

legality, validity and propriety of the order dated 12.03.2021, passed by Additional Commissioner, Chambal Division Morena in Case No. 0177/Appeal/2019-20, whereby the appeal preferred by respondent was allowed with direction to re-adjudicate the matter afresh after considering the facts and circumstances of sale deed.

2. The facts of the case in nutshell are that the present petitioner purchased the land bearing survey No. 1379 admeasuring 8.53 hectare situated in village Jamdara Pargana Gohad, District Bhind vide sale deed dated 16.10.2000; 19.12.2000; 27.7.2001 and 25.09.2001. As the sale deed was conditional in nature as the respondent borrowed money from the petitioner, therefore, the sale deed was executed with a condition that if money is returned, the sale deed will become non-effective. The time limit of two years was fixed for return of money. The aforesaid sale deeds were between the period from 2000 to 2001. Since the money was not returned therefore the sale deed became absolute. In the year 2017 the petitioner moved an application for mutating his name in revenue record. The said application was

rejected vide order dated 27.1.2018, against which appeal was preferred before Sub-Divisional Officer, Gohad, District Bhind, wherein specific objection was raised that as the money was not returned, therefore, the sale deed became absolute. The Sub-Divisional Officer allowed the appeal vide order dated 24.9.2019 directing the name of the petitioner to be mutated in the revenue record. Against the order of Sub-Divisional Officer, appeal was preferred by the respondent before the Additional Commissioner, Chambal Division, Morena, which was allowed vide impugned order dated 12.03.2021 and the matter was remanded back to the Sub-Divisional Officer, Gohad, District Bhind, with direction to re-adjudicate the matter afresh after considering the facts and circumstances of sale deed. Being aggrieved by the impugned order, the petitioner has preferred the present petition.

3. Learned counsel for the petitioner has submitted that the order impugned is not sustainable in the eyes of law. The validity of sale deed cannot be looked into by the revenue authorities. As the sale deed was registered sale deed, therefore, there shall be

presumption about correctness and genuineness of the registered documents under Indian Evidence Act. It is further pleaded that the jurisdiction of deciding validity of sale deeds is the sole domain of Civil Court, therefore, the order impugned has wrongly been passed. Hence, learned counsel for the petitioner prays to set aside the impugned order Annexure P/1.

4. Per contra, learned counsel for the respondent/caveator has opposed the petition and submitted that the petition is devoid of merit and the reliefs sought for cannot be granted, hence, prays for dismissal of the present petition.

5. Heard learned counsel for the parties and perused the available record.

6. The petitioner has pleaded that one conditional sale deed was executed as the respondent borrowed money from the petitioner and did not return back the money within the time prescribed. Therefore, in the present case the nature of sale deed has to be decided, that is the sole domain of Civil Court and Revenue Courts are expected not to entertain such matters.

7. By the impugned order, the appellate authority has remanded back the matter with a direction to consider the alleged sale deed and decide as to whether the sale deed executed was sale deed or was a mortgage deed. In my considered view, this jurisdiction solely vests with the Civil Court and, therefore, the appellate authority has committed error in passing the impugned order.

8. Considering the facts and circumstances in totality, it is clear that the impugned order is perverse and is against the provisions of law. Therefore, the order impugned dated 12.03.2021, passed by Additional Commissioner, Chambal Division Morena, in Case No. 0177/Appeal/2019-20 (Annexure P/1) is hereby set aside.

With the aforesaid observation, petition is disposed of.

(yog)

(Rajeev Kumar Shrivastava)
Judge.