CGHC010485262025 2026:CGHC:30793

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPC No. 5973 of 2025

1 - Lav Kumar Agrawal S/o Vipin Bihari Agrawal Aged About 40 Years R/o Village - Datan, Tehsil - Palari, District Balodabazar-Bhatapara Chhattisgarh

2 - Kush Kumar Agrawal S/o Vipin Bihari Agrawal Aged About 42 Years R/o Village - Datan, Tehsil - Palari, District Balodabazar-Bhatapara Chhattisgarh

... Petitioners

versus

1 - State Of Chhattisgarh Through The Department Of Revenue And Disaster Management, Mahanadi Bhawan, Atal Nagar, District Raipur Chhattisgarh

2 - Collector Balodabazar-Bhatapara, District Balodabazar-Bhatapara Chhattisgarh

3 - Tehsildar Palari District Balodabazar-Bhatapara Chhattisgarh

4 - Sanjay Agrawal S/o Late Banke Bihari Agrawal Aged About 53 Years R/o Purani Basti, Baniya Para, Raipur, Tehsil And District - Raipur Chhattisgarh (Objector)

... Respondents

(Cause-title taken from Case Information System)

For Petitioners	:	Mr. Shobhit Koshta, Advocate
For State/Respondents No.1 to 3	:	Mr. Soumitra Kesharwani, Panel Lawyer
For Respondent No.4	:	Mr. Vivek Kumar Agrawal, Advocate

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<u>Hon'ble Shri Amitendra Kishore Prasad, Judge</u>

<u>Order on Board</u>

<u>20.07.2026</u>

1. By filing the present writ petition under Article 226 of the Constitution of India, the petitioners have called in question the legality, validity and propriety of the order dated 03.10.2025 passed by the learned Tehsildar, Palari, District Balodabazar-Bhatapara whereby, while deleting the entry relating to the status quo order from the revenue records, the learned Tehsildar further directed that the petitioners shall not alienate the disputed property during the pendency of the second appeals before this Court, despite there being no interim order operating against the petitioners restraining such alienation. The petitioners have prayed for following relief(s) :-

> *"10.1 This Hon'ble Court may kindly be pleased to issue appropriate writ and quash / set-aside the impugned order dated 3/10/25 in the interest of justice.*
>
> *10.2 This Hon'ble Court may kindly be pleased to call for the entire records of the instant case, for kind perusal of this Hon'ble Court.*
>
> *10.3 This Hon'ble Court may also be pleased to grant the cost of the petition to the petitioners.*
>
> *10.4 Any other relief which this Hon'ble Court deem fit and proper may also kindly be granted to the petitioners in the interest of justice."*

2. Learned counsel for the petitioners submits that the impugned order dated 03.10.2025 is wholly without jurisdiction, contrary to the settled principles of law and, therefore, liable to be set aside. It is contended that the petitioners derive title over the disputed property by virtue of a registered Will executed by their predecessor-in-interest, which has already been upheld by the competent Civil Court and affirmed by the First Appellate Court. It is further submitted that during the pendency of the first appeal, an order of status quo was operating and, consequently, an appropriate entry was made in the revenue records. However, upon dismissal of the first appeal, the petitioners rightly approached the learned Tehsildar seeking deletion of the said entry. Though the Tehsildar deleted the status quo entry, he simultaneously proceeded to direct that no alienation of the disputed property shall be effected till the pendency of the second appeals before this Court.

3. Learned counsel submits that such a direction is ex facie without authority of law, inasmuch as the Tehsildar, being a Revenue Officer exercising limited statutory powers under the Chhattisgarh Land Revenue Code, has no jurisdiction to grant an injunction or impose a restraint upon alienation of immovable property. It is argued that the power to grant temporary or permanent injunctions is vested exclusively in the competent Civil Court under the provisions of the Code of Civil Procedure, 1908, and such equitable relief cannot be assumed by a Revenue Authority in the absence of any statutory provision conferring such jurisdiction. It is further contended that admittedly no interim order has been passed by this Court in either of the pending second appeals restraining the petitioners from dealing with the property. Therefore, by incorporating a condition prohibiting alienation on his own accord, the learned Tehsildar has travelled beyond the scope of his statutory authority and has virtually granted an injunction in favour of respondent No.4, which could have been granted only by a Court of competent civil jurisdiction. Such an order, being passed without jurisdiction, is a nullity in the eye of law and is liable to be declared void ab initio.

4. Per contra, learned State counsel submits that the impugned order does not suffer from any jurisdictional error warranting interference under Article 226 of the Constitution of India. It is submitted that the learned Tehsildar has not adjudicated the civil rights of the parties nor has he decided any issue relating to title. According to the learned State counsel, considering that the dispute between the parties is pending before this Court in second appeals, the learned Tehsildar merely passed a temporary protective direction to preserve the subject matter of the litigation so that no further complications may arise. It is submitted that the order is purely interim in nature, intended to maintain the existing state of affairs till the rights of the parties are finally adjudicated, and therefore cannot be faulted with.

