

BOMBAY HIGH COURT

Before: Mr. Justice Dama Seshadri Naidu

RAJESH SAICHAND SHARMA – Appellant,

Versus

SUDERSHAN GANGARAM RAJULA – Respondent.

INTERIM APPLICATION (L) NO. 11624 OF 2021

Intervention Application - By Attorney of plaintiff, claiming share in decretal amount - Not maintainable - After passing a decree, court becomes functus officio - Suit for specific performance - A contracts with B for purchasing some property. B defaults. So A sues. In that suit, C, the brother of A, represents A as his power of attorney agent (POA). A few years later, A discharges C from being his POA; he pursues the case independently and gets a decree—not for specific performance but for the return of money. When A wants to withdraw the deposited decretal amount, C, his brother and erstwhile POA, objects. He wants to intervene in the disposed of suit and stake a claim to a part of the decretal amount on the premise that he, too, has contributed to the sale consideration. Essentially, the suit is in a contractual dispute. And that dispute concerns the parties to the [contract](#). In a suit for specific performance, whatever be its outcome, no third party can have the role to play. In a suit for specific performance, a third party's assertion that he has a stake in the subject matter of the suit counts to nothing. What matters is the contract, not the property covered by the contract. Here, the plaintiff sued and had the decree. Thus, he is entitled to the decretal amount. When he wanted to withdraw that amount, somebody else objects. That somebody maybe his brother or his erstwhile agent. However strong that person's right to recovery maybe, he cannot file an intervention application in an already disposed of matter and stay the execution of the decree or nullify the decree without proper judicial recourse. [Para 28, 36]

Cases referred to:-

1. (2013)11 SCC 296, *Ram Prakash Agarwal v. Gopi Krishna*.
2. (2004)2 SCC 601, *Raj Kumar v. Sardari Lal*.
3. AIR 1973 Bom. 330, *E. Ajay Kumar v. Smt Tulsabai*.
4. AIR 1948 Cal. 355, *Prem Sukh Gulgulia v. Babib Ullah*.
5. AIR 1976 MP 148, *Panne Khushali v. Jeewanlal Mathoo Khatik*.
6. AIR 1981 Del. 237, *Raj K. Mehra v. Mrs. Anjali Bhaduri*.

7. AIR 1958 SC 886, *Razia Begum v. Anwar Begum*.

Mr. Sanjiv Sawant, Mr. Abhishek P. Deshmukh, for the Appellant. Sukeshi Bhandari, Akshay Chauhan, Mr. Chandrakant N. Chavan, Mr. Rajesh Sharma, for the Respondent.

JUDGEMENT

Dama Seshadri Naidu, J. - (11th June, 2021) -

Introduction:

1. A contracts with B for purchasing some property. B defaults. So A sues. In that suit, C, the brother of A, represents A as his power of attorney agent (POA). A few years later, A discharges C from being his POA; he pursues the case independently and gets a decree—not for specific performance but for the return of money. When A wants to withdraw the deposited decretal amount, C, his brother and erstwhile POA, objects. He wants to intervene in the disposed of suit and stake a claim to a part of the decretal amount on the premise that he, too, has contributed to the sale consideration.

2. Can C's claim be countenanced? Is such an 'intervention application' maintainable?

Facts:

3. Rajesh Saichand Sharma and Subhash Chandra Saichand Sharma are brothers, now estranged. Rajesh lives in the U.S.A. and Subhash in Mumbai. Initially, Rajesh filed the above suit for specific performance against one Sudarshan Gangaram Rajula. He pleaded that he contracted with Sudarshan to buy a flat and paid a part of the sale consideration. According to him, though he was willing to pay the balance sale consideration and have a regular deed of conveyance in his favour, Sudarshan did not come forward to perform his part of the contract. With that cause of action, Rajesh filed Suit No. 2700 of 2011 before this Court for specific performance. Incidentally, Subhash, his brother, was his power of attorney agent in the Suit.

4. Of course, defendant Sudarshan denied the whole transaction. On the other hand, he pleaded that it was a money transaction camouflaged as an agreement of sale. But we need not visit that controversy. The fact remains that when the suit was pending, in 2017 Rajesh cancelled the power of attorney and pursued the case on his own.

