CGHC010191902023 2026:CGHC:45512

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPC No. 2868 of 2023

1 - Sumitra Bai Wife Of Durga Ram Nai, D/o. Khelu Ram Nai, Aged About 64 Years R/o Village Kuruva, Post Silhati, Tahsil Sahaspur Lohara, District Kabirdham (C.G.).

... Petitioner(s)

versus

1 - State Of Chhattisgarh Through The Secretary, Revenue Department, Mantralaya, Atal Nagar, Nava Raipur, District Raipur (C.G.).

2 - The Commissioner, Durg, Division, Durg, District Durg (C.G.).

3 - The Sub Divisionnal Officer (Revenue), Gandai- Chhuikhadan, District Khairagarh- Chhuikhadan- Gandai (C.G.).

4 - The Tahsildar, Gandai, District- Khairagarh- Chhuikhadan- Gandai

5 - Bundu Bai D/o. Khelu Ram Nai, Aged About 70 Years R/o. Village Dhaurabhata, (Parpodi), Tahsil Saja, District Bemetara (C.G.).

... Respondents

(Cause-title taken from the Case Information System)

For Petitioner :- Mr. Pushpendra Kumar Patel, Advocate

For State :- Mrs. Akansha Verma Dhabedkar, P.L.

For Respondent No. 5 :- Mr. Abhishek Sharma, Advocate

SB- Hon'ble Shri Justice Amitendra Kishore Prasad

Order On Board

28.10.2026

1. By way of the present writ petition, the petitioner has challenged the order dated 25.05.2023 passed by the Commissioner, Durg Division, Durg, District Durg (C.G.), in Appeal Case No. 440A-6/2022-23, whereby the appeal preferred by the petitioner under Section 44(2) of the Chhattisgarh Land Revenue Code, 1959, has been dismissed, affirming the order dated 27.02.2023 passed by the Sub-Divisional Officer (Revenue), Gandai-Chhuikhadan.

2. Following reliefs have been prayed in this petition:-

> *“10.1 That, this Hon'ble Court, may kindly call for the entire record inrelates to the case of the petitioner.*
>
> *10.2 That, this Hon'ble Court, may kindly be pleased to issued a writ / or writs/order/ or orders / to quashed the order dated 25.05.2023 (Annexure P/1), passed by the Commissioner, Durg Division, Durg, in appeal case no. 440A-6/2022-23, in the interest of justice, and further be pleased to affirmed the order passed by the Tahsildar, dated 31.05.2022, (Annexure P/3), in the interest of justice.*

10.3 That, any other relief, this Hon'ble Court, deem fit and proper may also kindly be granted to the petitioner, in the interest of justice.

10.4 An affidavit in support of this petition is filed herewith."

3. Learned counsel for the petitioner submits that the impugned order dated 25.05.2023 passed by the Commissioner, Durg Division, Durg, is illegal, erroneous and contrary to law. It is contended that the private respondent has already instituted Civil Suit No. 23A/2022 before the Civil Judge, Class-II, Chhuikhadan, seeking declaration, permanent injunction, partition and possession, as well as a declaration that the registered sale deed dated 04.09.2014 and the order dated 31.05.2022 passed by the Tahsildar are null and void and not binding upon her. The said civil suit is still pending consideration before the competent Civil Court. Learned counsel further submits that the Tahsildar, after due compliance with the applicable legal provisions, had passed an order of mutation in favour of the petitioner on the basis of a registered Will deed. However, the Sub-Divisional Officer (Revenue), without properly appreciating the facts and the applicable law, set aside the well-reasoned order passed by the Tahsildar, and the said order was erroneously affirmed by the Commissioner, Durg Division, Durg. It is also contended that, during the pendency of the appeal before the Sub-Divisional Officer (Revenue), the petitioner had filed an application seeking a

stay of the proceedings. However, the Sub-Divisional Officer proceeded to decide the appeal preferred by private respondent No. 5, thereby acting arbitrarily and contrary to law. Learned counsel lastly submits that, in view of the pendency of the civil suit concerning the same subject matter, the impugned orders passed by the Sub-Divisional Officer (Revenue) and the Commissioner, Durg Division, Durg, are unsustainable in law and liable to be set aside. Accordingly, it is prayed that the writ petition be allowed and the impugned order dated 25.05.2023, along with the order dated 27.02.2023 passed by the Sub-Divisional Officer (Revenue), Gandai-Chhuikhadan, be quashed.

4. Learned State counsel supports the impugned orders passed by the revenue authorities and submits that no interference by this Court is warranted.

5. Learned counsel appearing for respondent No. 5 opposes the writ petition and submits that the impugned orders have been passed in accordance with law. It is further submitted that the rights of the parties are already in issue before the competent Civil Court and, therefore, no interference is called for in the present writ petition.

6. I have heard learned counsel for the parties and perused the record.

7. The principal question for consideration is whether mutation could have been ordered in favour of the petitioner on the basis of the

Will when the validity and legal effect of the Will are in dispute before the competent Civil Court. In this regard, the law laid down by the Hon'ble Supreme Court in **Jitendra Singh v. State of Madhya Pradesh and Others 2021 SCC OnLine SC 802** is relevant. The revenue authorities are not competent to adjudicate upon disputed questions relating to the genuineness and validity of a Will, as such questions fall within the jurisdiction of the competent Civil Court. Relevant paras of the said judgment are quoted hereinbelow:-

> *"6.It is not in dispute that the dispute is with respect to mutation entry in the revenue records. The petitioner herein submitted an application to mutate his name on the basis of the alleged will dated 20.05.1998 executed by Smt. Ananti Bai. Even, according to the petitioner also, Smt. Ananti Bai died on 27.08.2011. From the record, it emerges that the application before the Nayab Tehsildar was made on 9.8.2011, i.e., before the death of Smt. Ananti Bai. It cannot be disputed that the right on the basis of the will can be claimed only after the death of the executant of the will. Even the will itself has been disputed. Be that as it may, as per the settled proposition of law, mutation entry does not confer any right, title or interest in favour of the person and the mutation entry in the revenue record is only for the fiscal purpose. As per the settled proposition of law, if there is any dispute with respect to the title and more particularly when the mutation entry is*

sought to be made on the basis of the will, the party who is claiming title/right on the basis of the will has to approach the appropriate civil court/court and get his rights crystalised and only thereafter on the basis of the decision before the civil court necessary mutation entry can be made.

