

**(2018) 09 CHH CK 0410**

**Chhattisgarh High Court**

**Case No:** Writ Petition No. 5482 Of 2005

Sewak Ram

APPELLANT

Vs

State Of Chhattisgarh And Ors

RESPONDENT

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**Date of Decision:** Sept. 26, 2018

**Acts Referred:**

- Chhattisgarh Land Revenue Code, 1959 - Section 170B

**Hon'ble Judges:** Prashant Kumar Mishra, J

**Bench:** Single Bench

**Advocate:** Shailendra Dubey, Rajendra Tripathi, Raghvendra Pradhan

**Final Decision:** Disposed Of

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### **Judgement**

Prashant Kumar Mishra, J

1. The order under challenge passed by the Board of Revenue has remanded back the proceedings under Section 170B of the Chhattisgarh Land

Revenue Code, 1959 for fresh hearing by the Collector.

2. It has been observed by the Board of Revenue that when the proceeding was pending before the Sub Divisional Officer (Revenue) (henceforth 'the

SDO') and statements of witnesses were recorded, the tribal holder was not allowed opportunity to cross-examine the petitioner. Similarly after the

death of Gadarai his legal heirs were not substituted and the proceedings continued before the SDO in absence of the legal heirs.

3. In my considered opinion, when the Board of Revenue has pointed out the irregularities in the proceedings carried out by the SDO, the matter

should have been remitted back to the SDO for fresh enquiry and not to the Collector.

4. Accordingly, the writ petition is disposed of with a direction that the concerned SDO shall hold fresh enquiry by providing opportunity to both the parties to submit fresh pleadings; record statements of their witnesses; cross-examine the witnesses of each other; and then pass final order in accordance with law. The proceedings be completed within a period of six months from the date of presentation of certified copy of this order. The record of the Revenue Court be sent back forthwith.
5. There shall be no order as to cost(s).