5. Over time, either to prove his bona fides or as an interim step in aid of final adjudication of the suit, Sudarshan deposited certain amounts in the Court. That was based on this Court's interim directions, and the amount remains deposited with a nationalised bank, earning interest.

6. Eventually, this Court, through judgment dated 07.05.2021, decreed the Suit. The disposition of the judgment reads as:

Para 4. Accordingly, the suit is decreed in the sum of Rs. 61 lacs deposited by the

Defendant in this court together with accrued interest thereon towards repayment of the loan advanced by the Plaintiff to the Defendant. There will be no order as to costs. Refund of court fees in accordance with applicable Rules.

Para 5. Drawing up a decree is dispensed with. Prothonotary and Senior Master to allow the Plaintiff to withdraw the amount deposited in court, which is presently lying in fixed deposit/s of Nationalized Bank/s, together with accrued interest thereon till the date of withdrawal of such deposit.

Para 6. This order has been passed in the presence of the Plaintiff, who has joined the VC link.

Para 7. In view of the disposal of the Suit, Notice of Motion No. 1953 of 2019 does not survive and is disposed of. (Italics supplied)

7. From the above operative portion of the judgment, it is evident that Sudarshan had to pay Rs.61 lakhs to Rajesh. And that amount had been deposited when the suit was pending.

8. As a matter of further development, on 12.05.2021, in this disposed of suit, Subhash filed this intervention application. He pleads that he contributed a part of the consideration for the contract and, therefore, he is entitled to a proportionate decretal amount. For the record, we may extract the reliefs Subhash sought in the intervention application. They are these:

(a) That this Hon'ble Court be pleased to pass an order thereby allowing the applicant to intervene and further add the applicant as a necessary party-Defendant No. 2 in Suit No. 2700 of 2011 as the applicant is the affected party;

(b) That the Plaintiff be restrained from withdrawing the entire amount deposited by the Defendant in the office of Prothonotary and Senior Master pursuant to the order passed by this Hon'ble Court on 23rd July 2014 in the Notice of Motion No. 3464 of 2011 from the office Prothonotary and Senior Master;

In the alternative;

That in the event the Plaintiff has already withdrawn the said entire amount, the Plaintiff be directed to deposit the entire amount with the office of Ld. Prothonotary and Senior Master.

(c) That this Hon'ble Court be pleased to pass an order thereby directing the Ld. Prothonotary and Senior Master to pay the amount of Rs. 37,53,818/- along with interest accrued thereon to the Applicant in proportion as recorded in the Order dated 23rd July 2014 in the Notice of Motion No. 3464 of 2011.

In the alternative;

That the Hon'ble Court be pleased to pass an order thereby restoring the present Suit No. 2700 of 2011 to its original file and the present suit be heard on its own merits.

That the Hon'ble Court be pleased to direct the office of Ld. Prothonotary and Senior Master to deposit Rs. 61 Lacs with accrued interest thereon in the Fixed Deposit as directed by this Hon'ble Court by its Order dated 23rd July 2014 till disposal of this present suit.

(d) Pending the hearing and final disposal of this interim application, the Plaintiff be restrained from withdrawing the entire amount from the office of Prothonotary and Senior Master;

(e) Pending the hearing and final disposal of this interim application the office of Ld. Prothonotary and Senior Master be directed to pay the amount of Rs. 37,53,818/- along with interest accrued thereon to the Applicant in proportion as recorded in the Order dated 23rd July 2014 in the Notice of Motion No. 3464 of 2011.

(f) Interim and ad-interim reliefs in terms of prayer clause (c) above;

(g) Cost of this Application. (italics supplied)

9. When Subhash filed the intervention application, soon after that, on 24.05.2021, Rajesh applied to this Court for its leave to withdraw the decretal amount—the amount Sudarshan earlier deposited.

10. On 18.05.2021, this Court passed an interim order, first, doubting whether this intervention application is maintainable? Second, the Court has required both the parties to file pleadings to establish their rival contentions. It wanted, of course, to rule on whether Subhash is entitled to any relief.

11. After filing an additional affidavit setting out the details of the payments he made, Subhash insists that the application be allowed.

