

(2018) 02 CHH CK 0202

Chhattisgarh High Court

Case No: Writ Petition (C) No.386 Of 2018

Vishwanath And Ors

APPELLANT

Vs

Mehatarrin And Ors

RESPONDENT

Date of Decision: Feb. 12, 2018

Acts Referred:

- Chhattisgarh Land Revenue Code, 1959 - Section 165(6), 170B, 170B(1)

Hon'ble Judges: Sanjay K. Agrawal, J

Bench: Single Bench

Advocate: Keshav Dewangan, Ashish Surana

Final Decision: Dismissed

Judgement

Sanjay K. Agrawal, J

1. Heard on admission.

2. The petitioners made application under Section 170-B of the Chhattisgarh Land Revenue Code, 1959 (for short, 'the Code') stating that the land in

question be reverted to them. The Sub Divisional Officer (Revenue) rejected the application finding that the alleged transaction is of 1932-33 and as

such, that has been given to the ancestors of respondents No.1 to 8 herein under the law applicable in the Bastar State and the application under

Section 170-B of the Code is not maintainable which was set aside by the Additional Collector in appeal and thereafter, at the instance of the

petitioners the Commissioner remanded the case to the Sub Divisional Officer (Revenue). The Sub Divisional Officer (Revenue) now, by a detailed

order dated 7-9-2015 held that the transaction is prior to coming into force of the Code i.e. prior to 2-10-1959 and land has been given to the

respondents under the law applicable in the Bastar State in 1932- 33 that has been maintained by the Additional Collector and the Commissioner

against which this writ petition has been preferred.

3. Learned counsel for the petitioners submits that the finding recorded by the two courts below is perverse and contrary to law and therefore it is

liable to be set aside.

4. On the other hand, learned State counsel would support the impugned orders.

5. In order to decide the dispute raised at the Bar, it would be appropriate to notice Section 170-B (1) of the Code which reads as under:-

170-B. Reversion of land of members of aboriginal tribe which was transferred by fraud.-(1) Every person who on the date of commencement of

Madhya Pradesh Land Revenue Code (Amendment) Act, 1980 (hereinafter referred to as the Amendment Act of 1980) is in possession of

agricultural land which belonged to a member of a tribe which has been declared to be an aboriginal tribe under sub-section (6) of section 165

between the period commencing on the 2nd October, 1959 and ending on the date of the commencement of Amendment Act, 1980 shall, within two

years of such commencement, notify to the Sub-Divisional Officer in such form and in such manner as may be prescribed, all the information as to

how he has come in possession of such land.

6. A careful perusal of Section 170-B (1) of the Code would show that person in possession on the date of commencement of the Amendment Act of

1980 i.e. 24.10.1980 of the agricultural land belonging to a member of aboriginal tribe is required to notify to the Sub Divisional Officer within two

years from 24.10.1980 in the manner prescribed that how he came into possession of such land.

7. The question as to the applicability of Section 170-B of the Code was referred to a Division Bench on account of divergent view. The question

referred to a Division Bench was as under:-

Whether the provision of Section 170-B of the Chhattisgarh Land Revenue Code, 1959 inserted vide M.P. Amendment Act No.15 of 1980 with

effect from 24- 12-1980, are applicable in respect of transactions prior to commencement of Chhattisgarh Land Revenue Code, 1959, involving

transfer / acquisition of right by non-tribal over a land which, before such acquisition of title or interest or transfer, belonged to a member of tribe who has been declared to be an aboriginal tribe under sub-section (6) of Section 165 of the C.G. Land Revenue Code, 1959?

8. The Division Bench of this Court in the matter of Yadram (Dead) through LRs. Smt.Yamuna Bai and others v. State of C.G. & others¹ answered

the reference and clearly held that Section 170-B of the Code covers the transaction made between 2-10-1959 till 24- 10-1980. It was observed as

under:-

17. In the present case, law is amended with limited retrospective effect. Plain reading of Section 170-B of the Code as amended covers the

transaction made between 2-10-1959 till 24-10-1980 and not the transaction made prior to 2-10-1959. The language of Section 170-B of the Code is

plain and unambiguous and it is not permissible to deploy rules of interpretation to attribute any other meaning to the words used by the legislature, that

those which naturally flow from it. If the plain words of Section 170-B of the Code are interpreted in such a way as to assign its meaning other than

what is written in it, that is, if the Section is read to apply to transactions done prior to 2-10-1959 despite specific 1 2015(5) C.G.L.J. 402 (DB)

stipulation in the Section that it will apply to transactions done on and after 2-10-1959, then such an interpretation will create new obligations and duties

distributing the vested rights which, normally, should not be done by resorting to interpretation. Therefore, on the face of the plain and unambiguous

wording of Section 170-B of the Code, we are unable to subscribe to any view other than the one that it is restricted in its application to the

transactions done between 2-10-1959 and 24-10-1980 only.

19. In view of the legal opinion we have formed regarding the applicability of Section 170-B of the Code, we answer the question referred that the

provisions of Section 170-B of the Code and Act No.15 of 1980 (with effect from 24-10-1980) will apply in respect of transaction involving transfer /

acquisition of right by a non-tribal over a land, before such acquisition of title or interest or transfer, belonged to member of tribe who has been

declared to be an aboriginal under sub-section (6) of Section 165 of the Code from the commencement of the Chhattisgarh Land Revenue Code, 1959

i.e. 2-10-1959 till commencement of the Amendment Act, 1980 i.e. 21-10- 1980.

9. Applying the principles of law laid down by this Court in Yadram (supra), it is vivid that the alleged transaction is of 1932-33, much prior to 2-10-

1959, i.e. prior to the date of coming into force of the Code, the transaction is not covered under the provisions of the Code and therefore Section 170-

B of the Code is not applicable which has been affirmed by the Additional Collector in further appeal and by the Commissioner in revision which is

neither perverse nor contrary to record. I do not find any merit in the petition, the petition is therefore liable to be dismissed and it is accordingly

dismissed, in limine. No order as to cost(s).