

Jitendra Singh vs The State Of Madhya Pradesh on 6 September, 2021

Bench: M.R. Shah, Aniruddha Bose

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IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

SPECIAL LEAVE PETITION (C) No. 13146/2021

JITENDRA SINGH

Petitioner(s)

VERSUS

THE STATE OF MADHYA PRADESH & ORS.

Respondent(s)

ORDER

1. Feeling aggrieved and dissatisfied with the impugned judgment and order dated 13.03.2020 passed by the High Court of Madhya Pradesh, Principal Seat at Jabalpur in M.P. No. 508 of 2019, by which the High Court has allowed the said writ petition and has quashed and set aside the order passed by the Additional Commissioner, Rewa Division, Rewa, directing to mutate the name of the petitioner herein in the revenue records, which was sought to be mutated on the basis of the will, the original respondent no.6 has preferred the present special leave petition.

2. That the petitioner herein filed an application under Section 109/110 of the Madhya Pradesh Land Revenue Code to mutate his name in the revenue records in respect of Khasra No. 41/03, 101/03, 314/03, 102/02, 132/02, 133/03, 142/02, 145/02, 146/02, 313/01, total area of 4.53 acres situated in village Dudha, Tehsil Rampur Baghelan, District Satna, on the basis of the alleged will executed by one Smt. Ananti Bai, widow of Bhagwandeem Bargahi – his maternal grandmother. The alleged will was executed on 20.05.1998. It is required to be noted that though Reason:

initially it was the case on behalf of the petitioner that Smt. Ananti Bai died on 20.05.1998, however, subsequently, it was stated that there was a typographical error and Smt. Ananti Bai died on 27.08.2011. It is to be noted that the application for mutation was filed on 9.8.2011, i.e., even prior to the death of Smt. Ananti Bai. Therefore, even the application was filed against Ananti Bai when she was alive.

3. By order dated 30.09.2011, the Nayab Tehsildar, District Satna directed to mutate the name of the petitioner herein in the revenue records in respect of the aforesaid lands solely on the basis of the alleged will dated 20.05.1998. The legal heirs and

daughters of Smt. Ananti Bai preferred appeal before the Sub-Divisional Officer, Tehsil Rampur Baghelan, District Satna, Madhya Pradesh. The SDO allowed the said appeal and set aside the order passed by the Nayab Tehsildar directing to mutate the name of the petitioner herein in the revenue records. The petitioner herein preferred appeal before the learned Additional Commissioner, Rewa Division, Rewa challenging the order passed by the SDO dated 12.09.2018. The learned Additional Commissioner, Rewa Division, Rewa allowed the said appeal and quashed and set aside the order passed by the SDO dated 12.09.2018 and consequently the order passed by the Nayab Tehsildar directing to mutate the name of the petitioner herein in the revenue records on the basis of the alleged will dated 20.05.1998 came to be restored. By the impugned judgment and order, the High Court has set aside the order passed by the Additional Commissioner observing that once the will is disputed and even otherwise the petitioner who is claiming rights/title on the basis of the will executed by the deceased Ananti Bai, the remedy available to the petitioner would be to file a suit and crystalise his rights and only thereafter the necessary consequence shall follow.

4. Feeling aggrieved and dissatisfied with the impugned judgment and order passed by the High Court, the original applicant has preferred the present special leave petition.

5. We have heard Shri Nishesh Sharma, learned Advocate appearing for the petitioner.

It is not in dispute that the dispute is with respect to mutation entry in the revenue records. The petitioner herein submitted an application to mutate his name on the basis of the alleged will dated 20.05.1998 executed by Smt. Ananti Bai. Even, according to the petitioner also, Smt. Ananti Bai died on 27.08.2011. From the record, it emerges that the application before the Nayab Tehsildar was made on 9.8.2011, i.e., before the death of Smt. Ananti Bai. It cannot be disputed that the right on the basis of the will can be claimed only after the death of the executant of the will. Even the will itself has been disputed. Be that as it may, as per the settled proposition of law, mutation entry does not confer any right, title or interest in favour of the person and the mutation entry in the revenue record is only for the fiscal purpose. As per the settled proposition of law, if there is any dispute with respect to the title and more particularly when the mutation entry is sought to be made on the basis of the will, the party who is claiming title/right on the basis of the will has to approach the appropriate civil court/court and get his rights crystalised and only thereafter on the basis of the decision before the civil court necessary mutation entry can be made.