Arguments:

Applicant:

12. Shri Sanjiv Sawant, the learned counsel for Subhash, submits that all along Subhash pursued the case, though as a POA. According to him, Rajesh has been staying in the U.S.A. That apart, he also asserts that Subhash contributed a substantial part of the sale consideration—to be precise, Rs. 16 lakh in 2006. But Subhash has not averred in the plaint to that effect, nor has he insisted on his being a co-plaintiff. It was only because the brothers, then, had a cordial relationship, and Subhash was pursuing the case to benefit both brothers—though in the name of his elder brother.

13. To elaborate, Shri Sawant submits that the relationship between the brothers got strained in or about 2014, and Rajesh eventually cancelled the power of attorney in 2017. Though Rajesh has filed a summary suit against Subhash before the City Civil Court, and it is still pending, that suit, however, has nothing to do with the dispute on hand.

14. Shri Sawant emphasises that on 16.04.2012, this Court did observe in its docket

proceedings that both the brothers contributed the sale consideration. So, it is beyond any pale of controversy that Subhash has a stake in the decretal amount. That accepted, if the Court allows Rajesh to withdraw the entire decretal amount, it prejudices Subhash. In this context, Shri Sawant insists that Rajesh has played fraud on Subhash. With that, the whole judicial proceedings stand vitiated. So no procedural limitations can come in the way of this Court's allowing the interlocutory application. That, in fact, serves the cause of justice.

Respondent/Plaintiff:

15. On the other hand, Shri Chandrakant Chavan, the learned counsel for Rajesh, strenuously denies Subhash's assertion. According to him, Rajesh contributed the entire sale consideration, and, therefore, he alone sued. Subhash representing Rajesh as his POA is of no consequence. Shri Chavan also submits that though Rajesh filed Summary Suit No. 1273 of 2016 before the City Civil Court for recovering about Rs.80 lakh, to this day Subhash, as the defendant, has not set up any defence of setting off, adjustment, or counterclaim. Nor has he pleaded that Rajesh owed him money because he contributed a part of the sale consideration.

16. About this Court's incidental observation, as the learned counsel puts it, whether Subhash has contributed any part of the sale consideration, Shri Chavan points out that it was a prima facie observation way back in 2012, and that was, perhaps, at Subhash's behest, for he had been prosecuting the case as a POA in his brother's absence. In other words, Shri Chavan contends that the Court's observations, if any, with no foundation in the pleadings—and falling beyond the scope of the very suit—do not help Subhash. Therefore, he urges this Court to dismiss the intervention application.

Second Respondent/Defendant:

17. Of course, Mrs. Bhandari, the learned counsel for the defendant, who too joined the issue, has contended that there had never been an agreement for sale. According to her, it was only a money transaction. To the same effect is the decree, too. That said, we need not revisit that controversy. The suit has already been disposed of—rather decreed in Rajesh's favour.

18. Heard, Shri Sanjiv Sawant, the learned counsel for the applicant, Shri Chandrakant Chavan, the learned counsel for the respondent-plaintiff, Mrs. Sukeshi Bhandari, the learned counsel for the respondent-defendant.

Discussion:

19. Indeed, Courts have often held that procedural laws are handmaid of justice. The function of adjective law is to facilitate justice and further its ends. The rules of procedure are intended to be a handmaid to the administration of justice. Therefore, they must be construed liberally and in such a manner as to render the enforcement of substantive rights effective. A 'hypertechnical view' should not be adopted by the court in interpreting procedural laws. A party cannot be refused just relief merely because of some mistake, negligence, inadvertence, or even infraction of the rules of procedure. 'Rules of pleadings'

are intended as aids for a fair trial and for reaching a just decision. An action at law should not be equated with the game of chess. Provisions of law are not mere formulae to be observed as rituals. Beneath the words of a provision of law, generally speaking, there lies a juristic principle. It is the duty of the court to ascertain that principle and implement it. Our laws of procedure are based on the principle that as far as possible, no proceeding in a court of law should be allowed to be defeated on mere technicalities. The Code of Civil Procedure, therefore, must be interpreted in a manner to subserve and advance the cause of justice [C. K. Thakker's Code of Civil Procedure, Vol. I, EBC, p.200 (EBC Reader)].