7.Right from 1997, the law is very clear. In the case of Balwant Singh v. Daulat Singh (D) By Lrs., reported in (1997) 7 SCC 137, this Court had an occasion to consider the effect of mutation and it is observed and held that mutation of property in revenue records neither creates nor extinguishes title to the property nor has it any presumptive value on title. Such entries are relevant only for the purpose of collecting land revenue. Similar view has been expressed in the series of decisions thereafter.

8. In the case of Suraj Bhan v. Financial Commissioner, (2007) 6 SCC 186, it is observed and held by this Court that an entry in revenue records does not confer title on a person whose name appears in record-of-rights. 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. It is further observed that so far as the title of the property is concerned, it can only be decided by a competent civil court. Similar view has been expressed in the cases of Suman Verma v. Union of India, (2004) 12 SCC 58; Faqruddin v.

Tajuddin, (2008) 8 SCC 12; Rajinder Singh v. State of J&K, (2008) 9 SCC 368; Municipal Corporation, Aurangabad v. State of Maharashtra, (2015) 16 SCC 689; T. Ravi v. B. Chinna Narasimha, (2017) 7 SCC 342; Bhimabai Mahadeo Kambekar v. Arthur Import & Export Co., (2019) 3 SCC 191; Prahlad Pradhan v. Sonu Kumhar, (2019) 10 SCC 259; and Ajit Kaur v. Darshan Singh, (2019) 13 SCC 70.

9.In view of the above settled proposition of law laid down by this Court, it cannot be said that the High Court has committed any error in setting aside the order passed by the revenue authorities directing to mutate the name of the petitioner herein in the revenue records on the basis of the alleged will dated 20.05.1998 and relegating the petitioner to approach the appropriate court to crystalise his rights on the basis of the alleged will dated 20.05.1998. We are in complete agreement with the view taken by the High Court."

8. Also, the Hon'ble Supreme Court in the matter of **Tarachandra v. Bhawarlal and Another 2025 SCC OnLine SC 2902** has held as under:-

***"19.** But what is important is that mutation does not confer any right, title or interest on a person. Mutation in the revenue records is only for fiscal purposes, therefore, where there is no serious dispute raised by any*

natural legal heir, if any, of the tenure holder, in absence of any legal bar, mutation based on a will should not be denied as it would defeat the interest of Revenue.

20. *In Jitendra Singh (supra) this Court observed that if there is any dispute with respect to the title, more particularly when the mutation entry is sought on the basis of the will, the party who is claiming title/right will have to approach the appropriate Civil Court/Revenue Court and get his rights adjudicated. However, in our view, this cannot be taken as a law proscribing mutation based on a will particularly where the legal heirs of the tenure holder raise no dispute.*

21. *In the present case, none of the legal heirs of the deceased tenure holder raised a dispute regarding the will. The will is a registered document. The objection, if any, is from the first respondent who claims himself to be in occupation of a particular piece of land held by the deceased tenure holder. Moreover, the claim of first respondent is based on an agreement for sale, and possession thereunder. Admittedly, the same is not a registered document and there appears to be no decree of specific performance in his favour thus far. In such circumstances, if the Tehsildar and other revenue authorities had allowed mutation on the basis of the will by making it subject to regular civil proceedings, we do not find any*

> *such jurisdictional error or legal infirmity in the mutation order as may warrant interference in exercise of powers under Article 227 of the Constitution of India.*
>
> ***22.*** *In our view, therefore, the High Court erred by interfering with the mutation order(s) passed in favour of the appellant. Accordingly, the appeal is allowed. The impugned judgment and order of the High Court is set aside. The order of the revenue authorities stands restored. The mutation entry, however, shall be subject to any adjudication by a competent Civil Court/Revenue Court."*

9. In the present case, respondent No. 5 has already instituted Civil Suit No. 23A/2022, wherein, inter alia, the validity and legal effect of the registered sale deed dated 04.09.2014 and the Tahsildar's order dated 31.05.2022 have been questioned. The said civil suit is pending consideration. In these circumstances, the Tahsildar ought not to have proceeded to effect mutation in favour of the petitioner solely on the basis of the disputed Will, without awaiting adjudication by the competent Civil Court. The subsequent orders passed by the Sub-Divisional Officer (Revenue) and affirmed by the Commissioner, therefore, do not warrant interference by this Court, insofar as they set aside the mutation order founded upon the disputed Will.

10. Accordingly, this Court finds no ground to interfere with the impugned order dated 25.05.2023 passed by the Commissioner, Durg Division, Durg, affirming the order dated 27.02.2023 passed by the Sub-Divisional Officer (Revenue), Gandai-Chhuikhadan. The writ petition is, therefore, **dismissed.** It is, however, made clear that the observations made herein are confined to the mutation proceedings and shall not prejudice the rights and contentions of the parties in the pending civil suit, which shall be decided independently, in accordance with law.

sd/-

(Amitendra Kishore Prasad)
Judge

Vishakha