

**IN THE HIGH COURT OF MADHYA PRADESH
AT GWALIOR**

BEFORE

HON'BLE SHRI JUSTICE MILIND RAMESH PHADKE

WRIT PETITION No. 24696 of 2025

BABULAL AND OTHERS

Versus

SMT. MANORAMA AND OTHERS

Appearance:

Shri V.K. Bhardwaj, learned Senior Advocate alongwith Shri Anand Vinod Bhardwaj, learned counsel for the petitioner.

Shri N.K. Gupta, learned Senior Advocate alongwith Shri Y.P.S. Rathore, learned counsel for the respondents.

Reserved on	:	07/07/2025
Delivered on	:	30/07/2025

*This petition having been heard and reserved for orders, coming on for pronouncement this day, the **Hon'ble Shri Justice Milind Ramesh Phadke** pronounced/passed the following:*

ORDER

The present petition under Article 226 of the Constitution of India is directed against the order dated 31.03.2021 passed by Board of Revenue, Gwalior, in revision No.3965/18/Datia/Bhu.Ra., whereby while allowing the revision the order dated 07.06.2018 passed by Additional Commissioner, Gwalior Division in Appeal No.699/2016-17 was reversed and it was directed that the names of all the sisters be

mutated in the revenue records.

2. Short facts of the case are that one Laxminarayan s/o Ramlal was the owner/Bhumiswami of the land bearing survey No.248, 310, 311, 312 and 316 total admeasuring 4.889 hectare situated at village Uchad Tehsil Seondha District Datia. The fact of the ownership of late Laxminarayan was ascertained in a civil suit No.110-A/2006 dated 17.05.2007 by First Civil Judge, Class-I, Datia. Said Laxminarayan died in the year 1986 and he was survived by his wife Janki Devi, one son Babulal and four daughters, namely, Manorama, Uma Devi, Mahadevi and late Vimla Devi.

3. After the death of Laxminarayan, the names of his legal representatives were mutated in the records vide *Namantran Panji* No.7 on 03.07.1987. Against the said *Namantran Panji*, son of the petitioner No.1 preferred an appeal alleging that on 19.01.1986 a Will has been executed by late Laxminarayan in his favour. Vide order dated 28.05.1999 the Sub Divisional Officer allowed the appeal and remitted the matter back to the Tehsildar for deciding it afresh after giving opportunity of hearing to all the parties concerned.

4. After remand, the matter was again heard by Tehsildar and vide order dated 19.01.1986 in case No.06/2001-02/A-6 the name of Dinesh

Kumar was mutated in revenue records. On 25.10.2010 said Dinesh s/o Babulal, petitioner No.1 expired. The order passed by Tehsildar dated 09.05.2005 then was challenged by present respondent No.1 in appeal before Sub Divisional Officer. The said appeal was allowed vide order dated 25.06.2016 and names of Legal representatives of late Laxminarayan were directed to be mutated in the revenue records, against which present petitioners preferred an appeal before the Sub Divisional Officer, which was allowed vide order dated 07.06.2019 and it was directed that since petitioner No.2 was the only legal representative of late Dinesh being class-I heir, she is entitled for getting her name mutated in the revenue records. Challenging the said order the present respondents No.1,2 and 3 preferred a revision before the Board of Revenue. Learned Board of Revenue while allowing the revision and setting aside the order passed by the Additional Commissioner, directed again to mutate the names of all the legal representatives of late Laxminarayan including his daughters. Aggrieved by the aforesaid, present petition has been filed.

ARGUMENTS

5. Learned counsel for the petitioners had argued that in civil suit No.110A/2006 the fact of ownership of the father of petitioner No.1 was established and it was also held that on the basis of Will Dinesh

had acquired right and title in the property, therefore, when a competent Court of civil jurisdiction has found the Will to be proved then there was no occasion for the Board of Revenue to have gone into the aspect of the legal heirship as per the Hindu Succession Act rather should have maintained the entries in the revenue records in favour of Dinesh made on the basis of the Will.

6. Learned senior Counsel has also argued that respondent No.3 has also preferred a civil suit No.1A/2009 for declaration and injunction but the same was dismissed in non-compliance of the orders of the Court, thus, when the right and title of the respondents was already denied by competent civil Court, their names in the revenue records could not have been mutated.

7. Learned Senior Counsel while placing reliance in the matter of *Murari and Anr. Vs. State of M.P. & Ors., 2020 (4) MPLJ 139*; has argued that once the Will was disputed before Civil Court and has been found to be genuine then as per the provision of Section 6 of Hindu Succession Act the name of beneficiaries of the Will was to be mutated, which was rightly done by the Tehsildar and the Additional Commissioner but the aforesaid provisions was misconstrued by the Board of Revenue, thus, the order deserves to be quashed.

8. To bolster his submissions, learned counsel also placed reliance in the matter of *Anand Chaudhri Vs. State of M.P. and others* passed in *writ petition No.3499/2022 dated 14.02.2025* by full Bench of this Court.

9. *On the other hand*, learned Senior Counsel for the respondents had submitted that no illegality has been committed by the Board of Revenue in allowing the revision, as admittedly no rights were crystalized of son of the petitioner No.1 in the civil suit No.11A/2006, which was a suit by one Ayodhya Prasad against petitioner No.1 and his son Dinesh Kumar on the basis of adverse possession. It was further submitted that in the aforesaid suit nowhere the Will was questioned or was proved and in fact there was no occasion for the trial Court to have gone into the said aspect as it could not have been raised by the plaintiff therein, thus, the very contention of petitioners that the Will was proved in the civil suit is baseless.

10. Learned Senior counsel also while referring to the judgment of the full Bench in the matter of *Anand Chaudhary (supra)* had argued that when the Will was disputed then the party who is claiming right on the basis of said Will, is required to get his/her rights crystalized before a civil Court and on the basis of a disputed Will Tehsildar has no right to mutate name of beneficiaries of the Will. It was, thus, submitted that

the present petition has no sum and substance and accordingly, it be dismissed.

11. Heard learned counsel for the parties and perused the record.

12. A detailed order has been passed by the Board of Revenue and while referring to judgment of *Murari and Anr. Vs. State of M.P. & Ors. (supra)* on which the petitioner has placed reliance has observed that when there is a dispute with regard to a Will and party is claiming title on the basis of said Will, then the said subject matter would be that of a civil Court and can only be decided by the Civil Court with the help of evidence produced before it and by examining the witnesses. The aforesaid preposition appears to be correct preposition and the same analogy had been laid down by the full Bench of this Court in the matter of *Anand Chaoudhary (Supra)*.

13. Once it is found that a party cannot get his name mutated in the revenue records on the basis of a disputed Will and he had to first get his rights crystalized from a Civil Court before claiming any rights, the question of mutation of all the legal representatives of the deceased in whose name the land actually belonged doesn't arise rather the natural corollary would be that names of all the legal representatives shall be recorded in the revenue papers. Thus, this Court finds that no illegality

has been committed by the Board of Revenue in allowing the revision and directing for mutation of all the legal representative of late Laxminarayan in the Revenue Records.

14. With the aforesaid, the present petition be **dismissed**.

(MILIND RAMESH PHADKE)
JUDGE

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