



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

BEFORE

HON'BLE SHRI JUSTICE SUBODH ABHYANKAR

ON THE 13th OF AUGUST, 2025

WRIT PETITION No. 10734 of 2020

KAID JOHAR

Versus

REVENUE DEPARTMENT AND OTHERS

Appearance:

Ms. Swati Ukhale, Advocate along with Ms. Kokila Kalra, Advocate –Petitioner.

Shri V.K. Jain, senior Advocate along with Shri Abhishek Tungawat - Respondent No.s 4,5,7,8.

Shri P.C. Bagdia, Advocate - Respondent No. 6

Shri Kaustubh Pathak, Advocate for Respondent Nos. 9 to 12.

Shri Vijay Gulani, Advocate for Respondent Nos. 18 to 21.

HEARD ON :- 14.5.2025

PRONOUNCED ON :-13.5.2025

ORDER

1] Heard.

2] This writ petition has been filed by the petitioner under Article 226 of the Constitution of India seeking the following reliefs:-

“a. The order dated 03.06.2019 (Annexure P/11) passed by the Additional Collector, Neemuch in Revision Case No. 29/2019-20, the order. dated 10.06.2019 (Annexure P/15) passed by the SDO, Neemuch in Appeal Case No.7112017-18 as also the order (Annexure P/18) dated 18.03.2020 passed by the Additional Commissioner, Ujjain in Appeal Case No.322/2019-20 be set aside by issuance of a writ in the nature of certiorari or by any other appropriate writ, order or direction in exercise of writ jurisdiction of this Hon'ble Court;

b. Costs of the petition be awarded to the petitioner from the respondents; and

c. Any other relief which this Hon'ble Court may deem fit in the facts of the present case be granted in favour of the petitioner.”

3] Brief facts of the case are that a dispute arose between the parties regarding mutation in respect of agricultural land bearing Khata No. 1677 (comprising of survey nos. 382/2 and 435), Khata No. 178 (comprising of survey nos. 382/2, 384



and 433) of village Manasa, District Neemuch and Khata no. 338 (comprising of survey Nos. 196 and 197) of village ‘Rampuriya, Tahsil Manasa, District Neemuch.

4] The aforesaid lands originally stood recorded in the name of petitioner’s father Abbas Ali Bohra. After the death of Abbas Ali Bohra in the year 2005, the petitioner Kaid Johar submitted an application on 12.01.2006, before the Tahsildar, Manasa for mutation of his name in the revenue records pertaining to the aforesaid lands, which was registered as Case No. 30/A-6/2005-06.

5] A perusal of the application will show that the petitioner (Kaid Johar) had made a prayer for mutation of his name only for the reason that the petitioner's brother Imdad Ali had separated from the family of Late Abbas Ali during his lifetime and had already received his share in the form of other lands, cash and valuables etc. from Late Abbas Ali, and consequently, he (Imdad Ali) gave his consent for mutating the name of the petitioner.

6] The other son of Late Abbas Ali, namely Mohammad Hussain had passed away during the life time of Abbas Ali, and the heirs (Respondent No. 9 to 12) of Mohammad Hussain were living with and were being taken care of by the petitioner Kaid Johar and, therefore, they had submitted their consent for mutation of petitioner’s name. Similarly, all the heirs i.e. daughters of Late Abbas Ali namely , (i) Kherunissa (w/o Saifuddin Bohra) (ii) Kubrabi, (iii) Rajiyabi, (iv) Aminabi, (v) Nasima and (vi) Salma (Respondents No.16 to 21) were also leading happy married life and had given their consent for mutation of petitioner’s name in the revenue records. Copies of the documents in respect of the written consent submitted by the other heirs namely Imdad Huissain (brother), Tasnim, Nishreen, Munira, Yakuta (Daughters of Late Mohammad Hussain), Kherunisa, (wife of late Mohammad Hussain) Kherunisa, Kubra, Rajiya, Nasima, Amina, Salma daughters of Late Abbas Ali before the Tahsildar, which are also filed on record.



