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HIGH COURT OF CHHATTISGARH AT BILASPUR

WPC No. 2349 of 2022

Reserved on **07.05.2026**

Pronounced on **17.07.2026**

Sheikh Hameed S/o Sheikh Mohammad Yusuf, Aged About 70 Years R/o Ward No. 15, Near Jila Shahkari Bank, Gariyabandh, Tahsil And District - Gariyabandh, Chhattisgarh

--- **Petitioner(s)**

versus

1 - State Of Chhattisgarh through Collector, District Gariyabandh (CG)

2 - The Collector District - Gariyabandh, Chhattisgarh

3 - The Tahsildar Gariyaband, District - Gariyabandh, Chhattisgarh

4 - Dashoda Bai Wd/o Late Dayaram Patel R/o Village - Kasekera, Amethi, Post Chhura, District - Gariyabandh, Chhattisgarh

5 - Kiran Patel D/o Late Dayaram Patel R/o Village - Kasekera, Amethi, Post Chhura, District - Gariyabandh, Chhattisgarh.

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6 - Pawan Patel S/o Late Dayaram Patel R/o Village - Kasekera, Amethi, Post Chhura, District - Gariyabandh, Chhattisgarh.

7 - Meena Patel D/o Late Dayaram Patel R/o Village - Kasekera, Amethi, Post Chhura, District - Gariyabandh, Chhattisgarh.

--- **Respondent(s)**

WPC No. 4192 of 2022

Afreen Bano W/o Mohd Wasim Bhai Aged About 32 Years R/o Taaj Kirana Store Dharamjaigarh, District : Raigarh, Chhattisgarh

---**Petitioner(s)**

Versus

1 - State Of Chhattisgarh Through The Secretary, Department Of Revenue and Disaster Management, New Mantralaya, Atal Nagar, Naya Raipur (C.G.)

2 - The Collector District Gariyaband (C.G.)

3 - The Sub Divisional Officer (Rev.) District Gariyaband (C.G.)

4 - The Tahsildar District - Gariyaband (C.G.)

5 - Bhukhan Lal S/o Shri Bhunu Ram R/o Village Chhindaula, Tahsil Bindra Nawagarh, District : Gariyabandh, Chhattisgarh

--- **Respondent(s)**

WPC No. 2439 of 2022

Mohammed Rizwan S/o Shri Abdul Razzak Memon, Aged About 44 Years R/o Near R.K. Medical, Main Road, Gariyabandh (Chhattisgarh)

---Petitioner(s)

Versus

1 - State Of Chhattisgarh Through Collector, District : Gariyabandh, Chhattisgarh

2 - The Collector, District Gariyabandh Chhattisgarh

3 - The Tahsildar, Gariyabandh (Chhattisgarh)

4 - Sheikh Hameed S/o Sheikh Mohammad Yusuf, Aged About 70 Years R/o Ward No. 15, Near Jila Shahkari Bank, Gariyabandh, Tahsil And District Gariyabandh Chhattisgarh

5 - Dashoda Bai, Wd/o Late Dayaram Patel, R/o Village Kasekera, Amethi, Post Chhura, District : Gariyabandh, Chhattisgarh

6 - Kiran Patel, D/o Late Dayaram Patel, R/o Village Kasekera, Amethi, Post Chhura, District : Gariyabandh, Chhattisgarh

7 - Pawan Patel, S/o Late Dayaram Patel, R/o Village Kasekera, Amethi, Post Chhura, District : Gariyabandh, Chhattisgarh

8 - Meena Patel, D/o Late Dayaram Patel, R/o Village Kasekera, Amethi, Post Chhura, District : Gariyabandh, Chhattisgarh

--- **Respondent(s)**

(Cause Title downloaded from CIS Periphery)

For Petitioner(s)	:	Mr. BP Sharma, Mr. Raza Ali, and Mr. Karthik Kathuria, Advocates
For Respondent/ State	:	Mr. Shobhit Mishra, Dy. GA
For Respondent No.4 to 7	:	Mr. Aniruddh Shrivastava, Advocate on behalf of Mr. SS Baghel, Advocate

