2025 INSC 470

Non-Reportable

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

Civil Appeal No..... of 2025
(@ Special Leave Petition (C) No.10111 of 2024)

The State of Madhya Pradesh.

...Appellant

Versus

Dinesh Kumar and Ors.

...Respondent(s)

J U D G E M E N T

K. VINOD CHANDRAN, J.

1. Leave granted.

2. The appeal by the State of Madhya Pradesh is against the impugned order of the learned Single Judge of the High Court of Madhya Pradesh at Indore which interfered with the Revisional Order passed by the Commissioner, Ujjain Division, Ujjain, exercising *suo motu* powers under Section 50 of the M. P. Land Revenue

Code, 1959[1]. The Revisional Order dated 14.09.2021, set aside the order of the Additional Collector, Ratlam dated 21.03.2018 by which permission under Section 165 (6) of the Code of 1959 was granted for sale of the land of respondent Nos.2 to 5 which resulted in execution of a registered sale deed dated 26.03.2018 in favour of the Writ Petitioner. The impugned order set aside the Revisional Order and directed that any consequential changes made in the revenue records would stand cancelled; restoring the mutation dated 18.05.2018 in the name of the Writ Petitioner.

3. Mr.Harmeet Singh Ruprah, Deputy Advocate General appearing for the appellant-State, argued that the learned Single Judge erred in interfering with the *suo moto* order passed by the Commissioner, which was in accordance with the provisions of the Code of 1959. Section 165 regulated the rights on transfer of the *bhumiswami* (landlords); to protect and preserve the

[1] The Code of 1959

lands of Tribals who could be easily induced to alienate it without being aware of the consequences. In the present case, it was the Additional Collector who granted permission under Section 165 (6) (ii) when only the Collector or an officer higher in rank could have granted such permission. It is pointed out that the Additional Collector was not allocated the specific powers under Section 165 (6) as on the date of the grant of permission and the permission did not consider various aspects as required under sub-section (6-c). The grant of permission was not only without jurisdiction but also was vitiated by total non-application of mind.

4. Mr. Gagan Gupta, learned Senior Counsel appearing for respondent No.1 in the appeal, who was the Writ Petitioner, pointed out from the Code of 1959 itself that Section 11 while delineating the various classes of Revenue Officers named *'Collectors (including Additional Collectors)'*. It is also pointed out that by Annexure R-1, produced along with the counter-

affidavit, the named Additional Collector who granted permission, was authorized by the Collector to exercise the powers under the Code of 1959; which order is dated 19.05.2017 prior to the grant of permission. The order impugned in the Writ Petition is read over to urge that consideration was on all aspects required under Section 165 (6-c); especially considering the fact that admittedly the land was not located in the area notified by the State Government as predominantly inhabited by aboriginal tribes and the permission being enabled under Clause (ii) of sub-section of Section 165 (6). The learned Senior Counsel Mr. Anil Kaushik appearing for respondent Nos. 2 to 5, the original landlords who were the vendors in the sale deed supported the arguments of learned Senior Counsel appearing for respondent No. 1.

5. The High Court in its order found that the exercise of *suo motu* powers can be only within 180 days of knowledge and the revisional order having been passed after expiry of the period as held in a Full Bench decision

of the Madhya Pradesh High Court. The Collector had referred the matter to the Commissioner in the month of October, 2018 and the final order was passed by the Commissioner after almost three years on 14.09.2021 long after the limitation period expired the date of knowledge being at least, the date on which the Collector referred the matter to the Commissioner.

6. On merits, it was found that the request made by the landowners was genuine and they received consideration more than that of the market value existing on the date. It was also found, based on the distribution memo dated 22.11.2016 that the Additional Collector had been assigned the powers under the Code of 1959. The discrepancies in the dates of the publication being not noticed in the proceedings were found to be trivial and not going to the root of the matter.

