Collector. The petitioner has, therefore, assailed both the orders dated 06.01.2014 passed by the Additional Commissioner, Bilaspur, and dated 28.01.2011 passed by the Additional Collector, Bilaspur, in the present petition.

4. Learned counsel appearing for the petitioner would submit that the impugned order dated 28.01.2011 passed by the Additional Collector, Pendra Road, whereby the order dated 25.09.2001 passed by the SDO, Pendra Road was reversed to the extent of Khasra No. 917/2, area 1.49 acres, and the land was directed to be restored in the name of the respondent/applicant, is contrary to the evidence available on record and the settled legal position. It is submitted that the SDO, after considering the pleadings, statements of the parties and the revenue record, had rightly rejected the application under Section 170-B of the Code, 1959, by holding that the transaction in

question was before 02.10.1959. The petitioner had specifically pleaded and established that the disputed land was acquired by him by a sale deed dated 03.03.1958 executed by Manohar, son of Surbhajan Kalar, and the said document was produced before the revenue authorities. The Patwari report (Annexure-P/3) also records the name and possession of the petitioner over the disputed land. Thus, the material on record establishes that the petitioner's title/recording and possession were traceable to a period before the commencement of the Code, 1959, and consequently the authorities could not have proceeded on the assumption that the transaction was one which was governed by Section 170-B of the Code, 1959.

5. He would further submit that the requirement for attracting the provisions of Section 170-B was not established by the respondent/applicant. The respondent claimed that the disputed land was ancestral property of Nansai, son of Ramdayal Bhariya, and further claimed himself to be a member of the Scheduled Tribe. However, despite a specific objection raised by the petitioner before the revenue authorities, the respondent did not produce any social status certificate or any other legally admissible document establishing that he belongs to a Scheduled Tribe notified under the relevant notification. It is submitted that a mere assertion in the application or an entry made by the Patwari describing the respondent's caste as 'Bhariya' could not, by itself, be treated as conclusive proof of his status as a member of a Scheduled Tribe. The learned Additional Collector, instead of requiring the respondent to establish his claim, erroneously shifted the burden upon the petitioner

to prove that the respondent was not a member of a Scheduled Tribe. Such approach is legally impermissible, particularly when the respondent was seeking restoration of the land by invoking a special statutory protection under Section 170-B of the Code, 1959. Learned counsel would also submit that the revenue authorities failed to properly appreciate the distinction between the existence of a tribal status and the question whether the particular land transaction falls within the mischief of Section 170-B of the Code, 1959.

6. Learned counsel for the petitioner would lastly submit that the impugned orders suffer from non-consideration and misappreciation of material evidence, particularly the sale deed dated 03.03.1958, the revenue entries and the report of the Patwari. It is submitted that the Board of Revenue, while remanding the matter by order dated 02.01.2008, had directed reconsideration of the relevant factual and legal aspects, but even after remand, the Additional Collector failed to properly examine whether the alleged transfer was after the statutory cut-off date so as to attract Section 170-B of the Code, 1959. It is further submitted that the respondent had earlier instituted Civil Suit No. 03-A/1990 in respect of Khasra No. 917/2, but the said suit did not result in any decree declaring the respondent to be the owner or directing delivery of possession in his favour; rather, the Civil Court declined to grant the relief on the ground of want of jurisdiction and left the parties to pursue the appropriate remedy. Therefore, the said proceedings could not have been relied upon to confer or establish title in favour of the respondent. The subsequent revenue proceedings could not retrospectively bring a pre-Code

transaction within the ambit of Section 170-B of the Code, 1959. It is, therefore, submitted that the findings recorded by the Additional Collector and affirmed by the Additional Commissioner are perverse, suffer from an erroneous application of Section 170-B of the Code, 1959, and consequently the orders dated 28.01.2011 and 06.01.2014, insofar as they relate to Khasra No. 917/2, deserve to be set aside.

7. In support of his submission, he would rely upon the judgment passed by Hon'ble division Bench of this Court in "**Yadram (dead) through L.R's Smt. Yamuna Bai and Others v. State of Chhattisgarh and Others**", 2015 (5) CGLJ 402, which was followed by coordinate bench of this Court in "**Mst. Sarino Bai and Others v. State of Chhattisgarh and Another**", decided on 21.06.2019, in W.P.C. No. 6438/2007.

