

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.