SB: Hon'ble Mr. Justice Amitendra Kishore Prasad

C A V Order

1. Since a common question of law is involved in the captioned petitions, all three cases have been consolidated, heard analogously and are being disposed of by this common order.
2. For the sake of convenience, WPC No. 2349/2022 is treated as the lead case, and the facts of the said petition are being referred to for the purpose of adjudication. The decision rendered herein shall, however, govern the connected writ petitions as well, as the issues raised therein are identical in nature. In WPC No. 2349/2022 , the petitioner has prayed for the following reliefs :

> *a. A writ and/or mandamus an order in the nature of mandamus do issue calling for records pertaining to case of petitioner for perusal of this Hon'ble Court, if deem fit.*
>
> *b. A writ and/or an order in the nature of mandamus do issue quashing the order dated 5.5.2022 (Annexure P-1) passed by respondent Collector and in effect restore name of petitioner in land record as bhumiswami in respect of the said land and allow the petitioner to use and enjoy the said land being bhumiswami in the facts and circumstances of the case and in the interest of justice.*

c. Cost of the proceedings.

d. Any other writs and directions that may be deemed fit and just in the facts & circumstances of case.

3. In a nutshell, the facts of the case are that the petitioner is seeking quashment of the order dated 5.5.2022, whereby the Collector, Gariyaband observed that the land bearing Khasra No.147/2 area 0.73 hectare situated at Village Gariyaband, Patwari Halka No.8, Dongrigaon is recorded in the name of Sheikh Hameed S/o Mohd. Yusuf (present petitioner) in the Revenue Records of the Patwari. In the Revenue Survey pertaining to the year 1987-88 and its corresponding Misal record, the original Khasra number 147 (new No.97/1) admeasuring 1.25 hectares, is recorded as grassland. Subsequently, vide order dated 28.4.2000 passed by the Additional Collector, Gariyaband in Revenue Case No.64/A-59/Year1988-89, a portion of Khasra No.147 admeasuring 0.86 hectare, was excluded from the Nistrar Patrak and was declared to be cultivable land. Consequently, vide order dated 14.12.2000, the aforesaid land was recorded in the name of Daya Ram S/o Sagun Marar, Village Dongrigaon on the basis of a Patta granting Bhumiswami rights. After the death of Daya Ram, the concerned Gram Panchayat mutated the names of his legal heirs namely Yashoda, widow of Daya Ram, Minor Kiran, Minor Pawan and Minor Meena (all respective sons and

daughters). The aforesaid Legal Heirs sold the said property to the present petitioner i.e. Sheikh Hamid and thereafter, his name was mutated in the revenue records. The Tehsildar, Gariyaband registered a case and issued a notice to the petitioner stating that the transaction was in contravention of Section 158(3) and 165(7-b) of the CG Land Revenue Code (in short "the Code"). As such, it was recommended that the sale be declared null and void due to the violation of the aforesaid provisions of the Code, as no prior permission was obtained from the Collector before sale of the land under Section 158(3) and 165(7-b) of the Code. On the basis of the aforesaid report submitted by the concerned Tehsildar, the SDO (R), Gariyaband proposed the initiation of proceedings for violation of Section 158(3) and Section 165 (7-b) of the Code. The concerned Collector on the basis of the aforesaid reports submitted by the concerned Tehsildar and the concerned SDO(R), considered the matter and found that Daya Ram was granted Patta in respect of a part of the land bearing Khasra No.147, admeasuring 0.86 hectares. Later on, vide order dated 14.12.2000, the name of Daya Ram was mutated in the revenue records. As such, the land was granted by the State on lease (Patta), which could not be sold otherwise unless and until prior permission, as required under Section 158(3) and 165(7-b) of the Code, was obtained from the concerned Collector. Notice was issued to the seller as well as purchaser. The seller, despite notice, did not appear before the Court. However, the purchaser entered appearance and stated that since the subject Patta was granted to Daya Ram 10 years prior to the transaction, full Bhumiswami rights accrued to him upon expiration of the statutory period of 10 years. As such, no permission as envisaged under Sections 158(3) and 165 (7-b) of the Code was required to be obtained from the concerned Collector and therefore, the transaction is free from any illegality. Even otherwise, a registered sale-deed cannot be declared null and void by the revenue authorities except in the matters falling under Section 170-B of the Code. After hearing the parties, the concerned Collector held that even if Bhumiswami rights had been conferred upon the leaseholder, since the land was originally granted on lease by the State Government, prior permission under Section 158(3) and 165(7-b) of the Code is mandatorily required to be obtained from the concerned Collector before selling any part thereof. Since no such permission was obtained by the seller, the sale-deed dated 12.12.2012 executed in favour of the petitioner is non-est in the eyes of law. Accordingly, the concerned Collector held that in the absence of the prior permission required under Section 158(3) and 165(7-b) of the Code, the sale-deed executed in favour of the petitioner is null and void and ultimately directed that the land be recorded in the name of the State Government. Hence, this Petition.

