2026:CGHC:29851-DB

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HIGH COURT OF CHHATTISGARH AT BILASPUR

WA No. 590 of 2026

Urmila Devi W/o Late Muneshwar Sai Aged About 66 Years Caste - Kanwar R/o Village Chetwa, Tahsil Kansabel, District- Jashpur (C.G.),

... Appellant

versus

1 - Vikas Kumar Agrawal, S/o Brajbhushan Aged About 39 Years Caste- Agrawal R/o Village Kunkuri, Tahsil Kunkuri, District- Jashpur (C.G.)

2 - Mukesh Kumar Agrawal S/o Ramniwas Agrawal Caste- Agrawal, R/o Village Kansabel, District- Jashpur (C.G.)

3 - Radheshyam Agrawal, S/o Ramniwas Agrawal Caste- Agrawal, R/o Village Kansabel, District- Jashpur (C.G.)

4 - Gauri Shankar Agrawal S/o- Manohar Agrawal Caste- Agrawal, R/o Village Kansabel, District- Jashpur (C.G.),

5 - Poonam Chandra Agrawal S/o Manohar Agrawal Caste- Agrawal, R/o Village Kansabel, District- Jashpur (C.G.)

6 - Umesh Agrawal S/o Manohar Agrawal, Caste- Agrawal, R/o Village Kansabel, District- Jashpur (C.G.)

7 - The Commissioner, Surguja Division (Ambikapur), District- Surguja (C.G.)

8 - The Collector Jashpur, District- Jashpur (C.G.),

9 - The Sub Divisional Officer (Revenue) Bagicha, District Jashpur (C.G.)

... Respondents

For Appellant	:	Mr. Dhiraj Kumar Wankhede, Advocate
For Respondent Nos.1 to 6	:	Mr. B.P. Sharma, Advocate appears along with Mr. M.L. Sakat, Advocate
For Respondent Nos.3 to 9 / State	:	Mr. Prasun Kumar Bhaduri, Deputy Advocate General

Hon'ble Shri Ramesh Sinha, Chief Justice
Hon'ble Shri Ravindra Kumar Agrawal, Judge

JUDGMENT ON BOARD

Per **Ramesh Sinha, Chief Justice**

15.07.2026

1. Heard Mr. Dhiraj Kumar Wankhede, learned counsel for the appellant. Also heard Mr. B.P. Sharma and Mr. M.L. Sakat, learned counsel, appearing for respondent Nos.1 to 6 and Mr.Prasun Kumar Bhaduri, learned Deputy Advocate General, appearing for the State/ respondent Nos. 7 to 9.

2. By way of present writ appeal under Section 2 of Sub-Section (1) of the Chhattisgarh High Court (Appeal to Division Bench Act, 2006, the appellant / writ petitioner has challenged the impugned order dated 01.04.2026 passed by learned Single Judge in WPC No. 3810 of 2021 ***(Urmila Devi Vs. Vikas Kumar Agrawal & Others)***, by which the writ petition filed by the writ petitioner/ appellant herein has been dismissed by the learned Single Judge.

3. Brief facts, necessary for disposal of this appeal, are that present matter arises out of proceedings initiated under Section 170-B of the Chhattisgarh Land Revenue Code, 1959, in respect of agricultural land bearing Khasra Nos. 427/3 and 427/4, admeasuring 0.725 hectare and 0.721 hectare respectively, aggregating to 1.446 hectares, situated at Village Chetva, Tehsil Kansabel, District Jashpur.

4. Originally, the said land was owned by Muneshwar Sai, a member of the Kanwar community, a Scheduled Tribe. During his lifetime, Muneshwar Sai executed a registered sale deed dated 06.03.1973 in favour of one Sadhu Sai for a consideration of

Rs.3,000/-, and possession of the land was also delivered to the purchaser. Subsequently, Sadhu Sai obtained prior permission from the Collector, Jashpur, as required under Section 165(6) of the Code, 1959, by order dated 28.06.1974, and thereafter executed a registered sale deed dated 18.07.1974 in favour of Manohar Lal Agrawal, the predecessor-in-interest of the present respondents, for a consideration of Rs.3,500/-. Pursuant to the said sale transaction, the revenue records were duly mutated in the name of Manohar Lal Agrawal. Thereafter, on his application, the land was partitioned amongst his legal heirs by the order of the Nayab Tehsildar, Jashpur dated 11.07.1980.

