

Pvt. Ltd. The rulers of Dewas Senior State also owned a palace called "Anand Bhavan Palace and land which were included in the list of private property as ex-rulers of the erstwhile Dewas Senior State.

(iii) The proceedings were initiated under the Ceiling Act against the petitioner by the Additional Commissioner, Ujjain exercising the powers of the competent authority under the Ceiling Act, since the land was partly in Dewas District and partly in Ratlam District and the final order was passed by the competent authority on 18.1.1999 against the petitioner.

(iv) The petitioner filed an appeal against the aforesaid order dated 18.1.1999 u/s. 41 of the Ceiling Act before the Board of Revenue. The Board of Revenue allowed the appeal vide order dated 19.5.2006 holding that the order dated 18.1.1999 is unlawful and accordingly quashed all actions and proceedings against the petitioner initiated under the Ceiling Act.

(v) After the lapse of four years, the Board of Revenue has passed the order dated 22.5.2010 in exercise of suo motu power to review its own order dated 19.5.2006. The petitioner appeared before the Board of Revenue by raising an objection that in the Ceiling Act, there is no such provision of review. The provisions of revenue u/s. 51 of the M.P. Land Revenue Code (MPLRC) are not applicable to the authorities under the Ceiling Act. The petitioner also raised an objection about the period of limitation for exercising power of review.

(vi) The Board of Revenue has rejected the aforesaid contention of the petitioner and registered the case as Suo Motu Review 712/PBR/10-Dewas and issued the show-cause notice. The petitioner replied to the show-cause notice in detail and also

raised a preliminary objection that the review is not maintainable. On 22.9.2010, the petitioner filed the additional reply as well as written arguments on 22.12.2010. Vide order dated 29.4.2011, the Board of Revenue has disallowed the preliminary objections by holding that u/s. 51 of MPLRC the review is maintainable and fixed the case for final arguments. Being aggrieved by the aforesaid order, the petitioner has filed the present petition.

Shri A.K. Chitale, learned senior counsel appearing for the petitioner, submitted that the Board of Revenue has failed to consider the well established principle of law that judicial or quasi judicial authority cannot review its own order unless the power of review is expressly conferred upon it by the statute. The Board of Revenue has exercised the power of review under the Ceiling Act in which there is no such provision for review like Section 51 of the MPLRC. Even if the Board of Revenue has borrowed the provision of Section 51 of MPLRC in order to exercise the power of review, such review is maintainable only against the order passed under the MPLRC subject to Section 44 and 50 of the MPLRC. There is limitation prescribed under the MPLRC for exercising the power of review. Assuming without admitting that the order under the Ceiling Act can be reviewed, but the scope of review is very limited. As per sub-section (2) of Section 51 of MPLRC, no order shall be reviewed except on the grounds provided for in the CPC. In the CPC, the provision of Order 47 Rule 1 and by virtue of sub-rule (1)(c), there has to be a discovery of new or important matter or evidence which, after the exercise of due diligence was not within his knowledge or could not be produced by him at the time when the decree was

passed. Therefore, in view of such limited scope of review, the reviewing authority cannot examine the order of its predecessors as an appellate authority by re-assessing the evidence. The power of review cannot be exercised on the ground that earlier decision was erroneous on merits or a different view than the one taken in the earlier decision was possible. From the Explanation appended to Order 47 Rule 1, it is clear that subsequent change of judicial thinking is not a ground for review of a judgment which has already attained finality. The Full Bench of this Court in the case of **Kishori Singh V/s. State of M.P. : AIR 2011 MP 27** has held that reasonable time for exercising suo motu power of review u/s. 50 of the MPLRC would be 180 days in case of irreparable loss to the petitioner or within a period of one year in case the petitioner is not put to irreparable loss. Hence, the Board of Revenue cannot be permitted to start review proceedings after lapse of four years when the order dated 19.5.2006 in appeal u/s. 41 of the Ceiling Act has attained finality. In support of his contention, he has placed reliance over the judgment of this Court in the case of **Biharilal V/s. State of M.P. : 2010 RN 124** in which it has been specifically held that the competent authority under the Repeal Act i.e. Urban Land (Ceiling & Regulation) Act is not vested with the power of review. The provisions of Section 51 of the MPLRC not attracted. Learned senior counsel for the petitioner also placed reliance over the judgment of this Court in the case of **Chitra Rekha Bai @ Usha Devi V/s. Board of Revenue : 1995 RN 150** in which it has been held that the power of review is a creature of statute and the Ceiling Act does not confer any such power of review, hence, the same cannot be exercised. In

support of the ground that the power of review has to be exercised within reasonable time, he has placed reliance over the judgment passed by the apex Court in the case of **M.P. Housing Board V/s. Shiv Shankar Mandil : (2008) 14 SCC 531.**