7] The Tahsildar thereupon issued the proclamation u/s 110(3) of the Code of 1959 and recorded the statements of the petitioner, and as no objection was received in respect of the prayer for mutation made by the petitioner, the Tahsildar passed an order dated 22.03.2006, whereby a direction was given for mutation of petitioner's name in the revenue records pertaining to the aforesaid lands in place of Late Abbas Ali.

8] On the basis of the mutation order dated 22.03.2006 passed by the Tahsildar, the name of the petitioner was entered in the revenue records pertaining to the aforesaid lands. After the land comprised in survey nos. 196 and 197 of village Rampuriya was got diverted by the petitioner and after duly obtaining the development permissions from the concerned departments, the petitioner developed a colony known as “GurukripaVihar” on aforesaid survey nos. 196 and 197 of village Rampuriya. Pursuant to this respondent no. 6, who is the son of Imdad Hussain and nephew of the petitioner, purchased two plots in the aforesaid colony in the name of his wife Smt. Tasneem from the petitioner by registered sale deeds dated 01.03.2008 and 05.03.2008.

9] Despite the aforesaid position, the mutation was never challenged by the other heirs of Late Imdad Hussain i.e. respondents 4, 5, 6, 7 and 8, but on 10.08.2018, i.e., after a lapse of more than 12 years, they assailed the order of mutation dated 22.03.2006, by filing an appeal before the SDO, Manasa under Section 44 (1) of the M.P. Land Revenue Code, 1959 (hereinafter referred to as “the Code”). The respondents 4 to 8 also filed an application under Section 5 of the Limitation Act stating therein that they got knowledge in respect of the mutation order on 02.08.2018 only.

10] The SDO, after hearing the arguments on the prayer for condonation of delay, passed the order dated 26.03.2019, condoning the delay of 12 years occasioned in filing the appeal, which, according to the petitioner was altogether



unexplained and unaccounted for. The said order dated 26.03.2019, passed by the SDO was assailed by the petitioner by submitting a revision before the Additional Collector, Neemuch under Section 50 of the Code, which was registered as Revision Case No. 29/2019-20, but it was also dismissed by the Additional Collector, Neemuch by the order dated 03.06.2019, and thereafter the final order dated 10.06.2019 was passed by the SDO in the appeal, whereby the appeal preferred by the respondents 4 to 8 was allowed.

11] The order dated 10.06.2019 passed by the SDO was assailed by the petitioner by preferring a second appeal under Section 44(2) of the M.P. Land Revenue Code, 1959 before the Additional Commissioner, Ujjain, but it was also dismissed by the Additional Commissioner, Ujjain vide its order dated 18.03.2020, which is under challenge in this petition.

12] It is further the case of the petitioner that his father Late Abbas Ali Bohra had also executed a duly registered and attested will dated 30.10.2002, whereby the lands in question were also bequeathed to the petitioner. The petitioner's contention is that the petitioner was not having knowledge in respect of the aforesaid Will at the time of mutation proceedings, therefore, it could not be produced before the concerning authority. The petitioner submits that as the aforesaid Will is a duly registered document, therefore, there cannot be any doubt or suspicion in respect of the aforesaid Will.

Submissions on behalf of the petitioner:-

13] Learned Counsel for the petitioner has submitted that the Additional Commissioner has committed a grave error of law in dismissing the appeal preferred by the petitioner in a mechanical manner, without properly considering and analyzing the grounds raised by the petitioner. It is submitted that the SDO and the Additional Commissioner have failed to consider that the order dated



22.03.2006 was passed by the Tahsildar on the basis of the consent given by Imdad Hussian and in such circumstances the heirs of Imdad Hussain did not have any right of appeal against the aforesaid order.