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5. Learned counsel appearing for respondent No.4 supports the impugned order and submits that the learned Tehsildar has exercised his powers in a fair and equitable manner. It is argued that the direction restraining alienation is merely a temporary measure to protect the disputed property during the pendency of the second appeals and does not amount to adjudication of title. It is further submitted that if the petitioners are permitted to alienate the property during pendency of the litigation, irreparable prejudice would be caused to respondent No.4 and multiplicity of proceedings would ensue. It is, therefore, contended that the impugned order subserves the ends of justice and does not call for interference in exercise of the writ jurisdiction of this Court.

6. I have heard learned counsel for the parties at length and perused the material available on record.

7. From the undisputed facts emerging on record, it is evident that the sole purpose for which the petitioners approached the learned Tehsildar was deletion of the entry in the revenue records relating to the order of status quo, which had ceased to operate upon dismissal of the first appeal. While partly allowing the said application, the learned Tehsildar Palari, District Balodabazar-Bhatapara not only deleted the status quo entry but further proceeded to direct that the petitioners shall not alienate the disputed property during the pendency of the second appeals before this Court.

8. This Court in ***Seraj Ahmad Vs. State of Chhattisgarh & others 2017 (4) C.G.L.J. 559*** has held that the order to grant injunction is surely vested in the jurisdictional Civil Court and the Revenue Courts cannot grant the order of injunction and it was held that the revenue order granting temporary injunction restraining the transfer would be without jurisdiction and without authority of law. The said judgment was based on a decision of the Madhya Pradesh High Court rendered in ***Maya Lalchandani (Mrs.) Vs. Board of Revenue 2009 (3) MPLJ 660***. I am also in respectful agreement with the judgment passed by this Court in Seraj Ahmad Vs. State of C.G. (Supra) on earlier occasion and the relevant part of the decision is reproduced herein below:

> *"2. Learned Counsel for the petitioner submits that the Sub-Divisional Officer (Revenue) has passed order on 10.03.2016 granting temporary injunction for which he has no jurisdiction, therefore, the order passed by the Sub-Divisional Officer (Revenue) is without jurisdiction and without authority of law. He relies upon a decision of the High Court of Madhya Pradesh in the matter of Maya Lalchandani (Mrs.) and others Vs. Board of Revenue and others in which the M.P. High Court has held as under:*
>
> > *"4. After going through the order passed by the learned President, Board of Revenue and taking into consideration the legal provisions, we are of the opinion that the*

directions issued in paragraph 7 of the order passed by the Board of Revenue cannot be allowed to stand, Section 32 of the Land Revenue Code talks of the inherent powers of the Revenue Authorities while Section 43 talks of applicability of the Code of Civil Procedure. It is to be seen from Section 32 that nothing in the Land Revenue Code shall be deemed to limit or otherwise affect the inherent power of the Revenue Court to make such orders as may be necessary to meet the ends of justice or as may be necessary to prevent the abuse of the process of Court Section 43 simply provides that unless otherwise expressly provided in the Code, the procedure laid down in the Code of Civil Procedure shall, so far as may be, followed in all proceedings under the Code, Section 43 in no case would authorise a Revenue Authority to grant an injunction. Section 43 simply provides that the procedure laid down in the Code of Civil Procedure so far as may be followed in all proceedings under the Code. It is also to be seen from the provision of the Code of Civil Procedure that an injunction can be granted only by civil Court and by none else. Section 32 of the M.P. Land Revenue Code only talks of the inherent powers of the Revenue Courts where they are required to make such order as may be necessary for the ends of justice or to prevent the abuse of the

> *process of the Court. The powers under Section 32 can be exercised within the Code itself and not beyond the Code. If the Revenue Authority does not have the power to grant injunction then the Board of Revenue also could not grant injunction."*
>
> *3. The order to grant injunction is surely vested in the jurisdictional civil court, revenue courts cannot grant order of injunction. Therefore, the order passed by the revenue authority granting temporary injunction restraining transfer following the principle of law laid down in Maya Lalchandani (Supra) is without jurisdiction and without authority of law. It is accordingly set aside. However, the Sub-Divisional officer (Revenue) is directed to take decision on merits after hearing the parties in accordance with law, expeditiously, within three months from the date of receipt of a copy of this order."*

9. Considering the nature of stay order, certainly it would show that the Tahsildar has exceeded its jurisdiction which is vested under the Land Revenue Code and therefore, the order of the nature would be without jurisdiction and without authority of law. Since the order is without jurisdiction, as such, the petitioner even if has not availed the remedy of appeal, this Court in exercise of power under Article 226 of the Constitution of India can look into such issue when jurisdictional issue is involved in view of the decision of the Supreme Court rendered in ***Whirlpool Corporation***

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Versus Registrar of Trade Marks, Mumbai (1998) 8 SCC 1 wherein it has been held as under:

> *"14. The power to issue prerogative writs under Article 226 of the Constitution is plenary in nature and is not limited by any other provisions of the Constitution. This power can be exercised by the High Court not only for issuing writs in the nature of habeas corpus, mandamus, prohibition, quo warranto and certiorari for the enforcement of any of the Fundamental Rights contained in Part III of the Constitution but also for "any other purpose".*
>
> *15. Under Article 226 of the Constitution, the High Court, having regard to the facts of the case, has a discretion to entertain or not to entertain a writ petition. But the High Court has imposed upon itself certain restrictions one of which is that if an effective and efficacious remedy is available, the High Court would not normally exercise its jurisdiction. <u>But the alternative remedy has been consistently held by this Court not to operate as a bar in at least three contingencies, namely, where the writ petition has been filed for the enforcement of any of the Fundamental Rights or where there has been a violation of the principle of natural justice or where the order or proceedings are wholly without jurisdiction or the vires of an Act is challenged.</u> There is a plethora of case law on this point but to cut down this circle of forensic*

whirlpool, we would rely on some old decisions of the evolutionary era of the constitutional law as they still hold the field.

*16. Rashid Ahmed v. Municipal Board, Kairana AIR 1950 SC 163 laid down that existence of an adequate legal remedy was a factor to be taken into consideration in the matter of granting writs. This was followed by another Rashid case, namely, K.S. Rashid & Son v. Income Tax Investigation Commission AIR 1954 SC 207 which reiterated the above proposition and held that where alternative remedy existed, it would be a sound exercise of discretion to refuse or to interfere in a petition under Article 226. <u>This proposition was, however, qualified by the significant words, "**unless there are good grounds therefor"**, which indicated that alternative remedy would not operate as an absolute bar and that writ petition under Article 226 could still be entertained in exceptional cases.</u>*

(Emphasis supplied)"

10. Further the Supreme Court in ***Harbanslal Sahnia Versus Indian Oil Corporation Ltd (2003) 2 SCC 107*** **Para 7** reiterated the principles laid down in Whirlpool Corpn. V. Registrar of Trade Marks (supra) and held that in spite of availability of the alternative remedy, the High Court may still exercise its writ jurisdiction in at least three contingencies as observed in Para 7, which reads thus:

> *"7. So far as the view taken by the High Court that the remedy by way of recourse to arbitration clause was available to the appellants and therefore the writ petition filed by the appellants was liable to be dismissed is concerned, suffice it to observe that the rule of exclusion of writ jurisdiction by availability of an alternative remedy is a rule of discretion and not one of compulsion. In an appropriate case, in spite of availability of the alternative remedy, the High Court may still exercise its writ jurisdiction in at least three contingencies: (i) where the writ petition seeks enforcement of any of the fundamental rights; (ii) where there is failure of principles of natural justice: or (iii) where the orders or proceedings are wholly without jurisdiction or the vires of an Act is challenged. (See Whirlpool Corpn. V. Registrar of Trade Marks). The present case attracts applicability of the first two contingencies. More over, as noted, the petitioners' dealership, which is their bread and butter, came to be terminated for an irrelevant and non-existent cause. <u>In such circumstances, we feel that the appellants should have been allowed relief by the High Court itself instead of driving them to the need of initiating arbitration proceedings.</u>*
>
> *(Emphasis supplied)"*

11. It is well settled that the jurisdiction of the Revenue Authorities is circumscribed by the provisions of the Chhattisgarh Land

Revenue Code and they cannot exercise powers which are vested exclusively in Civil Courts. The grant of an injunction, whether temporary or permanent, restraining a party from alienating immovable property is essentially a civil remedy governed by the provisions of the Code of Civil Procedure and can be granted only by a Court having competent civil jurisdiction. In the absence of any statutory provision empowering the Tehsildar to impose such a restraint, the impugned direction cannot be sustained in law. Merely because second appeals are pending before this Court would not, by itself, authorize the Revenue Authority to create a restriction upon the proprietary rights of a party, particularly when no interim order to that effect has been passed by the appellate Court. The learned Tehsildar, therefore, clearly exceeded the limits of his statutory jurisdiction by incorporating a condition restraining alienation of the disputed property. An order passed by an authority beyond the scope of the powers conferred upon it is without jurisdiction, non est in the eyes of law and void ab initio.

12. Consequently, the writ petition deserves to and is hereby allowed. The impugned order dated 03.10.2025, to the extent it directs that the petitioners shall not alienate the disputed property during pendency of the second appeals, is hereby quashed and set aside. It is, however, made clear that this Court has not expressed any opinion on the merits of the inter se rights of the parties over the disputed property. Liberty is reserved in favour of respondent

No.4 to avail such remedy as may be available in law before the Court of competent jurisdiction for seeking appropriate interim or final relief, if so advised. It is further observed that since Second Appeal No.23 of 2025 preferred by the petitioners as well as Second Appeal No.31 of 2025 preferred by respondent No.4 are pending consideration before this Court, it shall remain open to either party to move an appropriate application in the said proceedings seeking such interim protection or other consequential relief as may be permissible in accordance with law. Any such application, if filed, shall be considered on its own merits, uninfluenced by any observation made in the present order.

13. With the aforesaid observations and liberty reserved, the writ petition stands disposed of. No order as to costs.

Sd/-

(Amitendra Kishore Prasad)
Judge

Yogesh