

Court No. - 18

Case :- WRIT - B No. - 973 of 2023

Petitioner :- Gajendra And Others

Respondent :- Board Of Revenue, U.P. Lko. Thru. Chairman And Others

Counsel for Petitioner :- Dileep Kumar Tiwari, Md. Khurshed Ahmad

Counsel for Respondent :- C.S.C.

Hon'ble Saurabh Lavania, J.

Heard.

By means of the instant petition, petitioners challenge the order passed in the mutation proceedings dated 13.06.2023 and correction dated 31.07.2023 by the opposite party No.1-Board of Revenue, Lucknow, U.P. in Revision No.REV/2307/2007-2008/Mainpuri, Computerized Case No.R200802090033257 preferred under Section 219 of U.P. Land Revenue Act, 1901 (in short "Act of 1901").

Mutation proceedings are summary in nature and they do not decide any right or title between the parties; rather they are drawn only for fiscal purposes.

Furthermore, the order passed in mutation proceedings are always subject to declaration of rights which may be sought by the parties concerned by instituting a regular suit.

Section 40A of the U.P. Land Revenue Act, 1901, (now repealed) as also Section 39 of U.P. Revenue Code, 2006, which is applicable w.e.f. 11.02.2016, make it clear that no mutation order shall debar any person from establishing his rights in the land by means of a regular suit. Mutation of a property in revenue record does not create or extinguish title nor has it any

presumptive value on title. It only enables the person in whose favour mutation is ordered to pay the land revenue. The mutation proceedings do not adjudicate the rights of the parties and orders passed in mutation proceedings are always subject to adjudication by competent Court.

In addition to above, it would be apt to indicate here that this Court at Allahabad vide judgment and order dated 30.08.2016 dismissed the petition i.e. Writ - B No.36947 of 2016 (Gajendra Kumar And 3 Others vs. Hon'ble Board Of Revenue U.P. At Allahabad & 4 Others) preferred by the petitioners. The order dated 30.09.2016 on reproduction reads as under:-

"In view of finding recorded by Board of Revenue, U.P. that Munshi Lal and his heirs have already sold the entire share in the land in dispute as such a preliminary objection was raised that the petitioners have no locus standi to file writ petition. In view of preliminary objection, by order dated 12.8.2016, the petitioners were asked to file a supplementary affidavit giving details of sale deeds executed by the petitioners as well as all the descendants of Munshi Lal. Supplementary affidavit has been filed today but the details of entire sale deeds executed by the petitioners as well as heirs of Munshi Lal have not been disclosed in it.

The counsel for the caveator produced copies of the sale deeds. Sale deed dated 7.5.1979 was jointly executed by Munshi Lal and Smt. Ram Devi of their 1/4th share each in the land in dispute. According to this sale deed Munshi Lal and Smt. Ram Devi sold an area of 0.3262 hectare in the land in dispute. Sale deed dated 27.6.1984 was executed by Munshi Lal by which an area of 0.04784 hectare was sold. Thereafter sale deed dated 7.10.2004 was executed by Ram Prakash, Babu Ram, Ram Autar and Jhabbo Lal, sons of Munshi Lal of an area 0.6480 hectare in the land in dispute. Thereafter Babu Ram executed a sale deed dated 29.4.2008 of an area 0.0943 hectare and another sale deed was executed by Jhabboo Lal in respect of an area 0.0943 hectare. The sale deed dated 19.3.2012 was executed by Ram Prakash of an area 0.0943 hectare. The total area of land covered in these sale deeds is 1.305 hectare, which is 1/2 share of Munshi Lal in the joint holding. Thus, the petitioners could not rebut the finding of fact recorded by Board of Revenue, U.P.

The writ petition is dismissed on the ground of locus standi of the petitioners."

It is also stated that challenging the order dated 30.08.2016 passed in Writ - B No.36947 of 2016 (Gajendra Kumar And 3 Others vs. Hon'ble Board Of Revenue U.P. At Allahabad & 4 Others), Special Leave to Appeal No.35627 of 2016 (Gajendra

Kumar & Others vs. Board of Revenue) preferred by the petitioners was also dismissed by the Hon'ble Apex Court vide order dated 17.07.2017.

Considering the facts of the case, indicated in brief hereinabove, as also the law related to mutation proceedings, I am not inclined to entertain this petition. It is accordingly, **dismissed** with liberty to the petitioners to claim their rights before appropriate Court/Forum.

Order Date :- 28.10.2023

Vinay/-