Shri Chitale, learned senior counsel for the petitioner, further submitted that even if it is held that the Board of Revenue is having power to review its own order, but such power cannot be exercised beyond the period of limitation. The power of review could be exercised within a reasonable period. The Full Bench of this Court in the case of **Ranveer Singh V/s. State of M.P. : AIR 2011 MP 27** has held that the revisional authority can exercise the power of review u/s. 50 of the MPLRC within a period of 180 days from the date of knowledge, therefore, same analogy applies to the provision of review also. There is no limitation for exercising power of review in the Ceiling Act. In support of his contention, he has also placed reliance over the judgment of apex Court in the case of **M/s. S.B. Gurbaksh Singh V/s. Union of India : (1976) 2 SCC 181.**

Shri Chitale further submitted that even in the Land Acquisition Act, 1894, there is no provision for review of the award once passed u/s. 11 of the Act. The only provision is for correction of clerical errors in the award which is provided u/s. 13A of the Act and such correction can be made any time but not later than six months from the date of the award. The apex Court in the case of recent judgment passed in the case of **Naresh Kumar V/s. Govt. of NCT of Delhi (Civil Appeal Nos. 6638 and 6637/2010** decided on 17.10.2019) has held that the power of review can be exercised only when the statute provides for the

same. In absence of any such provision in the concerned statute, such power of review cannot be exercised by the authority concerned. The jurisdiction of review can be derived only from the statute. He concluded his argument by submitting that the Board of Revenue has travelled beyond its jurisdiction while passing the order dated 22.5.2010 as well as order dated 29.4.2011, therefore, both the orders are illegal and liable to be set aside.

Per contra, Shri Vinay Gandhi, learned Govt. Advocate appearing for the respondents/State, submitted that the family of the petitioner comprising 7 members is only entitled to hold the land admeasuring 525 Acres. The petitioner has sold 31.446 Acres of land situated in Village Jalalkhedi and 237.18 Acres of land situated at Village Nagda after the publication of Ceiling Act, therefore, the said transaction has been done in order to nullify the provisions of the Ceiling Act. Thereafter, on 13.9.1962, a Trust has been created and major part of the land has been transferred. The family of the petitioner comprising of 7 members were holding 1834.33 Acres of land in Village Nagda and 400.21 Acres in Village Raghogarh in total 2234.54 Acres and out of which, the petitioner with all 7 family members is entitled to hold 525 Acres only. The Additional Commissioner vide order dated 15.1.1999 had rightly passed the order, but the Board of Revenue vide order dated 19.5.2006 gave a wrong interpretation of definition envisaged u/s. 2('Ja') and 2('Jha') of the Ceiling Act and in fact, after the independence, the petitioner was holding surplus land, therefore, the Board of Revenue has rightly exercised the power of review. The Board of Revenue has also held that 2234.54 Acres of land has been declared as a

forest land, but the same cannot be part of the forest land and 160.11 Acres of land has wrongly been excluded by virtue of urban land. Land admeasuring 21.56 Acres has been released as the same is involved in various Court-cases. 291.34 Acres of land has been released treating it to be a trust property. Hence, out of 2234.54 Acres, the Board of Revenue has held that the petitioner is having only 90.45 Acres of land. The petitioner has been given undue benefit of surplus land worth of Crores of rupees which is liable to be vested with the State Government, therefore, in order to protect the Government land, the Board of Revenue has rightly exercised the power of review.