4. Mr B.P. Sharma, learned counsel for the petitioners submits that the Revenue Court has illegally entertained the matter, which falls exclusively within the domain and jurisdiction of the Civil Court. He submits that the concerned Collector has usurped the powers

of a Civil Court, which is impermissible under the law, as a registered sale-deed cannot be declared as null and void by the revenue authority while exercising its revenue jurisdiction. Any such declaration can only be granted by a competent Civil Court. He further argues that once Bhumiswami rights have automatically accrued upon the expiration of 10 years, the requirement to obtain prior permission from the Collector stands dispensed with. In view of the above, learned counsel for the petitioner submits that the impugned order passed by the Collector is per se illegal and liable to be quashed.

5. On the other hand, Mr. Shobhit Mishra, learned counsel for the State submits that the impugned order is in consonance with the provisions enumerated under Sections 158(3) and 165(7-b) of the Code. If the land has been granted on lease by the State at any point of time, prior permission under the aforementioned sections must be obtained from the concerned Collector before executing any sale thereof. In the absence of such permission, any subsequent sale deed is illegal and the same has rightly been held to be null and void by the concerned Collector. Furthermore, since a sale-deed executed in violation of these statutory provisions is non-est in the eyes of law, it can be declared null and void by any Court, including the Revenue Courts. In view of the above, there is no illegality in the impugned order, the Petition is bereft of any merit and is liable to be dismissed.

6. I have heard learned counsel for the parties and have also

perused the documents annexed with the petition.

7. In order to adjudicate the dispute between the parties, the core legal questions that arise for consideration before this Court are as follows:-

> ***1.*** *Whether the land in question was originally granted on lease by the concerned revenue authorities ?*
>
> ***2.*** *Whether the land granted by the State Government under a lease (Patta) can be sold without obtaining prior permission under Section 158(3) and 165(7-b) of the Code?*
>
> ***3.*** *Whether the transaction and subsequent sale-deed executed in respect of such leasehold (Patta) without obtaining the necessary permission are rendered null and void?*
>
> ***4.*** *Whether the Revenue Court possesses the requisite power, authority and jurisdiction to declare any registered sale-deed null and void?*

<u>Question No.1:</u>

8. In this regard, it is evident that vide order dated 28.4.2000 passed by the Additional Collector, Gariyaband, a portion of Khasra No.147 admeasuring 0.86 hectare, was excluded from the Nistrar Patrak and was declared to be cultivable land. Subsequently, vide order dated 14.12.2000, the aforesaid land was recorded in the name of Daya Ram as a Government Lessee holding Bhoomiswami Rights. The sale deed executed in favour of the

petitioners shows that except the aforesaid subject land, all adjoining parcels recorded in the revenue records comprise government grassland. The subject land alone was originally granted on lease to late Daya Ram, upon whom, Bhumiswami rights subsequently accrued by operation of law.