5. After several decades, Muneshwar Sai initiated proceedings under Section 170-B of the Code, 1959 by filing an application on 23.01.2015 before the Sub-Divisional Officer (Revenue), Bagicha, alleging that the sale transaction in favour of Sadhu Sai was merely a benami transaction and that the subsequent sale executed by Sadhu Sai in favour of Manohar Lal Agrawal on 18.07.1974 was fraudulent and intended to circumvent the statutory protection available to members of the Scheduled Tribes. The Sub-Divisional Officer, by order dated 04.10.2019, accepted the said plea, held the transaction to be fraudulent and directed restoration of the land. The order of the Sub-Divisional Officer was affirmed by the Collector, Jashpur, vide order dated 19.02.2021 in appeal preferred by respondent No.1, Vikas Kumar Agrawal.

6. Aggrieved by the concurrent orders passed by the Sub-Divisional Officer and the Collector, respondent No.1 preferred a revision before the Commissioner, Surguja Division. The Commissioner, by the impugned order dated 10.08.2021, allowed the revision, set aside the orders of the authorities below and reversed their findings.

7. Challenging the legality and correctness of the revisional order passed by the Commissioner, Urmila Devi, widow and legal representative of late Muneshwar Sai has preferred a writ petition before this Court registered as WPC No. 3810 of 2021, seeking restoration of the orders passed by the Sub-Divisional Officer and the Collector. The learned Single Judge, after considering the rival submissions and the material available on record, dismissed the writ petition by order dated 01.04.2026, upholding the order passed by the Commissioner. Assailing the said judgment and order of the learned Single Judge, the appellant has filed the present writ appeal.

8. Mr. Dhiraj Kumar Wankhede, learned counsel for the appellant submits that the impugned judgment and order dated 01.04.2026 passed by the learned Single Judge is wholly arbitrary, contrary to the material available on record and unsustainable in law. It is contended that the learned Single Judge has failed to appreciate the true scope and object of Section 170-B of the Chhattisgarh Land Revenue Code, 1959, which has been enacted as a beneficial provision to protect members of the Scheduled Tribes

from fraudulent or colourable alienation of their agricultural lands. It is further submitted that the learned Single Judge erred in affirming the order passed by the Commissioner while ignoring the concurrent findings of fact recorded by the Sub-Divisional Officer and the Collector, who, upon appreciation of the oral and documentary evidence, had categorically held that the transaction in favour of Sadhu Sai was merely a benami transaction devised to facilitate transfer of the tribal land to a non-tribal, namely, Manohar Lal Agrawal. It is argued that the concurrent findings recorded by the two revenue authorities could not have been interfered with in revision in the absence of any jurisdictional error or perversity.

9. Mr. Wankhede further submits that the learned Single Judge failed to appreciate that the mandatory permission contemplated under Section 165(6) of the Code, 1959 for transfer of land from one member of a Scheduled Tribe to another had not been obtained at the time of the sale deed dated 06.03.1973 executed by Muneshwar Sai in favour of Sadhu Sai. According to him, the subsequent permission obtained by Sadhu Sai before executing the sale deed in favour of Manohar Lal Agrawal could not validate the original transaction, which itself was illegal and intended only as a device to circumvent the statutory restrictions on transfer of tribal land. It is next contended that the learned Single Judge overlooked the factual finding that Sadhu Sai never entered into actual possession of the land after the execution of the sale deed

dated 06.03.1973. Learned counsel submits that the entire extent of the land purchased from Muneshwar Sai was thereafter transferred to Manohar Lal Agrawal, which clearly establishes that Sadhu Sai acted merely as a name-lender or intermediary and that the transaction was never intended to confer any real ownership upon him. Such circumstances, according to learned counsel, unmistakably establish the benami character of the transaction.

10. Mr. Wankhede further argues that the learned Single Judge has misapplied the law laid down by the Hon'ble Supreme Court in **Khora (Dead) through Legal Representatives and Others v. Mohar Sai and Others**, (2023) 14 SCC 767. It is submitted that the said decision is clearly distinguishable on facts and does not lay down as an absolute proposition that the revenue authorities are denuded of jurisdiction to examine whether a transaction is fraudulent or benami while exercising powers under Section 170-B of the Code. According to learned counsel, the present case involves a colourable transaction adopted solely to defeat the statutory protection available to members of the Scheduled Tribes, and therefore the revenue authorities were fully justified in examining the true nature of the transaction.

11. It is also submitted by Mr. Wankede that the learned Single Judge failed to consider the binding decision of the Hon'ble Supreme Court in **Bhaji v. Sub-Divisional Officer, Thandla**, (2003) 1 SCC 692, wherein it has been categorically held that the provisions of

Section 170-B are not confined only to transfers made by tribals in favour of non-tribals and that no exception has been carved out by the legislature excluding transactions between two members of Scheduled Tribes from the ambit of the said provision. Learned counsel submits that, therefore, even if the initial transfer was in favour of another tribal, the authorities were competent to examine whether such transaction was genuine or merely a device to facilitate ultimate transfer of the land to a non-tribal.