6. Right from 1997, the law is very clear. In the case of Balwant Singh v. Daulat Singh (D) By Lrs., reported in (1997) 7 SCC 137, this Court had an occasion to consider the effect of mutation and it is observed and held that mutation of property in revenue records neither creates nor extinguishes title to the property nor has it any presumptive value on title. Such entries are relevant only for the purpose of collecting land revenue. Similar view has been expressed in the series of decisions thereafter. 6.1 In the case of Suraj Bhan v. Financial Commissioner, (2007) 6 SCC 186, it is observed

and held by this Court that an entry in revenue records does not confer title on a person whose name appears in record-of-rights. Entries in the revenue records or jamabandi have only “fiscal purpose”, i.e., payment of land revenue, and no ownership is conferred on the basis of such entries. It is further observed that so far as the title of the property is concerned, it can only be decided by a competent civil court. Similar view has been expressed in the cases of Suman Verma v. Union of India, (2004) 12 SCC 58; Faquddin v. Tajuddin (2008) 8 SCC 12; Rajinder Singh v. State of J&K, (2008) 9 SCC 368; Municipal Corporation, Aurangabad v. State of Maharashtra, (2015) 16 SCC 689; T. Ravi v. B. Chinna Narasimha, (2017) 7 SCC 342; Bhimabai Mahadeo Kambekar v. Arthur Import & Export Co., (2019) 3 SCC 191; Prahlad Pradhan v. Sonu Kumhar, (2019) 10 SCC 259; and Ajit Kaur v. Darshan Singh, (2019) 13 SCC 70.

7. In view of the above settled proposition of law laid down by this Court, it cannot be said that the High Court has committed any error in setting aside the order passed by the revenue authorities directing to mutate the name of the petitioner herein in the revenue records on the basis of the alleged will dated 20.05.1998 and relegating the petitioner to approach the appropriate court to crystallise his rights on the basis of the alleged will dated 20.05.1998. We are in complete agreement with the view taken by the High Court.

8. The special leave petition is accordingly dismissed.

9. Pending applications shall stand disposed of.

.....J. [M.R. SHAH]J. [ANIRUDDHA BOSE] NEW
DELHI SEPTEMBER 06, 2021 ITEM NO.17 Court 13 (Video Conferencing) SECTION IV-C
SUPREME COURT OF INDIA RECORD OF PROCEEDINGS Petition for Special Leave to Appeal
(C) No. 13146/2021 (Arising out of impugned final judgment and order dated 13-03-2020 in MP No.
508/2019 passed by the High Court of M.P Principal Seat at Jabalpur) JITENDRA SINGH
Petitioner(s) VERSUS THE STATE OF MADHYA PRADESH & ORS. Respondent(s) (FOR
ADMISSION and I.R. and IA No.106233/2021-EXEMPTION FROM FILING C/C OF THE
IMPUGNED JUDGMENT and IA No.106235/2021-EXEMPTION FROM FILING O.T.) Date :
06-09-2021 This petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE M.R. SHAH
HON'BLE MR. JUSTICE ANIRUDDHA BOSE

For Petitioner(s) Mr. Parvesh Singh, Adv.
Dr. Nishesh Sharma, AOR

For Respondent(s)

UPON hearing the counsel the Court made the following ORDER The Special Leave Petition is dismissed in terms of the signed order. Pending applications shall stand disposed of.

(NEETU SACHDEVA)

(NISHA TRIPATHI)

COURT MASTER (SH)

BRANCH OFFICER

(signed order is placed on the file)