In order to refute the argument of Shri Chitale that there is no power of review in the Ceiling Act, Shri Gandhi, learned Govt. Advocate, emphasized that u/s. 44 of the MPLRC, appeal shall lie from every original order passed under the Code or the rules made thereunder, but in case of power of revision u/s. 50 and power of review u/s. 51, the Board and every Revenue Officer may on its own motion or on the application of any party interested review any order passed by itself or by any of its predecessors and pass such order in reference thereto as it thinks fit. This power has not been confined only to the order passed under the MPLRC but passed under any other enactment. In support of his contention, he has placed reliance over the judgment passed by the High Court of Rajasthan in the case of **Hem Singh V/s. The Collector : AIR 1976 Raj. 187.**

Shri Gandhi, learned Govt. Advocate, further submitted that the order which is illegal can be reviewed at any time and for which no limitation is provided u/s. 51 of the MPLRC. In support of his contention, he has placed reliance of

this Court in the case of **Aslam Gani Patrawala V/s. Jasbeer Singh** (W.P. No.6296/2010 decided on 23.4.2012) and in the case of **Jeevan Lal V/s. State of M.P. : 2008 (2) MPLJ 4**. He has also placed reliance over the judgment of apex Court in the case of **Collector V/s. Katiji : AIR 1987 SC 1353** in which it has been held that for condoning the delay, necessity of liberal approach should be extended to the State Government also. Therefore, in view of the writ petition is liable to be dismissed. The petitioner is having remedy to approach this Court again after passing of the final order by the Board of Revenue as the present petition has been filed against an interlocutory order. The Board of Revenue will consider all the grounds which have been raised in this petition.

I have heard Shri A.K. Chitale, learned senior counsel appearing for the petitioner and Shri Vinay Gandhi, learned Govt. Advocate appearing for the respondents/State at length and perused the material available on record.

The petitioner has raised purely a legal issue in the present petition. According to the petitioner, order dated 19.5.2006 was passed by the Board of Revenue under the provisions of Ceiling act and thereafter, vide order dated 22.5.2010, the Board of Revenue has suo motu exercised the power of review and re-opened the case against the petitioner. The petitioner has raised preliminary objection about the power of Board of Revenue to exercise the review jurisdiction in absence of any provision under the Ceiling Act.

The State Government has enacted the Act called as M.P. Ceiling on Agricultural Holdings Act, 1960 with a view to provide more equitable distribution of land by fixing ceiling on

existing holdings as well as on future acquisition of agricultural lands. The surplus land vesting in Government will be allotted on payment of occupancy price to needy persons and cooperative farming societies in certain priorities. The Ceiling Act provides for imposition of ceiling on agricultural holdings, acquisition and disposal of surplus land and matters ancillary thereto. The object of the Ceiling Act is to provide the land to needy or landless persons by the State Government and for giving effective implementation of it, the authorities under the MPLRC have been empowered by way of notification.

Section 2(e) of the Ceiling Act defines “competent authority” and it means – in respect of a holder whose entire land is situated within a sub-division, the Sub Divisional Officer may be appointed by the State Government. Likewise, if the land is situated more than one sub-division of same district, the Government may appoint competent authority. U/s. 41 of the Ceiling Act against every order of a revenue officer or competent authority under this Act, an appeal shall lie to the authority competent to hear the appeal under sub-section (1) of Section 44 of the MPLRC. Likewise, the power of revision has been vested u/s. 42 of the Ceiling Act with the Board of Revenue or the Commissioner. Section 2(e), Section 41 and 42 of the Ceiling Act are reproduced below :

“2. Definitions - (e) "competent authority" means --

(i) in respect of a holder whose entire land is situate within a Sub-Division, the Sub-Divisional Officer and/or such other Revenue Officer, not below the rank of a Deputy Collector as may be appointed by the State Government;

(ii) in respect of a holder whose entire land is situate in more than one Sub-Division of the same district, the Collector or the Additional Collector and where there is no Additional Collector for the district such Deputy Collector, as may be empowered by the State Government to exercise the powers of Collector under the Madhya Pradesh Land Revenue Code, 1959

(No. 20 of 1959) for the purpose; and

(iii) in respect of a holder whose land is situate in more than one district such authority as may be appointed by the State Government;”

“**41. Appeals-** Except where the provisions of this Act provide otherwise, against every order of a Revenue Officer or competent authority under this Act or the rules made thereunder, an appeal shall lie:

(i) if such order is passed by a Revenue Officer either as competent authority or otherwise to the authority competent to hear appeals under Sub-section (1) of Section 44 of the Madhya Pradesh Land Revenue Code, 1959 (No. 20 of 1959) from an order passed by a Revenue Officer of the same rank under the said Code;

(ii) if such order is passed by the competent authority where such authority is an officer other than a Revenue Officer appointed under sub-clause (iii) of clause (e) of section 2 to the Board of Revenue as if such officer were an Additional Settlement Commissioner appointed under section 65 of the said Code :

Provided that the surplus land vested in the State Government shall not revert to the holder thereof as a consequence of remand of the case.”

“**42. Revision-** The Board of Revenue or the Commissioner may on its/his motion or on the application by any party at any time for the purpose of satisfying itself/himself as to the legality or propriety of any order passed by or as to the regularity of the proceedings of any competent authority subordinate to it/him call for and examine the record of any case pending before or disposed of by such competent authority, and may pass such orders in reference thereto as it/he thinks fit:

Provided that it/he shall not vary or reverse any order unless notice has been served on the parties interested and opportunity given to them for being heard: Provided further that no application for revision shall be entertained against an order against which an appeal is provided under this Act :

Provided also that the surplus land vested in the State Government shall not revert to the holder thereof as a consequence of remand of the case.”

The Board of Revenue is established u/s. 3 of the MPLRC and according to which, there shall be a Board of Revenue of Madhya Pradesh consisting of a President and two or more other members as the State Government may, from time to time, think fit to appoint. Section 7 of the MPLRC provides for jurisdiction of Board and according to which, the Board shall exercise the powers and discharge the functions conferred upon it by or under the MPLRC and such functions of the State

Government as may be specified by notification issued by the State Government in that behalf and such other functions as have been conferred or may be conferred by or under any Central or State Act. Section 7 of the MPLRC is reproduced below :

“7. Jurisdiction of Board. — (1) The Board shall exercise the powers and discharge the functions conferred upon it by or under this Code and such functions of the State Government as may be specified by notification by the State Government in that behalf and such other functions as have been conferred or may be conferred by or under any Central or State Act on the Chief Revenue Authority or the Chief Controlling Revenue Authority.

(2) The State Government may, subject to such conditions as it may deem fit to impose, by notification, confer upon, or entrust to the Board or any member of the Board additional powers or functions as signed to the State Government by or under any enactment for the time being in force.”

By way of notification the Board of Revenue is empowered to hear the appeals so also the revisions under the Ceiling Act. Section 44 of the MPLRC provides remedy of appeal and appellate authorities and according to which, an appeal shall lie from every original order under this Code or the rules made thereunder, but the same is not there in Section 50 and 51 of the MPLRC under which the Board of Revenue exercises the power of revision and review. U/s. 50 of the MPLRC, the Board of Revenue may, at any time on its own motion or on an application made by any party or the Commissioner or the Settlement Commissioner or the Collector or the Settlement Officer may, at any time on his own motion, call for the record of any case which has been decided or proceedings in which an order has been passed by any Revenue Officer subordinate to it. This power is not confined to the order passed under the MPLRC. Likewise in exercise of review also, u/s. 51 of the

MPLRC, the Board and every Revenue Officer may, either on its own motion or on the application of any party interested review any order passed by itself/himself or by any of its/his predecessors in office and pass such order in reference thereto as it thinks fit subject to certain conditions as per the proviso. The power of review is also not confined to the order passed under the MPLRC. It is not in dispute that the Ceiling Act as well as MPLRC both deals in the field of agricultural lands. The 'order' is defined in Section 56 of the MPLRC which means, in this Chapter, unless the context otherwise requires, expression "order" means the formal expression of the decision given by the Board or a Revenue Officer in respect of any matter in exercise of its/his powers under this Code or any other enactment for the time being in force, as the case may be. Therefore, according to conjoint reading of Section 50, 51 and 56 of the MPLRC, the Board of Revenue is empowered to exercise the power of revision as well as power of review of any order passed under the MPLRC or any other enactment for the time being in force. Section 50, 51 and 56 of the MPLRC are reproduced below :