<u>Question No.2 & Question No.3:</u>

9. In order to appreciate the point raised, it would be profitable to refer Section 158(3) and Section 165(7-b) of the Code, which read as under :

158(3). ***Bhumiswami-***

(3) Every person-

(i)who is holding land in Bhoomiswami right by virtue of a lease granted to him by the State Government or the Collector or the Allotment Officer on or before the commencement of the Madhya Pradesh Land Revenue Code (Amendment) Act, 1992 from the date of such commencement, and

(ii) to whom land is allotted in Bhoomiswami right by the State Government or the Collector or the Allotment Officer after the commencement of the Madhya Pradesh Land Revenue Code (Amendment) Act, 1992 from the date of such allotment,

shall be deemed to be a Bhoomiswami in respect of such land and shall be subject to all the rights and liabilities conferred and imposed upon a Bhoomiswami by or under this Code :

Provided that no such person shall transfer such land within a period of ten years from the date of lease or allotment.

165. Rights of transfer.

> ***(7-b)*** *Notwithstanding anything contained in sub-section (1), a person [or his/ or her legal heir] who holds land from the State Government or a person [or his/ or her legal heir] who holds land in Bhoomiswami rights under sub-section (3) of Section 158 or whom right to occupy land is granted by the State Government or the Collector as a Government lessee and who subsequently becomes Bhoomiswami of such land, shall not transfer such land without the permission of a Revenue Officer, not below the rank of a Collector, given for reasons to be recorded in writing.*
>
> *Provided that a permission mentioned in this sub-section shall not be needed to a Bhoomiswami or his/her legal heir holding Bhoomiswami Right Certificate under sub-section (4) or Free-hold Right under the sub-section (5) of Section 158, for the transfer of that land.*

10. A bare reading of the aforesaid provisions makes it abundantly clear that once land has its origin in a government lease irrespective of whether Bhoomiswami or any other nature of rights are subsequently accrued, it retains its character as leased land. Hence, any subsequent transfer or transaction involving such land can be executed only after obtaining prior permission from the concerned Collector under Section 165(7-b) of the Code. Any violation of the aforesaid provisions would be fatal to the transaction, which would render the executed sale-deed illegal. In this regard, it is settled position of law through various judgments of the Hon’ble Supreme Court, the Madhya Pradesh High Court as well as this Court, that any transfer executed without obtaining such prior permission is null and void.

11. In view of the above, Question No.2 & Question No. 3 are answered accordingly.

Question No.4 :

12. Now, the next important aspect for consideration is whether the Revenue Courts possess the power and authority to declare a registered sale-deed null and void. It is a trite position of law that the power to grant a declaration setting aside the registered sale deed vests exclusively within the domain of the Civil Courts. Such jurisdiction does not vest in the Revenue Courts, which do not possess the competence to set-aside or cancel a registered instrument of transfer.
13. Section 54 of the Transfer of Properties Act, defines "Sale" and mandates its execution through a registered document. The statutory power to adjudicate upon the validity of such a registered sale-deed belongs solely to the Civil Courts. This inherent judicial power cannot be taken over by the Revenue Courts for the purpose of declaring a registered sale deed null and void.
14. Furthermore, under Section 31 of the Specific Relief Act, the power to adjudicate upon and declare a sale-deed null and void vests exclusively with the Civil Court and no such jurisdiction is conferred upon the Revenue Court. It would be apposite to reproduce Section 31 of the said Act here :

31. When cancellation may be ordered.—

(1) Any person against whom a written instrument is void or voidable, and who has reasonable apprehension that such instrument, if left outstanding may cause him serious injury, may sue to have it adjudged void or voidable; and the court may, in its discretion, so adjudge it and order it to be delivered up and cancelled.

(2)If the instrument has been registered under the Indian Registration Act, 1908 (16 of 1908), the court shall also send a copy of its decree to the officer in whose office the instrument has been so registered; and such officer shall note on the copy of the instrument contained in his books the fact of its cancellation.