12. Mr. Wankhede further places reliance upon the decision of the Hon'ble Supreme Court in **Valliammal v. Subramaniam**, (2004) 7 SCC 233, to contend that the true nature of a transaction can be determined from surrounding circumstances, including the source of consideration, possession of the property, the motive behind the transaction, the relationship between the parties, custody of title deeds and the subsequent conduct of the parties. It is submitted that all these recognised tests stand satisfied in the present case, inasmuch as Sadhu Sai never remained in possession of the land, the transaction served merely as an intermediary arrangement for transferring the property to a non-tribal, and the subsequent conduct of the parties clearly demonstrates that the sale in favour of Sadhu Sai was not intended to be a genuine transfer. It is, therefore, argued that the Sub-Divisional Officer and the Collector rightly held the transaction to be benami and directed restoration of the land under Section 170-B of the Code. Learned counsel lastly submits

that the learned Single Judge committed a manifest error in dismissing the writ petition by affirming the revisional order passed by the Commissioner. It is, therefore, prayed that the impugned judgment dated 01.04.2026 passed by the learned Single Judge, as well as the order of the Commissioner dated 10.08.2021, be set aside and the concurrent orders passed by the Sub-Divisional Officer and the Collector directing restoration of the land be restored.

13. Per contra, Mr. B.P. Sharma, learned counsel appearing for respondent Nos. 1 to 6 supports the judgment and order passed by the learned Single Judge and submits that the same does not suffer from any illegality or perversity warranting interference in the present writ appeal. It is contended that the learned Single Judge has rightly affirmed the order passed by the Commissioner after appreciating the entire material available on record and correctly applying the settled principles of law governing proceedings under Section 170-B of the Chhattisgarh Land Revenue Code, 1959. Learned counsel submits that the land in question was initially transferred by late Muneshwar Sai, a member of the Scheduled Tribe, in favour of Sadhu Sai, who also belonged to the Scheduled Tribe, by a registered sale deed dated 06.03.1973 for valuable consideration. Thereafter, before effecting any transfer in favour of a non-tribal, Sadhu Sai obtained prior permission from the Collector, Jashpur under Section 165(6) of the Code, 1959 by order dated 28.06.1974. Only after obtaining

such statutory permission was the land transferred to Manohar Lal Agrawal through a registered sale deed dated 18.07.1974. It is submitted that both transactions were duly registered, acted upon and reflected in the revenue records, and therefore, the transfers were valid and in accordance with law. It is further submitted that the proceedings under Section 170-B of the Code, 1959 were initiated after an inordinate delay of more than forty years from the date of the transactions. During this long period, the purchasers remained in possession of the property and the revenue records continuously stood in their names. Learned counsel submits that the enormous delay itself demonstrates that the challenge was an afterthought and rightly weighed with the revisional authority while allowing the revision.

14. Mr. Sharma further argues that the entire case of the appellant rests on the allegation that the sale in favour of Sadhu Sai was a benami transaction. However, such a question involves adjudication of complicated issues relating to title and the real nature of the transaction, which cannot be determined in summary proceedings under Section 170-B of the Code. It is contended that the jurisdiction of the revenue authorities under Section 170-B is confined to examining whether the transfer falls within the statutory mischief contemplated under the provision and does not extend to adjudicating disputed questions relating to benami transactions. The Commissioner, therefore, rightly held that the issue of benami nature of the transaction could only be

adjudicated by a competent civil court.

15. Mr. Sharma places reliance upon the judgment of the Hon'ble Supreme Court in **Khora (Dead) through Legal Representatives** (supra), to contend that the revenue authorities exercising jurisdiction under Section 170-B cannot assume the jurisdiction of a civil court to declare a registered sale transaction as benami or fraudulent in the absence of an adjudication by a competent civil court. It is submitted that the learned Single Judge has correctly interpreted and applied the ratio laid down in the aforesaid decision and no error has been committed in affirming the order of the Commissioner. It is further contended that there is no evidence on record to establish that the transaction in favour of Sadhu Sai was merely nominal or that he had acted as a name-lender for Manohar Lal Agrawal. Mere allegations that Sadhu Sai did not remain in possession of the property are insufficient to declare a registered transaction as benami, particularly when the sale deeds were executed for valuable consideration and were duly acted upon by the parties. The concurrent findings recorded by the Sub-Divisional Officer and the Collector were based on conjectures and surmises and were rightly interfered with by the Commissioner in exercise of revisional jurisdiction. Learned counsel lastly submits that the learned Single Judge has assigned cogent and well-reasoned findings while dismissing the writ petition and has rightly held that no case for interference with the revisional order was made out. Since the impugned judgment

neither suffers from any error apparent on the face of the record nor discloses any jurisdictional infirmity, the present writ appeal, being devoid of merit, deserves to be dismissed.

