THE HIGH COURT OF MADHYA PRADESH

W.P. Nos.18479/2020, 18680/2020 & 18773/2020

(Chhidamilal and others Vs. State of M.P. and others)

Jabalpur; Dated: 21.12.2020

Heard through video-conferencing

Shri Dayaram Vishwakarma, learned counsel for the petitioners.

Shri Shivam Hazari, learned Panel Lawyer for respondents No.1 to 4/ State.

Though these petitions are not interconnected, but since the petitioners in each of the petitions are same, therefore, the matters are being heard concomitantly and for the purpose of convenience, facts of W.P. No.18680/2020 are being taken note of.

2. These petitions under Article 226 of the Constitution of India, have been filed by the petitioners questioning the legality, validity and propriety of the order dated 01.10.2020 (Annexure-P/5) passed by the Additional Commissioner (Rural), Jabalpur Division, Jabalpur, whereby he has dismissed the appeal preferred by the appellant (respondent No.5 herein) under Section 44 of the Madhya Pradesh Land Revenue Code, 1959, challenging the order dated 19.08.2019 passed by the Sub-Divisional Officer, Adhartal, Jabalpur.

3. The dispute involved in these cases is that the name

of respondent No.5 was recorded in the revenue record, but an application was filed for deleting its name and correcting the revenue record saying that respondent No.5 purchased the land from the present petitioners by virtue of a registered sale-deed, but the amount paid through cheques to the present petitioners, could not be received as those cheques got dishonored, therefore, the Sub-Divisional Officer allowed the appeal preferred by the present petitioners setting-aside the order of the Tahsildar dated 23.03.2012 whereby the name of respondent No.5 got recorded in the revenue record on the basis of the sale-deed, but the Sub-Divisional Officer has found that the said sale-deed is not valid as consideration of the land was not paid to the present petitioners who have sold the land to respondent No.5.

4. The appellate authority i.e. the Assistant Commissioner has set-aside the order of the Sub-Divisional Officer mainly on the ground that the name of respondent No.5 got mutated in the revenue record on the basis of registered sale-deed. The Commissioner has observed in its order that if the sale-deed is not valid and proper consideration was not received by the seller i.e. the present petitioners, then they should have challenged the sale-deed before the competent Court i.e. the civil Court for getting

the said sale-deed declared to be null and void, but no such case has been filed, therefore, the revenue authority had no jurisdiction to presume that the sale-deed is void and the entries made on the basis of said sale-deed, cannot be directed to be corrected. The Assistant Commissioner, accordingly, set-aside the order of the Sub-Divisional Officer and restored the order of the Tahsildar whereby the name of respondent No.5 got recorded in the revenue record on the basis of registered sale-deed.

5. However, after perusing the material available on record, I do not find any infirmity and illegality in the order impugned passed by the Assistant Commissioner, Jabalpur Division, Jabalpur, because the said authorities have properly observed that the mutation has been done on the basis of a registered sale-deed, therefore, the mutation order cannot be set-aside by the revenue authority presuming that the sale-deed was not valid.

6. It is also contended by the counsel for the petitioners that the appellate Authority has observed that the validity of the sale-deed can be ascertained only by the competent Court i.e. the civil Court, but such observation of revenue authority is not sustainable in the eyes of law.

7. However, it is a settled principle of law that the revenue entries are not the document of title and without

challenging the said sale-deed which is the foundation of recording the name of respondent No.5 in the revenue record, such order of mutation cannot be held invalid. The order passed by the Assistant Commissioner, which is impugned in this petition, does not suffer from any material irregularity, therefore, the contention raised by learned counsel for the petitioners challenging the order impugned, is of no substance.

8. Accordingly, these petitions being misconceived, are hereby, **dismissed**.

(Sanjay Dwivedi)
Judge

Prachi

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