7. The Code of 1959 attempted to consolidate and amend the law relating to land revenue, the powers of revenue officers, rights and liabilities of holders of land

from the state government, agricultural tenures and other matters relating to land and the liabilities incidental thereto in Madhya Pradesh. Section 11 enumerates various classes of revenue officers, where *'Collector (including the Additional Collectors)'* is placed, in seriatim, at the third position. It is also very pertinent that when the permission was granted by the Additional Collector on 21.03.2018, Annexure R/1 dated 19.05.2017; work allocation order was in force which at serial No.2 shows the name of the Additional Collector, who granted the permission, having been thus enabled to exercise powers conferred on the Collector under the Code of 1959. The State, hence, cannot contend for a minute that the Additional Collector was not competent to consider the permission sought for by the landlords.

8. Section 165 (6) specifically refers to the 'Rights of transfer', obviously of landowners, wherein sub-section (6) deals with the lands belonging to the members of the indigenous tribes (referred to in the Statue as

'aboriginal', in the alternative referred as *'indigenous'* by us in this judgment). Sub-section (6) of Section 165 has two limbs, in clause (i) and clause (ii). Clause (i) provides a blanket prohibition in so far as the transfer of lands situated in an area predominantly inhabited by indigenous tribes, as notified by the Government, owned by a person belonging to that indigenous tribe, to persons other than that of the specific indigenous tribe. This does not apply in the instant case, since admittedly the land is not situated in a notified area in Ratlam District as seen from Annexure A-1, produced along with the counter affidavit of the appellant filed pursuant to order dated 20.03.2025. In the district of Ratlam the notification applies only to two Tehsils, namely Sailan and Bhajna. It is also an admitted position that respondent Nos.2 to 5, the land owners, who made the sale, are members of an indigenous tribe, enabled to transfer the lands in their ownership, situated in areas not covered by the Government notification as stipulated

in Clause (i), but only with the prior permission of a revenue officer not below the rank of Collector; which permission also has to be recorded in writing.

9. The application filed by respondent Nos.2 to 5 is produced as Annexure A-5 in the counter affidavit of the State, succinctly stated, respondent Nos.2 to 5 had ownership over 6.290 hectares of land out of which they intended to sell 4.440 hectares, for which they had executed an agreement to sell with respondent No.1 for that portion of the land which was not in cultivation. The sale was intended for generating funds for the marriage of children, settlement of loans; while retaining a portion of the land which was asserted to be sufficient for their requirements, the owners also having possession of lands in other villages. The price offered was also stated to be far more than the market value.

10. The order of the Additional Collector is produced as Annexure P-2 in the Writ Petition, wherein he refers to the various grounds stated in the application and the

report secured by the Tehsildar from the Village Patwari on sixteen points to grant the permission sought for. It was also specifically noticed in the order that the purchaser, the respondent in the application, had undertaken that the land will be used for agricultural purposes. The market value of the land was found to be Rs.1,75,000/- per bigha, thus putting the total value at Rs.38,31,720/-; whereas the total consideration paid was Rs.45 lakhs, far in excess. The permission was granted mandating that the balance sale consideration should be paid either by a cheque or through RTGS, stipulating also that there shall be no conversion of use of the land till completion of 10 years from the date of transfer; as provided under sub-section (6-ee) of Section 165 of the Code of 1959.

11. In this context, we must consider the arguments raised by the learned counsel for the State that sub-section (6-c) has not been complied with, which

consideration requires the above provision to be extracted, which reads thus: -

> *"(6-c) The Collector shall in passing an order under sub-section (6-a) granting or refusing to grant permission or under sub-section (6-b) ratifying or refusing to ratify the transaction shall have due regard to the following: -*
>
> *(i) whether or not the person to whom land is being transferred is a resident of the Scheduled Area;*
>
> *(ii)the purpose to which land shall be or is likely to be used after the transfer;*
>
> *(iii)whether the transfer serves, or is likely to serve or prejudice the social, cultural and economic interest of the residents of the Scheduled Area;*
>
> *(iv)whether the consideration paid is adequate;*
>
> *(v)whether the transaction is spurious or benami; and*
>
> *(vi)such other matters as may be prescribed.*
>
> *The decision of the Collector granting or refusing to grant the permission under sub-section (6-a) or ratifying or refusing to ratify the transaction of transfer under sub-section (6-b), shall be final,*

notwithstanding anything to the contrary contained in this Code.