8. Learned counsel appearing for respondent Nos. 1(i) to 1(iii) would submit that the petitioner has failed to establish any lawful title or valid transfer in respect of the disputed lands bearing Khasra Nos. 917/2 and 1206. It is submitted that the petitioner has not produced any valid document evidencing purchase of the lands from the respondent or his predecessor, nor any permission granted by the Collector under Section 165(6) of the Chhattisgarh Land Revenue Code, 1959. So far as Khasra No. 1206 is concerned, the Additional Collector wrongly relied upon the order dated 28.08.1985 passed in Civil Suit No. 122-A/1983, which was merely an ex parte injunction order and did not declare the petitioner's title, particularly when jurisdiction of the Civil Court in matters covered by Section 170-B is

barred under Section 257(I-1) of the Code. It is further submitted that the judgment dated 30.11.1999 passed in Civil Suit No. 3-A/1990, available on the revenue record, was not properly considered, though it supports the respondent's claim to seek remedy before the revenue authorities. Learned counsel would submit that respondent No. 1 belongs to the Bhariya Scheduled Tribe, whereas the petitioner is a non-tribal, and the petitioner's possession over both lands is unauthorized in the absence of a lawful transfer and requisite statutory permission. The alleged sale deed is an unregistered sale deed and title has not been transferred through such sale deed. Therefore, the order directing restoration of Khasra No. 917/2 in favour of respondent No. 1 suffers from no illegality, and the writ petition deserves to be dismissed.

9. Learned counsel appearing for the State would submit that it is a dispute between the private parties and the authorities have passed the order on the basis of the material produced before them.

10. I have heard learned counsel for the parties and perused the material available in the writ petition and gone through the record of the revenue authorities.

11. Upon consideration of the rival submissions and the material available on record, the first question which arises for consideration is whether the petitioner has established a legally valid transfer of the disputed land in his favour prior to 02.10.1959 to take the transaction outside the purview of Section 170-B of the Code, 1959. The petitioner has relied upon the document dated 03.03.1958 (Annexure P/6), described as a sale deed, under which the disputed land is

stated to have been purchased for a consideration of Rs.125/-. It is not in dispute that Annexure P/6 is an unregistered document. Section 54 of the Transfer of Property Act, 1882, expressly provides that transfer of immovable property of the value of Rs.100/- and upwards could be effected only by a registered instrument. Thus, where the consideration/value mentioned in the document itself is Rs.125/-, an unregistered instrument could not operate as a conveyance of ownership in favour of the petitioner. The statutory requirement of registration is not merely procedural but goes to the very efficacy of the alleged sale, and an unregistered instrument cannot be treated as having transferred title in immovable property in the manner contemplated by Section 54 of the Transfer of Property Act, 1882.

12. The aforesaid legal position assumes greater significance in the present case because the petitioner has not produced any independent material to demonstrate that, pursuant to the alleged transaction dated 03.03.1958, title in the disputed land was legally transferred to him before 02.10.1959. In particular, there is no document on record showing mutation of the petitioner’s name in the revenue records pursuant to the alleged sale before 02.10.1959. The Patwari report relied upon by the petitioner may indicate his possession or a revenue entry at a subsequent point in time, but neither possession nor mutation by itself creates or transfers title in immovable property. More importantly, the foundation of the petitioner’s claim is Annexure P/6 itself, and when that document is incapable of effecting a transfer of ownership for want of registration,

a subsequent revenue entry cannot validate or retrospectively cure the defect in the alleged conveyance. Section 49 of the Registration Act, 1908 also ordinarily prohibits an unregistered document, which is required to be registered, from affecting the immovable property or being received as evidence of a transaction affecting such property, save for the limited purposes recognized by its proviso.

13. The reliance placed by learned counsel for the petitioner upon the decision in Yadram's case (supra) is, therefore, misplaced in the facts of the present case. The principle emerging from Yadram's case (supra), as relied upon by the petitioner, is that where a transfer in favour of a non-tribal was validly completed prior to 02.10.1959, the subsequent statutory provisions contained in Section 170-B of the Code, 1959, cannot be applied retrospectively to such a completed and legally valid transaction. However, the expression "valid transaction" is of decisive significance. The benefit of the said principle cannot be claimed merely because the petitioner has produced a document bearing a date prior to 02.10.1959. The petitioner must first establish that the document relied upon was legally capable of transferring ownership on that date. In the present case, the alleged sale was for Rs.125/- and was admittedly unregistered; therefore, it cannot be equated with a legally completed sale of immovable property. The case of the petitioner thus stands on a materially different footing from a case where there was a valid and completed transfer before 02.10.1959.

14. It is also significant that the petitioner has sought to rely upon his alleged long-standing possession and the revenue entries in his

favour to substantiate the transaction. However, such circumstances cannot substitute the statutory requirement of a valid conveyance of title. The burden was upon the petitioner, who seeks to exclude the disputed transaction from the operation of Section 170-B of the Code, 1959, on the ground that it was completed prior to 02.10.1959, to establish the existence of a legally effective transfer before that date. In the absence of a registered sale deed or any other legally acceptable material establishing such transfer before 02.10.1959, the mere production of Annexure P/6 does not discharge that burden. Consequently, the petitioner cannot derive benefit from the principle laid down in Yadram's case (supra), and the authorities below cannot be said to have committed an error in examining the transaction under Section 170-B of the Code, 1959. The finding that the petitioner failed to establish a legally valid pre-Code transfer, therefore, calls for no interference in the exercise of jurisdiction under Article 227 of the Constitution.

