



**IN THE HIGH COURT OF MADHYA PRADESH  
AT JABALPUR**

**BEFORE**

**HON'BLE SHRI JUSTICE G. S. AHLUWALIA**

**ON THE 14<sup>th</sup> OF OCTOBER, 2024**

**WRIT PETITION No. 24545 of 2024**

***CHHOTELAL JAISWAL AND OTHERS***

*Versus*

***RAMKRIPAL AND OTHERS***

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**Appearance:**

*None for the petitioners.*

*Shri Gajendra Parashar- Panel Lawyer for the respondent/State.*

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**ORDER**

This petition under Article 226 of Constitution of India has been filed against the order dated 02.07.2024 passed by Additional Collector, Singrauli in Case No. 48/Revision/2024-25 as well as order dated 24.06.1986 passed by Tehsildar, Chitrangi, District Singrauli in Case No. 252/A-19(4)/85-86.

2. It is the case of the petitioner that grand father and father of the petitioner were in possession of land bearing Arazi No. 8/7, area 1.771 hectare whose new Khasra No. is 499, area 0.10 hectare, Khasra No. 500, area 0.40 hectare. The non-applicants divided the Khasra No. 501 area 0.37 hectares in to several parts and recorded the said land as State land. In fact the predecessors of the petitioners had developed the land in question and had planted many trees. By order dated 24.06.1986 the Tehsildar granted bhoomiswami rights to one Girdhari under the Madhya Pradesh Krishi Prayojan Ke Liye Upyog Mai Ki Ja Rahi



Dakhal Rahit Bhoomi Par Bhoomiswami Adhikaro Ka Pradan Kiya Jana (Veshesh Upbandh) Adhinyam, 1984.

3. Being aggrieved by the said order the petitioners preferred a revision on 25.06.2024 i.e. 38 years after the order dated 24.06.1986 was passed. The Additional Collector, Singrauli by order dated 02.07.2024 passed in Case No. 48/Revision/2024-25 dismissed the revision as barred by time.

4. Since none has appeared for the petitioners, therefore, the grounds raised by the petitioners in the petition are considered.

5. The petitioners have filed a copy of memo of revision filed by the petitioners which has been marked as Annexure A/2. It appears that no application under Section 5 of Limitation Act was filed. Bhoomiswami rights were given to the predecessor of the respondents way back in the year 1986. Although, no application under Section 5 of Limitation Act was separately filed but in the Memo of Revision it was mentioned that the petitioners came to know about the passing of order dated 24.06.1986 for the first time on 02.06.2024, when the respondents challenged that they would not allow the petitioners to carry out the cultivation activities. Even in absence of application for condonation of delay, if the reasons assigned by the petitioners in the paragraph 4 of memo of revision is considered as a prayer for condonation of delay, then still it is clear that no sufficient cause was assigned by the petitioners for condonation of delay.

6. Section 17 of Limitation Act reads as under:-

**17. Effect of fraud or mistake,-**(1) Where, in the case of any suit or application for which a period of limitation is prescribed by this Act,-



- (a) the suit or application is based upon the fraud of the defendant or respondent or his agent; or
- (b) the knowledge of the right or title on which a suit or application is founded is concealed by the fraud of any such person as aforesaid; or
- (c) the suit or application is for relief from the consequences of a mistake; or
- (d) where any document necessary to establish the right of the plaintiff or applicant has been fraudulently concealed from him,

the period of limitation shall not begin to run until plaintiff or applicant has discovered the fraud or the mistake or could, with reasonable diligence, have discovered it, or in the case of a concealed document, until the plaintiff or the applicant first had the means of producing the concealed document or compelling its production:

Provided that nothing in this section shall enable any suit to be instituted or application to be made to recover or enforce any charge against, or set aside any transaction affecting, any property which-

- (i) in the case of fraud, has been purchased for valuable consideration by a person who was not a party to the fraud and did not at the time of the purchase know, or have reason to believe, that any fraud had been committed, or
- (ii) in the case of mistake, has been purchased for valuable consideration subsequently to the transaction in which the mistake was made, by a person who did not know, or have reason to believe, that the mistake had been made, or
- (iii) in the case of a concealed document, has been purchased for valuable consideration by a person who was not a party to the concealment and, did not at the time of purchase know, or have reason to believe, that the document had been concealed.

(2) Where a judgment-debtor has, by fraud or force, prevented the execution of a decree or order within the period of limitation, the court may, on the application of



the judgment-creditor made after the expiry of the said period extend the period for execution of the decree or order:

Provided that such application is made within one year from the date of the discovery of the fraud or the cessation of force, as the case may be.

7. Thus, it is clear that unless and until a person prima facie establishes that in spite of due diligence, he could not discover the fact, he could not claim that he was not aware of the order under challenged.

8. Except mentioning that the petitioner came to know for the first time on 02.06.2024, nothing has been done that in spite of due diligence they could not discover the fact that the order dated 24.06.1986 was passed by Tehsildar Chitrangi, District Singrauli in case No. 252/A-19(4)/85-86.

9. Furthermore, it is the case of the petitioners that they were cultivating the land. However, nothing has been placed on record to show that the petitioners were in cultivating possession of the land in dispute.

10. In view of the aforesaid, this Court is of considered opinion that the Additional Collector, Singrauli did not commit any mistake by rejecting the revision filed by the petitioners as barred by time.

11. The petition fails and is hereby **dismissed**.

(G.S. AHLUWALIA)  
JUDGE

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