20. Let us put the icing on the cake. In his inimitable rhetorical flourish, Krishna Iyer, J, observed in *State of Punjab v. Shamlal Murari* thus:

“We must always remember that processual law is not to be a tyrant but a servant, not an obstruction but an aid to justice. It has been wisely observed that procedural prescriptions or the handmaid and not the mistress, a lubricant, not the resistant in the administration of Justice. Where the non-compliance, the procedural, will thwart fair hearing or prejudice doing of justice to parties, the rule is mandatory. But, grammar apart, if the breach can be corrected without injury to adjust disposal of the case, we should not enthrone a regulatory requirement into a dominant desideratum. After all, courts are to do justice, not to wreck this product of technicalities.”
(italics supplied)

21. That said, we may, metaphorically, liken the procedural parameters to traffic rules on the road to justice. The better they are observed, the safer the vehicle of justice travels. True, occasional infraction is not fatal; in fact, that infraction is inevitable and, perhaps, necessary. Granted, an ambulance may jump the signal, but not a picnic van. With no other way left, a litigant may insist that the way he chose is the only way—and that he must have his way. On the contrary, a party cannot abandon a highway, reach a cul de sac or a blind alley, and insist that he should have his way.

22. Here, I will avoid a ‘hyper-technical view’ and try to adopt a pragmatic approach. Then, can I aid the applicant? I am afraid, not.

23. First, there is no *lis* before the Court for it to entertain an interlocutory application. Thus, the Court is proverbially *functus officio*. Nevertheless, Subhash wants the Court to revive and resurrect a disposed of suit. To have that revival or resurrection, first we must set aside the decree that has already been passed. Subhash has not sought that relief. Let us assume that the Court is willing to travel beyond the pleadings and the prayer, too, to meet the ends of justice.

24. Then, the question is, can the Court adopt such a course in an application for intervention, as it is termed? It cannot. A decree can be set aside under Order 9, Rule 13 [CPC](#). But, as the Supreme Court has held in *Ram Prakash Agarwal v. Gopi Krishna*, (2013) 11 SCC 296, the applicant must have been a party to the suit, in the first place. Of course, the Apex Court has taken a different view in *Raj Kumar v. Sardari Lal*, (2004) 2 SCC 601 but that was in the context of a *lis pendens* purchaser. Another interlocutory method for setting aside a decree is under Order 37, Rule 4 CPC. But that must be in a summary suit and the

party must be the defendant.

25. The next permissible method for having a decree set aside is review under Order 47, read with Section 114, of the Code of Civil Procedure. Nor can this Court exercise its inherent powers under Section 151 of CPC once the party has a specific provision in the Code to meet his needs.

26. As I have already noted, Subhash has a highway or a thoroughfare to travel on if ever he wants to reach his judicial destination: a separate suit, seeking a declaration. Its permissibility or its sustainability is not the subject matter here. We are only talking remedially.

27. Now, let us deal with the issue from another perspective. Essentially, the suit is in a contractual dispute. And that dispute concerns the parties to the contract. In a suit for specific performance, whatever be its outcome, no third party can have the role to play. Let us check the precedential position on this point. In *E. Ajay Kumar v. Smt Tulsabai*, AIR 1973 Bom. 330 this Court has held that by very nature, a suit for specific performance confines itself to the agreement and several pleas that can either defeat or lead to its enforcement. The cause of action in such a suit is the agreement and its enforceability. In paragraph 20 of the judgment, E. Ajay Kumar has viewed the issue from another angle. It posed unto itself a question: Can it really be said that the stranger to an agreement is concerned with the relief sought by the plaintiff or the defences raised against such specific performance? In answer, it has held that, first, the stranger not being a party to the suit, any decision in that suit does not affect him. Therefore, he suffers no prejudice. Second, the Court is being called upon to enforce the agreement but not to settle any disputes between the plaintiff and the stranger. So, the presence of such a person is not necessary for the Court to decide the controversy in the suit.

28. To sum up, in a suit for specific performance, a third party's assertion that he has a stake in the subject matter of the suit counts to nothing. What matters is the contract, not the property covered by the contract.

