



SL. No.	Date	Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures	COURT'S OR JUDGE'S ORDERS
			<u>WPMS/1576/2018</u> Smt. Snehlata Bhandari and another --Petitioners Versus Dr. Usha Kiran Bhandari --Respondent <u>Hon'ble Manoj Kumar Tiwari, J.</u> Mr. Rajat Pande, Advocate holding brief of Mr. Ganesh Kandpal, Advocate for the petitioners. Mr. Gaurav Paliwal, Advocate for the respondent. 2. Petitioners have challenged judgement and order dated 17.03.2018, passed by Board of Revenue, Uttarakhand in a Revision No. 26 of 2016-17. Revision was filed under Section 219 of Uttarakhand Land Revenue Act, 1901. 3. By the said judgment, orders passed by Tehsildar, Lalkuan and District Collector, Nainital, holding that the name of respondent cannot be mutated in revenue record during pendency of civil suit, was set aside. 4. Learned Revisional Court gave following reasons for disturbing the orders passed by Tehsildar and District Collector : “The position of law in this regard is very clear that a mutation proceeding is summary, in nature, and fiscal, in intent and objective, and a decision or decree of a suit involving the land in dispute eventually overrides the mutation order but the mutation proceeding can not be dropped or terminated midway or kept in abeyance pending decision of a such suit unless the same is specifically stayed by a competent court. An ongoing suit might take decades to finally settle or come to finality and a mutation request can not be left undecided in the expectation of a final decision of such a suit. The mutation proceeding, once



			initiated, must reach its logical conclusion and it can not be left undecided midway. The courts below have, thus, not exercised the jurisdiction vested in them by refusing to decide of the mutation case on merits and exercised the jurisdiction not vested in them by dropping/terminating such proceeding midway ignoring the legal position discussed herein before. Their findings and conclusions in this regard are patently erroneous. More over, the mutation proceeding has to be heard and decided, based on the situation, with regard to the land in dispute, existing on the date of the death of the testatrix, not on the implication of the interim injunction granted later by a court seized of a suit. A mutation order is always subject to and amenable to the decree or a final order passed in a suit involving the land in dispute vide Section 40A of the Act. Therefore, a mutation order based on the merits, as legally sought, can not be declined or deferred on the mere ground of the pendency of a suit. Both the lower courts have not appreciated the legal position correctly and erred in dropping or concurring in dropping the mutation proceeding initiated at the instance of the revisionist as there is no specific legal bar nor is there a specific stay granted by a competent court.” 5. Learned Revisional Court allowed the revision filed by respondent, set aside the orders passed by both the revenue authorities and remanded the matter to Tehsildar, Lalkuan, to proceed in the mutation case from the stage it was discontinued. 6. Learned Board of Revenue has given valid reasons for allowing the revision. 7. It is well settled that an entry in revenue records does not confer title on a person whose name appears in record-of-rights. It is settled law that entries in revenue records have only “fiscal purpose” i.e. payment of land revenue, and no ownership is conferred on the basis of such entries.
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			So far as title to the properties is concerned, it can only be decided by a competent civil court. 8. In the case of Suraj Bhan and others Vs. Financial Commissioner and others, reported as (2007) 6 SCC 186, while dealing with similar case, Hon'ble Supreme Court held as under: “8. So far as mutation is concerned, it is clear that entry has been made and mutation has been effected in revenue records by the Tahsildar on the basis of an application made by Respondent 5 herein and his name has been entered in record-of-rights on the basis of the will said to have been executed by Ratni Devi. In our opinion, therefore, it cannot be said that by entering the name of Respondent 5 in revenue records, any illegality had been committed by the Tahsildar. It is true that no notice was issued to the appellants but the Tahsildar had taken the action on the basis of will said to have been executed by deceased Ratni Devi in favour of Respondent 5. The said order has been confirmed by the Collector as also by the Financial Commissioner. When the grievance was made against the said action by filing a writ petition, the High Court also confirmed all the orders passed by the Revenue Authorities under the Act. We see no infirmity so far as that part of the order is concerned. 9. There is an additional reason as to why we need not interfere with that order under Article 136 of the Constitution. It is well settled that an entry in revenue records does not confer title on a person whose name appears in record-of-rights. It is settled law that 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. So far as title to the property is concerned, it can only be decided by a competent civil court (vide Jattu Ram v. Hakam Singh [(1993) 4 SCC 403 : AIR 1994 SC 1653]). As already noted earlier, civil proceedings in regard to genuineness of will are pending with the High Court of Delhi. In the circumstances, we see no reason to interfere with the order passed by the High Court in the writ petition. 10. For the foregoing reasons, the appeal deserves to be dismissed and is accordingly dismissed. We may, however, clarify that we may not be understood to have expressed any opinion on correctness or genuineness of the will said to have been executed by deceased Ratni Devi in
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			favour of Respondent 5. It was stated at the Bar that against dismissal of the suit by the trial court on the ground of limitation, an appeal is filed by the appellants which is pending before the High Court of Delhi. As and when the said appeal will be taken up for hearing, it will be decided on its own merits without being influenced by observations made by us in this judgment. We may also make it clear that we are not expressing any opinion on the entitlement of compensation said to have been awarded in land acquisition proceedings. All contentions of all parties are kept open and all questions will be decided in appropriate proceedings by competent authorities or courts without being inhibited by the present decision.” 9. Thus, this Court do not find any reason to interfere in the matter. Writ petition fails and is dismissed. (Manoj Kumar Tiwari, J.) 19.08.2026 Mahinder
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