16. We have heard learned counsel for the parties at length and also perused the material available on record, including the orders passed by the revenue authorities as well as the impugned judgment rendered by the learned Single Judge.

17. The principal controversy involved in the present appeal is whether the transaction entered into between late Muneshwar Sai and Sadhu Sai under the registered sale deed dated 06.03.1973 could have been declared to be a benami and fraudulent transaction by the revenue authorities while exercising jurisdiction under Section 170-B of the Chhattisgarh Land Revenue Code, 1959, and consequently whether the subsequent transfer made in favour of Manohar Lal Agrawal could have been annulled.

18. It is not in dispute that the original owner, Muneshwar Sai, executed a registered sale deed dated 06.03.1973 in favour of Sadhu Sai, who was also a member of the Scheduled Tribe. It is equally undisputed that thereafter Sadhu Sai obtained prior permission from the Collector under Section 165(6) of the Code, 1959 and, on the strength of such permission, executed a registered sale deed dated 18.07.1974 in favour of Manohar Lal Agrawal. The revenue records were thereafter mutated in the name of the purchaser and continued to remain so for several decades. It is also not disputed that proceedings under Section

170-B of the Code were initiated only in the year 2015, nearly forty-one years after the execution of the sale deed in favour of Manohar Lal Agrawal.

19. The entire case of the appellant proceeds on the premise that the first sale in favour of Sadhu Sai was merely a benami transaction intended to facilitate transfer of the land to a non-tribal. In our considered opinion, such a question involves adjudication of disputed questions relating to title, intention of the parties and the true nature of the transaction. Determination of such issues necessarily requires appreciation of evidence which falls within the exclusive domain of a competent civil court and cannot be undertaken by the revenue authorities in proceedings under Section 170-B of the Code.

20. The Hon'ble Supreme Court in **Khora (Dead) through Legal Representatives** (supra) has categorically held that the revenue authorities exercising powers under Section 170-B of the Code are not competent to declare a registered sale transaction as benami or fraudulent merely on the basis of an enquiry under the said provision and that such issues are required to be adjudicated by a competent civil court. The learned Single Judge has rightly relied upon the aforesaid decision and correctly held that the Sub-Divisional Officer as well as the Collector travelled beyond the scope of their statutory jurisdiction while recording findings regarding the alleged benami nature of the transaction.

21. The reliance placed by the appellant upon the decisions in **Bhaji**

(supra) and **Valliammal** (supra) does not advance the case of the appellant. The decision in *Bhaji* merely explains the ambit of Section 170-B and does not confer jurisdiction upon the revenue authorities to adjudicate complicated questions relating to benami transactions. Similarly, the decision in *Valliammal* lays down the principles for determining whether a transaction is benami, but such determination has to be made by a forum competent to adjudicate questions of title on the basis of evidence. Those principles cannot enlarge the jurisdiction conferred upon the revenue authorities under Section 170-B of the Code.

22. This Court also find no merit in the submission that the learned Single Judge erred in holding that the permission under Section 165(6) of the Code had been duly obtained before the transfer in favour of the non-tribal purchaser. The subsequent transfer in favour of Manohar Lal Agrawal was effected only after obtaining permission from the Collector. Whether the earlier transfer in favour of Sadhu Sai was genuine or otherwise is itself the core disputed question, which, as noticed above, cannot be adjudicated in proceedings under Section 170-B.

23. The Commissioner, while exercising revisional jurisdiction, has rightly held that the findings recorded by the Sub-Divisional Officer and affirmed by the Collector declaring the transaction to be benami were beyond the jurisdiction vested in the revenue authorities. The learned Single Judge has independently examined the matter and found no illegality in the revisional order.

We are in agreement with the reasoning assigned by the learned Single Judge and find that the impugned judgment neither suffers from any jurisdictional error nor discloses any perversity warranting interference in an intra-court appeal.

24. It is well settled that in an appeal under Section 2(1) of the Chhattisgarh High Court (Appeal to Division Bench) Act, 2006, interference with the judgment of the learned Single Judge is called for only when the findings recorded are shown to be contrary to law, unsupported by the record or otherwise perverse. The appellant has failed to demonstrate any such infirmity in the impugned judgment.

25. Consequently, we find no merit in the present writ appeal. The appeal is accordingly **dismissed**. The judgment and order dated **01.04.2026** passed by the learned Single Judge in **WPC No. 3810 of 2021** is hereby affirmed. There shall be no order as to costs.

Sd/-	Sd/-
(Ravindra Kumar Agrawal)	**(Ramesh Sinha**)
Judge	**Chief Justice**

Chandra