29. In 1945, the High Court of Calcutta in *Prem Sukh Gulgulia v. Babib Ullah*, AIR 1945 Cal 355 has held that the necessary parties in a suit for specific performance of a contract for sale are the parties to the contract. If they are dead, their legal representatives will have the standing. Of course, a person who has purchased the property from the vendor after the contract is also a necessary party as he would be affected. But a person who claims adversely to the vendor is, however, not a necessary party. According to *Prem Sukh Gulgulia*, this is on the principle that the scope of a suit for specific performance of a contract for sale ought not to be enlarged and turned into a title suit between one of the parties to the contract and a stranger.

30. In *Panne Khushali v. Jeewanlal Mathoo Khatik*, AIR 1976 MP 148 a Full Bench of the High Court of Madhya Pradesh has held that strangers to the contract making a claim adverse to the title of the defendant—for example, that they are the co-owners of the contracted property—are neither necessary nor proper parties. So they are not entitled to be joined as

parties to the suit. Parties should not be added so as to convert a suit of one character into that of a different character. And, later, the High Court of Delhi has echoed the same view in *Raj K. Mehra v. Mrs. Anjali Bhaduri*, AIR 1981 Del 237.

31. In *Razia Begum v. Anwar Begum*, AIR 1958 SC 886 the Supreme Court has held that if the plaintiff, even after notice of claim of title hostile to his vendor by an intervener, does not want to join the intervener, he takes the risk. He cannot be forced upon to join the intervener. That is, in a suit for specific performance of a contract for sale regarding a property, some other person who applies for being impleaded as a party on the ground he has a right by birth in the suit property cannot be joined as a party. It is so because if such a person could intervene as a party, the nature of the suit would change from a suit for specific performance of a contract to that of a suit for the title.

32. Keeping in view the above precedential position, let us examine the issue: (1) The agreement was between Rajesh and Sudarshan. (2) From the very inception, Subhash represented Rajesh as his POA in the suit; thus, he knew his brother's pleadings and assertions to the exclusion of everyone else. (3) Despite that, Subhash never objected to his principal's (Rajesh's) contentions. (4) Though Rajesh, as the principal, cancelled GPA in 2017, Subhash never attempted, if ever permissible, to come on record as a defendant to protect his independent interest, if any. (5) The suit was eventually decreed in 2001. (6) Sudarshan willingly suffered the decree and deposited the amount to be appropriated by Rajesh alone.

33. Thus, if Sudarshan had received the consideration from Rajesh and Subhash and treated both as his counterparts to the contract, his satisfying Rajesh's decree would not discharge him from his alleged obligation to Subhash. (8) Evidently, Sudarshan has not viewed it so; in fact, he seems willing to risk a claim from Subhash by fulfilling Rajesh's claim alone.

34. Put it differently, if Subhash contributed to the sale consideration at Rajesh's behest, he would have his claim against Rajesh intact, subject to limitation though. On the contrary, if he has contributed directly to Sudarshan and wanted him to treat both the brothers as co-purchasers, Subhash may have his remedy against Sudarshan open. Thus, the suit between Rajesh and Sudarshan does not affect him. I may, at this juncture, stress that these are polemical propositions but not the Court's considered views, much less conclusions having any judicial imprimatur.

35. Now, let us deal with a collateral issue. Subhash insists that this Court, in its order dated 16.04.2012, noted that Subhas, too, contributed to the sale consideration. In this context, I may note that to facilitate adjudication of the matter, procedurally the Court undertakes various steps. And in that process, it may prima facie observe or record certain aspects based on the counsel's representations. They are sans pleadings and sans evidence. Such observations do acknowledge the parties existing rights if any, but they do not create rights on their own. A Court's observation cannot give rise to a right unless it has already existed, nor does it provide a cause of action. Here, in this case it had never been in the Court's contemplation as to who contributed the sale consideration. It is a non sequitur.

36. Here, the plaintiff sued and had the decree. Thus, he is entitled to the decretal amount. When he wanted to withdraw that amount, somebody else objects. That somebody maybe his brother or his erstwhile agent. However strong that person's right to recovery maybe, he cannot file an intervention application in an already disposed of matter and stay the execution of the decree or nullify the decree without proper judicial recourse.