14] It is also submitted that learned SDO and Additional Commissioner have failed to consider that the wife of respondent no. 6 had purchased two plots from the petitioner in the colony developed on survey nos. 196 and 197 of village Rampuriya by the petitioner way back in the year 2008, and in such circumstances the respondent no. 4 to 8 were fully aware and had full knowledge about the order of mutation.

15] Counsel for the petitioner has also submits that the SDO and the Additional Commissioner committed a grave error of jurisdiction in condoning the inordinate and unexplained delay of 12 years as the appeal against the order dated 22.03.2006 was preferred by the respondents 4 to 8 with an inordinate delay of more than 12 years on account of ulterior and mala-fide motives. It is also submitted that in view of *Principle of Estoppel* and in view of the conduct of the respondents 4 to 8 the appeal preferred by them was liable to be dismissed on the ground of limitation itself.

16] Further it was also submitted that order dated 10.06.2019 was passed by the SDO with undue haste without affording proper opportunity of hearing to the petitioner and thus the same was bad in law on account of malice in law.

17] Counsel for the petitioner also submitted that there was no *locus standi* of the respondents no. 4 to 8 as they are the heirs of Imdad hussain and at the time of order of mutation he was alive, and has given his consent for the mutation which has not been challenged by him in his lifetime and even respondent no. 4 to 8 have nowhere raised any dispute in respect of the genuineness of the document of consent executed by Late. Imdad Hussain.



18] It is also submitted that the learned SDO and the Additional Commissioner have passed the impugned orders without considering that the petitioner has developed a colony on the land in question and the names of various purchasers of the plots have also been mutated in the revenue records during the intervening period between 2006 to 2018, and that in such circumstances the order of mutation dated 22.03.2006 could not have been set aside at this length of time, without hearing the affected persons. Hence, it is submitted that the impugned orders Annexure P/15 and P/18 are legally unsustainable also in view of the registered Will (Annexure P/19) dated 30.10.2002, executed by Late Abbas Ali Bohra.

Submissions on behalf of the respondents no. 17,18,19,20 and 21:-

19] It is submitted that respondents No. 17,18,19,20 and 21 who are the daughters and legal heir of deceased Abbas Ali Bohra have supported the contention of petitioner regarding consent. In their reply, they have submitted that to the best of their knowledge, deceased Abbas Ali Bohra alienated his whole property via will dated 30/10/2002 to petitioner, and late Imdad Ali, who is the husband of respondent no. 4 and father of respondent no. 5 to 8 and late Kherunisa, the mother of respondent no. 9 to 12, whereby the disputed land was bequeathed to petitioner Kaid Johar. The aforesaid will is annexure P/19 of petition. Further they submitted that they have also given their consent with Imdad Ali at the time of mutation, and they were well versed with the consent, Will and mutation order.

20] Respondents No. 13 who is the daughters in law and No.16 who is the son of late Kherunisa (daughter of Late Abbas Ali) who was also the legal heir of deceased Abbas Ali Bohra has also supported the contention that they were also well versed with the consent given by Kherunisha and Imdadali as well as mutation order. And according to Respondent no. 16 son of Kherunisa (Daughter of Late Abbas Ali) , petitioner fulfilled last wish of deceased Abbas Ali Bohra as per Will which is filed as annexure P/19 of the aforesaid petition and took the whole responsibility of



Respondent No. 9 to 12 and their mother Kherunisa (Daughter in law of Late Abbas Ali), raised them and got them Married.

Submissions on behalf of the Respondents No. 4 to 8 :-

21] Shri Veer Kumar Jain learned Sr. counsel with Shri Abhishek Tungawat for the respondent no 4,5,7,8 and Shri P.C. Bagdia for respondent No.6 has opposed the petition and submitted that the application for mutation was filed on 25/02/2006, and on 22/03/2006, order of mutation was passed by the Tahsildar in favour of petitioner which creates doubt as in such short period of time the order for report from Patwari was passed, received, verified, seen and final order was also passed. And the order of mutation was also passed without following the mandatory provisions of the of M.P. land revenue Code, according to which, waiting for 30 days after proclamation is mandatory but order was passed in merely 20 days after proclamation which has also been observed by SDO, Manasa in order dated 26/03/2019.

