



2025:CGHC:505

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPT No. 159 of 2024

- 1 - Deepak Agrawal S/o Devkishan Agrawal Aged About 63 Years.
 - 2 - Sanjay Agrawal S/o Devkishan Agrawal Aged About 61 Years.
 - 3 - Rajesh Agrawal S/o Devkishan Agrawal Aged About 59 Years
 - 4 - Jyoti Agrawal D/o Devkishan Agrawal Aged About 65 Years.
 - 5 - Smt. Uma Bai W/o Late Trilokinath Agrawal Aged About 90 Years.
 - 6 - Vijay Kumar S/o Trilokinath Agrawal Aged About 68 Years (Died) Through LRs.-
 - 6.1 - Smt. Shanti Bai Agrawal W/o Late Vijay Agrawal Aged About 67 Years R/o Main Road, Sadar Ward Jagdalpur, Bastar (C.G.)
 - 6.2 - Smt. Neha Agrawal D/o Late Vijay Agrawal R/o Purani Basti, In Front Of Agrasen College, Raipur (C.G.)
 - 6.3 - Nisha Agrawal D/o Late Vijay Agrawal Aged About 40 Years R/ Purani Basti, Near Gopal Mandir, Kayasta Para, Raipur (C.G.)
 - 7 - Smt. Aruna Bai D/o Late Trilokinath Agrawal Aged About 80 Years.
 - 8 - Smt. Shashikala D/o Late Trilokinath Agrawal Aged About 70 Years.
 - 9 - Smt. Beena D/o Late Trilokinath Agrawal Aged About 72 Years.
 - 10 - Smt. Madhu D/o Late Trilokinath Agrawal Aged About 65 Years.
- All are R/o Main Road Pratapdev Ward, Jagdalpur, District Bastar (C.G.)

... **Petitioner(s)**

versus

- 1 - Property Tax Assessment Officer Office Of Municipal Corporation Jagdalpur, New Bus Stand Road
- 2 - State Of Chhattisgarh Through Collector, District Office Jagdalpur (C.G.)
- 3 - Smt. Shanti Narayan W/o Late Udaynarayan Aged About 86 Years R/o Jagdalpur, District Bastar (C.G.)
- 4 - Shri Kuldeep Narayan S/o Late Udaynarayan Aged About 56 Years R/o Jagdalpur, District Bastar (C.G.)
- 5 - Smt. Meena D/o Late Udaynarayan Aged About 66 Years R/o Jagdalpur, District Bastar (C.G.)

... **Respondents**

For Petitioners	: Mr. Sushobhit Singh, Advocate.
For Respondent No. 1	: Ms. Shruti Prammar, Advocate on behalf of Mr. Ashutosh Singh Kachhawaha, Advocate.
For State/respondent No. 2	: Mr. Abhishek Singh, Panel Lawyer.

Hon'ble Shri Justice Narendra Kumar Vyas

Order On Board

03.01.2025

1. The petitioner has preferred this petition under Article 226 of the Constitution of India assailing order dated 31.07.2018 by which the Municipal Corporation has imposed property tax on petitioners' property to the tune of Rs. 2,44,440/- and also challenged order dated 09.07.2024 passed by the learned Second Additional District Judge, Bastar at Jagdalpur in Misc. Civil Appeal No. 14/2018 by which the appeal preferred by the petitioners against order imposition of property tax, has been rejected.
2. Learned counsel for respondent No. 1 as well as State would raise objection regarding maintainability of the writ petition under Article 226 of the Constitution of India challenging order passed by the appellate authority while exercising power under Section 149 of the Municipal Corporation Act. They would further submit that the District Court is amenable revisional jurisdiction of this Court as per Section 115 of the Civil Procedure Code as such would pray for dismissal of the writ petition.
3. I have heard learned counsel for the parties and perused the documents place on record with utmost satisfaction as well as the relevant provisions of Municipal Corporation Act, 1956 (for short "the Act, 1956")
4. From bare perusal of Section 149 of the Act, 1956, it is quite vivid that the District Judge is Appellate Authority of the order passed by assessing officer under the Property Act and the Appellate Authority is

amenable to revisional jurisdiction to the High Court as per Section 115 of the Civil Procedure Code. Accordingly, it is held that the writ petition under Article 226 of the Constitution of India is not maintainable and Civil Revision under Section 115 of the Civil Procedure Code is maintainable. This issue is no more *res integra* as this issue has already been considered and decided by Hon'ble the Supreme Court in case of **Chhagan Lal Vs. The Municipal Corporation Indore [(1977) 2 SCC 409]** wherein it has been held in paragraph 8 as under:-

“8. The second contention is based on section 149 of the Madhya Pradesh Municipal Corporation Act, 1956. It provides that any appeal shall lie from the decision of the Municipal Commissioner to the District Court, when any dispute arises as to the liability of any land or building to assessment. Sub-section (1) of section 149 provides that the decision of the District Court shall be final. It was submitted that the decision of the District Court was therefore final and that the High Court was in error in entertaining a Revision Petition. This plea cannot be accepted for, under section 115 of the Civil Procedure Code the High Court has got a power to revise the order passed by courts subordinate to it. It cannot be disputed that the District Court is a subordinate court and is liable to the revisional jurisdiction of the High Court. That leaves us with the last contention of the appellant that the High Court acted beyond its power as a court of revision. This point will have to be summarily dismissed as the question of want of jurisdiction of the High Court was not raised before the High Court and therefore cannot be allowed to be raised in this Court for the first time. The learned counsel for the appellant pleaded that the question involves total lack of powers of the High Court and this Court should hold that the order of the High Court is without jurisdiction. This Court has laid down the principles governing interference under section 115 of the Civil Procedure Code in *Baldevdas Shivilal & Anr. v. Filmistan Distributors (India) (P) Ltd. & Ors.*, (1) *M/s. D.L.F. Housing and Construction Co. (P) Ltd. v. Sarup Singh and Ors.*, (1) and *The Managing Director (MIG) Hindustan Aeronautics Ltd. Balanagar Hyderabad and Anr. v. Ajit Prasad Tarway, Manager (Purchase and Stores) Hindu- stan Aeronautics Ltd. Balanagar Hyderabad*. These cases have been referred to in the recent decision of this Court in *The Municipal Corporation of Delhi v. Suresh Chandra Jaipuria and Anr.* and the attention of the learned Judges of the

High Court was drawn to the law declared by this Court. We consider it unnecessary to discuss the law on the subject over again as this appeal is liable to be dismissed on the ground that the point was not taken before the High Court and the discretion of this Court to interfere or not is beyond question.”

5. In view of the above-stated legal position, I am of the view that the writ petition is not maintainable and the Civil Revision is maintainable. The petitioners have alternative efficacious remedy of filing Civil Revision under Section 115 of the Civil Procedure Code.
6. Accordingly, the instant writ petition stands disposed of granting liberty to the petitioners to file duly constituted Civil Revision.
7. The certified copy of the impugned order that has been filed in this petition be returned back to the counsel for the petitioners after obtaining photocopy of the same.

Sd/-
(Narendra Kumar Vyas)
Judge