37. After all is said and done, here comes the palliative. If Subhash has an enforceable claim against either Rajesh or Sudarshan, the above suit does not defeat his rights. Much less do these observations affect Subhash's supposed rights.

38. Under these circumstances, I express my inability to entertain this application despite diligent efforts made by Shri Savant, the applicant's counsel. I, therefore, dismiss it.

39. Shri Savant, at this juncture, wants this Court to restrain the respondent-plaintiff from withdrawing the decretal amount for at least eight weeks, so the applicant could explore his remedial options. The Respondent's counsel, of course, strongly opposes this plea.

As the intervention application in a disposed of suit has been summarily rejected, I see no justification for the Court to grant such relief as the applicant sought. The request stands rejected.

R.M.S. - *Petition disposed of.*

ALLAHABAD HIGH COURT

Before: Mr. Justice Rohit Ranjan Aggarwal.

SUBHASH- Petitioner,

Versus

STATE OF U.P. and others - Respondents.

C No. - 16362 of 2021

Constitution of India, Article 226 - Mutation - Mutation proceedings does not confer upon any right or title on the person whose name is entered in the revenue records - Mutation proceedings are summary in nature and no right or title is created - The revenue entries is only for the collection of revenue from the person whose name is entered in the records - The title can only be seen in a regular suit filed for declaration and not in a writ petition which arises out of summary proceedings.

Rohit Ranjan Agarwal, J. - (10.08.2021) - Heard Sri B.K. Tripathi, learned counsel appearing for Gaon Sabha.

2. This writ petition has been filed assailing the appellate order dated 16.12.2020 as well as

objection filed under Section 35(2) of the U.P. Revenue Code, 2006 which has been rejected by the respondent no.4 in mutation proceedings.

3. Sri Tripathi, learned counsel appearing for Gaon Sabha submitted that no writ petition lies against summary proceedings and in the present case mutation proceedings had been contested by the petitioner till the stage of revision and no writ petition lies against the order of revisional authority and the only relief can be claimed by filing a regular suit for declaration of title. Reliance has been placed upon a decision of this Court in case of *Mathura v. State of U.P. and others*, 2012 (4) AWC 3825. Learned Standing Counsel further submits that as the mutation proceedings are summary in nature, petitioner has remedy of filing a declaratory suit for declaring his right under Section 144 of the U.P. Revenue Code, 2016.

4. Having heard learned counsel for the parties and from perusal of the record, it appears that petitioner had contested the mutation proceedings filed under Section 34 of the U.P. Land Revenue Act till the stage of revision. It had been constant view of this Court as well as the Apex Court that mutation proceedings are summary in nature wherein the title over the land is not decided and the proceedings are only for fiscal purpose to enable the State to collect revenue from the person whose name is on record. The mutation proceedings does not confer upon any right or title on the person whose name is entered in the revenue records.

5. In *Mathura* (Supra) this Court while dealing with this aspect as regards the proceedings under Section 35 of the U.P. Land Revenue Act held as under;

“5. In pith and substance proceedings of mutation, correction of revenue entries and settlement of disputes as to entries in annual registers as prescribed under Section 33 of the Act initiated or decided under 40 and 54 of the Act are all summary proceedings subject to determination of rights of the parties in holding by the competent court of jurisdiction.

6. The law is well-settled that:

(i) mutation proceedings are summary in nature wherein title of the parties over the land involved is not decided;

(ii) mutation order or revenue entries are only for the fiscal purposes to enable the State to collect revenue from the person recorded;

(iii) they neither extinguish nor create title;

(iv) the order of mutation does not in any way effect the title of the parties over the land in dispute; and

(v) such orders or entries are not documents of title and are subject to decision of the competent court.

3. It is equally settled that the orders for mutation are passed on the basis of the

possession of the parties and since no substantive rights of the parties are decided in mutation proceedings, ordinarily a writ petition is not maintainable in respect of orders passed in mutation proceedings unless found to be totally without jurisdiction or contrary to the title already decided by the competent court. The parties are always free to get their rights in respect of the disputed land adjudicated by competent court.”