“50. Revision.— (1) The Board may, at any time on its motion or on the application made by any party or the Collector or the Settlement Officer may, at any time on his motion, call for the record of any case which has been decided or proceeding in which an order has been passed by any Revenue Officer subordinate to it or him and in which no appeal lies thereto, and if it appears that such subordinate Revenue Officer,—

(a) has exercised a jurisdiction not vested in him by this Code, or

(b) has failed to exercise a jurisdiction so vested, or

(c) has acted in the exercise of his jurisdiction illegally or with material irregularity the Board or the Collector or the Settlement Officer may make such order in the case as it or him thinks fit;

Provided that the Board or the Collector or the Settlement Officer shall not, under this section, vary or reverse any order made, or any order deciding an issue, in the course of

the proceeding, except where,—

(a) The order, if it had been made in favour of the party applying for revision to the Board, would have finally disposed of the proceedings, or

(b) The order, if allowed to stand, would occasion a failure of justice or cause irreparable injury to the party against whom it was made.

(2) The Board or Collector or the Settlement Officer shall not, under this section vary or reverse any order against which an appeal lies either to the Board or to any Revenue Officer subordinate thereto.

(3) A revision, shall not operate as a stay of proceeding before the Revenue Officer except where such proceeding is stayed by the Board or the Collector or the Settlement Officer, as the case may be.

(4) No application for revision shall be entertained, —

(a) against an order appealable under this Code;

(b) against an order to the Settlement Commissioner under Section 210;

(c) unless presented within sixty days to the Board :

Provided that where the order, against which the application for revision is being presented, made before the coming into force of the Madhya Pradesh Land Revenue Code (Amendment) Act, 2011, in such case revision shall be entertained within ninety days from the date of order.

(5) No order shall be varied or reversed in revision unless notice has been served on the parties interested and opportunity given to them of being heard.

(6) Notwithstanding anything contained in 'sub-section (1),—

(i) where proceedings in respect of any case have been commenced by the Board under sub-section (1), no action shall be taken by the Collector or the Settlement Officer in respect thereof ;

(ii) where proceeding in respect of any such case have been commenced by the Collector or the Settlement Officer under sub-section (1), the Board may either refrain from taking any action under this section in respect of such case until the final disposal of such proceedings by the Collector or the Settlement Officer, as the case may be, or may withdraw such proceedings and pass such order as it may deem fit.”

“51. Review of orders.— (1) The Board and every Revenue Officer may, either on it s/hi s own motion or on the application of any party interested review any order passed by itself /himself or by any of it s/hi s predecessors in office and pass such order in reference thereto as it/he thinks f it:

Provided that —

(i) if the Commissioner, Settlement Commissioner, Collector or Settlement Officer thinks it necessary to review any order which he has not himself passed, he shall first obtain the sanction of the Board, and if an officer subordinate to a Collector or Settlement Officer proposes to review any order, whether passed by himself or by any predecessor, he shall first obtain the sanction in writing of the authority to whom he is immediately subordinate;]

(i-a) no order shall be varied or reversed unless notice

has been given to the parties interested to appear and be heard in support of such order;

(ii) no order from which an appeal has been made, or which is the subject of any revision proceedings shall, so long as such appeal or proceedings are pending be reviewed;

(iii) no order affecting any question of right between private persons shall be reviewed except on the application of a party to the proceedings, and no application for the review of such order shall be entertained unless it is made within [sixty days] from the passing of the order : Provided that where the order, against which the application for review is being presented, made before the coming into force of the Madhya Pradesh Land Revenue Code (Amendment) Act, 2011, in such case review shall be entertained within ninety days from the date of order.]

(2) No order shall be reviewed except on the grounds provided for in the Code of Civil Procedure, 1908 (V of 1908) .

(3) For the purposes of this section, the Collector shall be deemed to be the successor in office of any Revenue Officer who has left the district or who has ceased to exercise powers as a Revenue Officer and to whom there is no successor in the district.

(4) An order which has been dealt with in appeal or on revision shall not be reviewed by any Revenue Officer subordinate to the appellate or revisional authority.”