Explanation.-For the purpose of this sub-section,-
(a)"Scheduled Area" means any area declared to be a Scheduled Area within the State of Madhya Pradesh under paragraph 6 of the Fifth Scheduled to the Constitution of India;
(b)the burden of proving that the transfer was not spurious, fictitious or benami shall lie on the person who claims such transfer to be valid."

12. We cannot but observe that sub-section (6-c) applies only to orders under sub-sections (6-a) & (6-b). However, we would still consider the plea taken, since a ratification or refusal to ratify under sub-section (6-b) could apply to sub-section (6), though there is no ratification made mandatory therein; as is compulsory under the proviso to sub-section (6-a). Clause (i) and (iii), as extracted above, is not applicable to the instant case, since admittedly the land is not located in a scheduled area. So far as clause (ii) is concerned, sub-

section (6-ee) prohibits any diversion of use of the land for a period of 10 years from the date of transfer, which condition has been prescribed by the Additional Commissioner in the order granting permission. As far as clause (iv) is concerned, we have already noticed that the consideration paid is far more than the market value, as specifically noticed by the Additional Collector in the order granting permission. Clause (v) has also been dealt with, when the Additional Collector found that the transaction for which the permission is sought cannot be termed to be sham transaction. We need not dwell upon clause (vi), since no prescription made or violation of such a prescription has been argued before us.

13. We already noticed that as per our order dated 20.03.2025, a counter affidavit has been filed wherein the report of the Patwari, relied on by the Additional Collector has been produced as Annexure A-4. The Village Patwari has dealt with sixteen points, comprehensively covering any apprehension or

suspicion regarding the owners of the land, who are members of indigenous tribes, being deprived of their property by an irregular act or an illegal device, which is a sham transaction.

14. In so far as the question of limitation, the impugned order has relied on a Full Bench decision of the Madhya Pradesh High Court in ***Ranveer Singh since dead through L.R.s v. State of M.P.***[2]***.*** Therein the provision under Section 50, conferring revisional power on the Board/ Commissioner/Settlement Commissioner/ Collector or the Settlement Officer was found to have prescribed a limitation of 60 days to file an application before the Officers other than the Board of Revenue and 90 days to the Board, from the date of the order sought to be revised. The Full Bench found that though a limitation is provided for filing an application, there is no upper limit provided for exercise of such powers, which according to the Full Bench, cannot be deemed to have

[22] 2010 SCC OnLine MP 325

conferred unfettered right on the revisional authority to exercise this power at any point of time, on a mere whim of the authority. After looking at various decisions of this Court and also the provisions of the Code of 1959, an upper limit of 180 days was prescribed for exercise of such powers. We need not dwell upon that controversy at this point since we have found on merits that the order is sustainable.

15. In this context, we also notice that the revisional power as provided under Section 50 could have been exercised by the Collector himself, which he chose not to do and referred the matter to the Commissioner.

16. On the above reasoning, we find that the Additional Collector had exercised the power under Section 165 (6) (ii) properly and within his jurisdiction. The consideration leading to the grant of permission also have been dealt with by us; found to be perfectly in order. The exercise of the revisional power under Section 50 of the Code of 1959, according to us was

erroneous and on a flawed understanding of the provisions in the Code of 1959. We find absolutely no reason to interfere with the order of the learned Single Judge and therefore, the appeal is dismissed.

17. Pending applications, if any, shall also stand disposed of.

..... J.
(SUDHANSHU DHULIA)

..... J.
(K. VINOD CHANDRAN)

NEW DELHI;
APRIL 08, 2025.