6. A coordinate Bench of this Court in case of *Mahesh Kumar Juneja and Ors. v. Addl. Commissioner Judicial, Moradabad Division and Ors.* 2020 (3) ADJ 104 reiterated the same view and held asunder;

“16. The settled legal position that entries in revenue records do not confer any title has been considered and discussed in a recent judgment of this Court in *Harish Chandra v. Union of India & Ors.*

17. In view of the foregoing discussion, it may be restated that ordinarily orders passed by mutation courts are not to be interfered in writ jurisdiction as they are in summary proceedings, and as such subject to a regular suit.

18. The mutation proceedings being of a summary nature drawn on the basis of possession do not decide any question of title and the orders passed in such proceedings do not come in the way of a person in getting his rights adjudicated in a regular suit. In view thereof this Court has consistently held that such petitions are not to be entertained in exercise of powers under Article 226 of the Constitution of India.”

7. In *Harish Chandra v. Union of India & Ors.* 2019 (5) ADJ 212 Division Bench of this Court while dealing with an issue in regard to the land acquisition proceedings had the occasion to discuss the matter relating to revenue records and held as under;

“37. This Court may also take into consideration that it is settled law that the revenue records do not confer title and even if the entries in the revenue record of rights carry value that by itself would not confer any title upon the person claiming on the basis of the same.

38. The Supreme Court in *Guru Amarjit Singh v. Rattan Chand & Ors.* held that entry in Jamabandi (revenue records) are not proof of title, and it was stated as follows:-

“2. ...It is settled law that entries in the Jamabandi are not proof of title.

They are only statements for revenue purpose. It is for the parties to establish the relationship or title to the property unless there is unequivocal admission...”

8. Apex Court in case of *Union of India (UOI) & Ors. v. Vasavi Co-op. Housing Society Ltd. & Ors.* MANU/SC/0001/2014 while dealing with the entries of the revenue records relying upon the earlier judgments of the Apex Court, held that revenue records are not the document of title and the same cannot be basis for declaration of title. Relevant paragraph no. 17 is extracted here asunder;

“17. This Court in several judgments has held that the revenue records does not confer

title. In *Corporation of the City of Bangalore v. M. Papaiah and another* (1989) 3 SCC 612 held that “it is firmly established that revenue records are not documents of title, and the question of interpretation of document not being a document of title is not a question of law.” In *Guru Amarjit Singh v. Rattan Chand and others* (1993) 4 SCC 349 this Court has held that “that the entries in jamabandi are not proof of title”. In *State of Himachal Pradesh v. Keshav Ram and others* (1996) 11 SCC 257 this Court held that “the entries in the revenue papers, by no stretch of imagination can form the basis for declaration of title in favour of the plaintiff.”

9. In a recent judgment in case of *Bhimabai Mahadeo Kambekar (D) through L.R. v. Arthur Import and Export Company & Ors.* MANU/SC/0112/2019, decided on 31.01.2019, Apex Court held that mutation of a land in revenue records does not create or extinguish the title over the land nor it has any presumptive value on the title. Relevant paragraph nos. 8 and 9 are extracted here asunder;

“8. This Court has consistently held that mutation of a land in the revenue records does not create or extinguish the title over such land nor it has any presumptive value on the title. It only enables the person in whose favour mutation is ordered to pay the land revenue in question. (See *Sawarni (Smt.) v. InderKaur*, (1996) 6 SCC 223, *Balwant Singh & Anr. v. Daulat Singh (dead) by L.Rs. & Ors.*, (1997) 7 SCC 137 and *Narasamma v. State of Karnataka & Ors.*, (2009) 5 SCC 591).

9. The High Court while dismissing the writ petition placed reliance on the aforementioned law laid down by this Court and we find no good ground to differ with the reasoning and the conclusion arrived at by the High Court. It is just and proper calling for no interference.”

10. Thus, it had been constant view of the Apex Court as well as this Court that mutation proceedings are summary in nature and no right or title is created. The revenue entries is only for the collection of revenue from the person whose name is entered in the records. The title can only be seen in a regular suit filed for declaration and not in a writ petition which arises out of summary proceedings.

11. In view of the above the orders passed by the revenue authorities need no interference and writ petition is dismissed, accordingly. However, it is open to the petitioner to file declaratory suit claiming his right over the land in dispute.

R.M.S.

Appeal dismissed.