22] It is also submitted that the order of SDO, Manasa dated 26/03/2019, condoning the delay was also challenged by the petitioner through the revision and the same is dismissed by the addl. Collector on 03/06/2019, and this order dated 03/06/2019 was not challenged by the petitioner, it clearly shows that the Petitioner have accepted it and now they can't challenge the same and say that application is filed with delay.

23] It is also submitted that in the order dated 03/06/2019, the Collector Neemuch, has also observed that none of the proceedings of Tahsildar has any signatures of opponents i.e., the legal heirs which makes it clear that the proceedings were not in their knowledge.

24] It is also submitted that no legal notice was submitted to the legal heirs of late Abbas Ali, and their addresses were also shown as Manasa, district Neemuch



but at that time they were living in Koiambtur, Mumbai and Dubai, and even paper publication was done in Dainik Bhaskar and Free Press only which do not have circulation at Koiambtur, Mumbai and Dubai, which fact has also been observed by the SDO, in its order dated 26/03/2019.

25] After disposal of the revision, the record of the appeal was remitted by the Additional Collector to the SDO and final order was passed by SDO on 10/06/2019, wherein it is held that the in the mutation proceedings the necessary parties were not impleaded, and it was also done without considering the report given by Patwari regarding family tree (Vansh Vriksha), thus, the principles of natural justice have also been violated as all legal heirs ought to have been made parties to the mutation proceedings. Thus, it is submitted that the order of SDO dated 10/06/2019, which has also been affirmed by the Additional Commissioner by the impugned order dated 01.07.2019, needs no interference.

26] Counsel for the respondents also submitted that petitioner has also relied on a Will which is disputed by the contesting respondents, hence as per the settled law, mutation cannot be done on the basis of a disputed Will. Further, it is submitted that no Muslim can make his will for more than 1/3 rd of his property without the consent of all other legal heirs

Rebuttal by the Counsel for petitioner :-

27] In rebuttal, it is submitted by Ms Swati Ukhale that the respondent no 4 to 8 were allowed to approach the court after 12 years merely on the statement that they came to know about the mutation order dated 22/03/2006, in the year 2018 only, and the *locus standi* of the respondent was totally ignored as respondents no 4 to 8 are second line of legal heirs of Late Abbas Ali Bohra, whereas, the first line of legal heirs of Abbass Ali Bohra was alive at the time of mutation, and they have never opposed the mutation order.



28] It is reiterated that the Respondent no 4 to 8 have already got their part of the property from their father Imdad Hussain who had got the property from his father Abbas Ali Bohra through family partition. and after his father's death, mutation was done in the name of Imdad Hussain, and after his death, his properties were mutated in the names of respondents no.4 to 8. Thus, it is submitted that the respondents no 4 to 8 have no *locus standi* to challenge the mutation.

29] Regarding the address of the respondents no 4 to 8 and 9 to 12, learned counsel has submitted that at the time of mutation, respondent no 4 to 8 and 9 to 12 were living in Manasa only, and the respondent no 4 to 8 were living in the adjoining house along with late Imdad Hussain as joint family, and respondents no. 9 to 12 were living nearby the petitioner in same compound, and since Manasa is a small village, it was but obvious that everyone knew about the mutation.