“**56. Construction of order.**— In this Chapter, unless the context otherwise requires, expression "order" means the formal expression of the decision given by the Board or a Revenue Officer in respect of any matter in exercise of its/his powers under this Code or any other enactment for the time being in force, as the case may be.”

When any power and functions under any Central or State Act are conferred on the Board of Revenue by the State Government u/s. 7 of MPLRC, then its orders are covered by Section 51 of the MPLRC. When the Board of Revenue has passed the order u/s. 41 or 42 of Ceiling Act, that would be an order passed u/s. 56 of the MPLRC by virtue of power conferred u/s. 7 of the MPLRC by State Government.

In the case of **N.K. Doongaji V/s. State of M.P. : 1980 RN 225** (High Court), the Board of Revenue has declined to review its own order passed in Excise Act, the Division Bench of this Court has held that Section 51 read with Section 56 of MPLRC together conferred the power of review in respect of

any order made under the Code or any other enactment. Para 4 of the aforesaid judgment is quoted below :

“4. As regards the petition filed by Doongaji, the Board of Revenue, by order dated 22nd March 1978, rejected the application for review solely on the ground that there was no power of review under the Excise Act or the rules made thereunder. The Board of Revenue was not right in rejecting the application for review because the power of review is derived from section 51 read with section 56 of M.P. Land Revenue Code. These two sections read together confer the power of review in respect of any order made under the Code or under any other enactment (See *Govind Prasad Agarwal v. State of M.P.* 1968 R.N. 512). The power conferred is wide enough to embrace orders passed under the rules made under the Excise Act. Misc. Petition No.175 of 1978 has, therefore, to be allowed.”

Therefore, when the Board of Revenue has been given power of revision, then it can exercise of power of review u/s. 51 of the MPLRC because the revenue authority appointed under the MPLRC has been borrowed as competent authority under the Ceiling Act, hence, that authority or Board comes with all the powers given in the MPLRC.

The Division Bench of this Court in the case of **Govind Prasad Agarwal V/s. State of M.P. : 1969 MPLJ 704** while dealing in the case of Abolition Act has held that the Collector is competent u/s. 51 of the MPLRC to review an order passed by a Dy. Commissioner on 14.5.1957 u/s. 6(2) of the Abolition Act even assuming that no review is permissible under the Abolition Act. The Division Bench has considered the definition of 'order' in Section 56 of the MPLRC which include 'order' passed under the MPLRC or any other law and the provisions of Section 51 apply to all the orders passed by the revenue authorities.

In the case of **Ramdeen V/s. State of M.P. : 1979 RN 553** (High Court), the Division Bench of this Court has held

as under :

“6 . In so far as an appeal is concerned, the Ceiling Act provides that there shall be only one appeal before the Board of Revenue and thereafter the order becomes final. No appeal is provided under the Land Revenue Code against the decision of the Board of Revenue. The finality expressed in the latter part of sub-section (3) of section 4 of the Ceiling Act means that there shall be no further appeal against the decision of the Board of Revenue. The Board of Revenue is given the power of review by section 51 of the Code. The language of the section does not confine its power to an order made under the M. P. Land Revenue Code along as in the case under section 44. The order of the Board of Revenue passed in appeal under sub-section (3) of section 4 of the Ceiling Act would be as much an order within the meaning of section 56 as any passed under the Code. Section 44 of the Code dealing with the provisions of appeal and appellate authority, by the opening words used in the section confines the rights of appeal in regard to orders made under the Code and the rules made therefore such words curtailing the sweep of the power and restricting itself to the orders under the Code are significantly absent in section 51. The scheme of the Code shows that it was not intended to limit the power of review of a Revenue Officer to orders passed under the Code or rules made thereunder only. The Board of Revenue while passing the order under section 4(3) of the Ceiling Act passed it with all the incidence of an order under section 56 and the order was amenable to section 51 of the Code. It is, therefore, logical to conclude that the Board of Revenue would have powers of review in respect of decisions passed by it under the Ceiling Act.”

In view of the above discussion, I do not find any illegality in the impugned order dated 29.4.2011 passed by the Board of Revenue. Hence, the writ being devoid of merit and substance is hereby dismissed with costs of **Rs.10,000/- (Ten Thousand)**.

**(VIVEK RUSIA)
JUDGE**

Alok/-