15. Consequently, in view of the aforesaid provisions, even in cases involving alleged statutory violation, this exclusive civil jurisdiction cannot be usurped by the revenue authorities. Even if it is assumed that the sale-deed was executed without prior permission under Section 165(7-b) of the Code, the Revenue Court is still incompetent to declare the registered sale deed null and void. Such an outright declaration of nullity by the revenue authority is not in accordance with law.

16. In light of the foregoing, Question No.4 is answered accordingly.

17. Furthermore, in the matter of **Asset of Reconstruction Company (India) Limited Vs. S.P. Velayutham** reported in **(2022) 8 SCC 210**, the following was held in para 53, 54, 57, 58 & 59 :

53. Actually, *the registration of a document comprises of* *three essential steps among others. They are:*

(*i*) *execution of the document, by the executant signing or affixing his left hand thumb impression;*

(*ii*) *presenting the document for registration and admitting to the registering authority the execution of such document; and*

(iii) the act of registration of the document.

54. *In cases where a suit for title is filed, with or without the relief of declaration that the registered document is null and void, what gets challenged, is a combination of all the aforesaid three steps in the process of execution and registration. The first of the aforesaid three steps may be challenged in a suit for declaration that the registered document is null and void, either on the ground that the executant did not have a valid title to pass on or on the ground that what was found in the document was not the signature of the executant or on the ground that the signature of the executant was obtained by fraud, coercion, etc. The second step of presentation of the document and admitting the execution of the same, may also be challenged on the very same grounds hereinabove stated. Such objections to the first and second of the aforesaid three steps are substantial and they strike at the very root of creation of the document. A challenge to the very execution of a document, is a challenge to its very DNA and any defect or illegality on the execution, is congenital in nature. Therefore, such a challenge, by its very nature, has to be made only before the civil court and certainly not before the writ court.*

57. *In suits for declaration of title and/or suits for declaration that a registered document is null and void, all the aforesaid three steps which comprise the entire process of execution and registration come under challenge. If a party questions the very execution of a document or the right and title of a person to execute a document and present it for registration, his remedy will only be to go to the civil court. But where a party questions only the failure of the registering authority to perform his statutory duties in the course of the third step, it cannot be said that the jurisdiction of the High Court under Article 226 stands completely ousted. This is for the reason that the writ jurisdiction of the High Court is to ensure that statutory authorities perform their duties within the bounds of law.*

58. *It must be noted that when a High Court, in exercise of its jurisdiction under Article 226 finds that there was utter failure on the part of the registering authority to stick to the mandate of law, the Court merely cancels the act of registration, but does not declare the very execution of the document to be null and void. A declaration that a document is null and void, is exclusively within the domain of the civil court, but it does not mean that the High Court cannot examine the question whether or not the registering authority performed his statutory duties in the manner prescribed by law.*

59. *It is well settled that if something is required by law to be done in a particular manner, it shall be done only in that manner and not otherwise. Examining whether the registering authority did something in the manner*

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required by law or otherwise, is certainly within the jurisdiction of the High Court under Article 226. However, it is needless to say that the High Courts may refuse to exercise jurisdiction in cases where the violations of procedure on the part of the registering authority are not gross or the violations do not shock the conscience of the Court. Lack of jurisdiction is completely different from a refusal to exercise jurisdiction.

18. Reverting to the facts of the present case, considering the facts and circumstances of the case and also in light of the principles laid down in the aforesaid judgment, as well as the discussion in the preceding paragraphs, this Court is of the opinion that the concerned revenue authority exceeded its jurisdiction by declaring the sale deed null and void. Such a determination falls exclusively within the domain of the competent Civil Court.

19. In view of the above, the impugned orders (in all the writ petitions), to the extent that it declares the subject sale deed(s) null and void, are unsustainable and are hereby set-aside. As regards the remaining part of the impugned orders, without entering into the merits of the case, liberty is reserved in favour of the State Government to seek appropriate recourse and remedies before a competent Civil Court in accordance with law.

20. With the observations/directions, all the Writ Petitions are disposed of.

Sd/-

(Amitendra Kishore Prasad)
Judge

Shyna Ajay