15. So far as the documents filed on 23.10.2024, and relied upon by the petitioner are concerned, he has placed on record the Misal Bandobast/Khasra record for the year 1927-28 (Annexure P/9), the Adhikar Abhilekh Panji/Jamabandi for the year 1954-55 (Annexure P/10), and the subsequent revenue record relied upon to demonstrate recording of his name (Annexure P/11). The documents indicate that Khasra No. 917/2, area 1.49 acres, was earlier recorded in the name of Bhupkunwar Jagannath and thereafter, in the revenue record of 1954-55, in the name of Manohar, son of Surbhajan, caste Kalar. The petitioner relies upon these entries to contend that

Manohar was a non-tribal and that he acquired the land from Manohar under the alleged sale deed dated 03.03.1958. However, these revenue entries, by themselves, do not establish that a valid and legally effective transfer of title was completed in favour of the petitioner prior to 02.10.1959. In particular, the subsequent entry relied upon as Annexure P/11 cannot, without examination of the order and date on which such mutation was effected, be treated as conclusive proof of acquisition of title, especially when the alleged sale deed dated 03.03.1958 for consideration of Rs. 125/- is admittedly an unregistered instrument. Thus, the documents relied upon by the petitioner may establish the old entries and possession claimed by him, but they do not, by themselves, establish a valid transfer of ownership prior to 02.10.1959 so as to exclude the transaction from the scrutiny under Section 170-B of the Code, 1959.

16. The material available on record does not establish that the petitioner acquired a valid title prior to 02.10.1959 over the land of Khasra No. 917/2, admeasuring 1.49 acres. The revenue record for the year 1954-55 admittedly reflected the names of Manohar and Nansai, and the subsequent revenue entry in favour of the petitioner refers to a sale transaction from Manohar and Nansai, whereas in his statement the petitioner has stated that he purchased the land from Suryabhajan Kalar in the year 1957-58. Thus, there is a material inconsistency in the petitioner’s own version regarding the person from whom the land was allegedly purchased. More importantly, despite asserting a prior sale, the petitioner has not produced the alleged registered sale deed or any other legally enforceable

instrument evidencing a completed transfer of ownership before 02.10.1959. The statement of Nansai that the land had merely been kept as security for a loan of Rs. 200/- and that possession was retained by the petitioner towards the alleged mortgage also assumes significance, particularly when the petitioner has failed to produce any document establishing an outright sale. The mere subsequent mutation of the petitioner's name, or his possession over the land, cannot by itself establish a valid transfer of title. The petitioner has also failed to produce any material to establish that Nansai did not belong to the aboriginal tribe, despite specifically taking such a plea. In these circumstances, the burden resting upon the non-tribal transferee to establish a lawful and bona fide acquisition of the land has not been discharged.

17. In view of the aforesaid discussion, this Court is of the considered opinion that the petitioner has failed to establish that any valid and legally effective sale of Khasra No. 917/2, area 1.49 acres, was completed in his favour prior to 02.10.1959. The document dated 03.03.1958 (Annexure-P/6), being an unregistered instrument in respect of immovable property valued at Rs. 125/-, could not convey title in favour of the petitioner in view of Section 54 of the Transfer of Property Act, 1882. The old revenue entries produced by the petitioner, including Annexures P/9 to P/11, may show the earlier recording of the land and the subsequent revenue position, but they do not establish a valid transfer of title before the relevant date. In the absence of any document evidencing a legally effective transfer or mutation of the petitioner's name pursuant to a valid conveyance

before 02.10.1959, the petitioner cannot claim that the transaction is outside the ambit of Section 170-B of the Code, 1959. The decision in Yadram's case (supra) is distinguishable, as the benefit therein was available in respect of a legally valid transaction completed prior to 02.10.1959, whereas the petitioner has failed to establish such a valid transaction in the present case.

18. The decisions in Yadram's case (supra) and Mst. Sarino Bai (supra) are distinguishable on facts. In **Yadram's** case and **Mst. Sarino Bai** case (supra), the Court proceeded on the basis of a legally completed transaction which had taken place prior to 02.10.1959, and therefore held that such a transaction would not attract Section 170-B of the Code, 1959. In the present case, however, the petitioner has failed to produce any registered sale deed or other legally valid instrument evidencing a completed transfer prior to 02.10.1959; rather, the alleged transaction is unsupported by the requisite title document and is further clouded by inconsistency regarding the alleged vendor. Thus, the benefit of the aforesaid decisions cannot be extended to the petitioner.

19. Consequently, this Court finds no perversity, illegality or jurisdictional error in the order dated 28.01.2011 passed by the Additional Collector, Pendra Road, to the extent of Khasra No. 917/2, or in the revisional order dated 06.01.2014 passed by the Additional Commissioner, Bilaspur Division, Bilaspur, affirming the same. The findings recorded by the revenue authorities are based upon the material available on record and do not warrant interference in the

exercise of supervisory jurisdiction under Article 227 of the Constitution of India.

20. Accordingly, the writ petition is liable to be and hereby **dismissed**.

21. Interim order, if any, stands vacated.

22. Registry is directed to send back the records of the concerned revenue authorities.

Sd/-
(Ravindra Kumar Agrawal)
Judge

ved