30] Counsel for the petitioner has also relied on sections 42, 110 and 115 of M.P Land Revenue Code

31] Counsel for the petitioner has also relied on decision rendered by M.P.High Court Jabalpur in **Dr. Rajdeep Kapoor v. Mohd Sarwar Khan in MP 6597 of 2019 order dated 06/01/2021 and on Abdul Manan Khan v. Mirtuza Khan reported as AIR 1991 PATNA 154.**

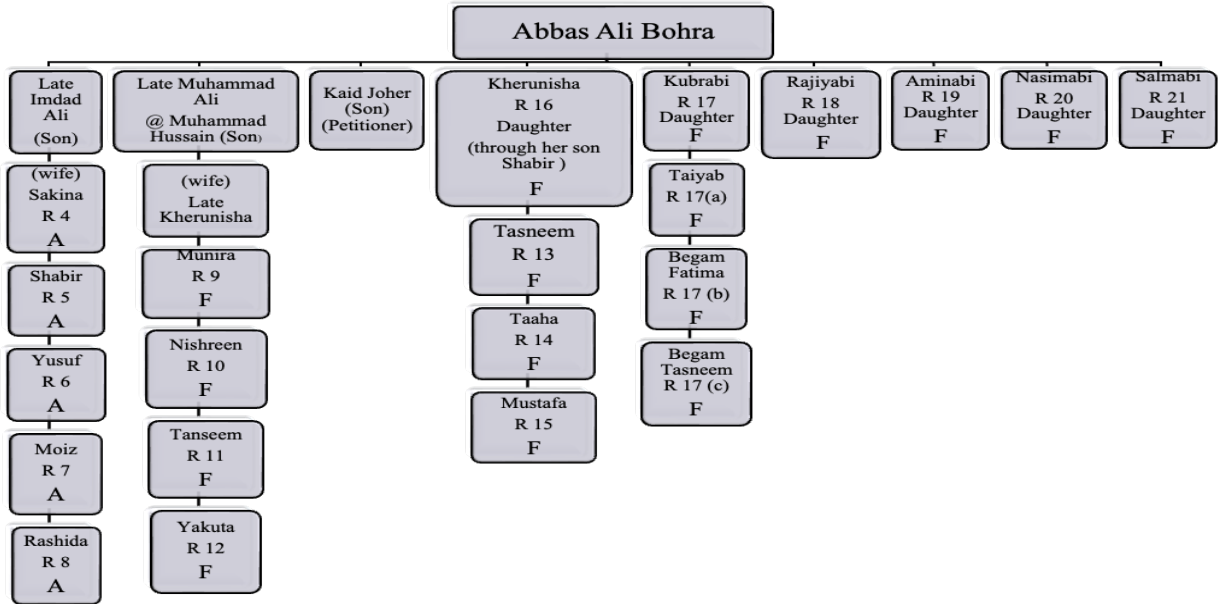
FINDING OF THIS COURT.

32] Heard, counsel for the parties and perused the record. To appreciate the rival submissions and the conduct of the parties, it would be necessary, first to see their relationship with each other and secondly, the time line and frame in which the entire case has unfolded itself.

33] The relationship of the petitioners and the respondents or their family tree is as hereunder (also depicting their stand in Favour or Against the petitioner,



mentioned as **F** and **A** respectively) :-



Whereas, the chronology of the events is as hereunder, in tabular form

S.No.	Date	Particulars
1)	Year 2002	Petitioner's father Haji Abbas Ali Bohra gave share to eldest son Imdad Hussain
2)	Year 2005	Petitioner's father died.
3)	Year 2017	Petitioner's eldest brother Imdad Hussain died (whose LRs are the Respondents no.4 to 8 and are opposing the petition)
4)	12-01-2006	Mutation application filed by the petitioner before the Tehsildar
5)	22-3-2006	Mutation order passed by Tehsildar after inquiry to his satisfaction in view of the consent affidavits of all co-sharers including Imdad Ali who was alive then, after due notification & publication
6)	01-03-2008 05-03-2008	Registered sale deed of 2 plots were executed by petitioner in favour Tasnim who is wife of Respondent no. 6 Yusuf



6A	2017	Imdad Ali Died
7)	10-08-2018	The mutation order dated 22.03.2006 was assailed by respondent nos. 4 to 8 after twelve years by filing an appeal before S.D.O Manasa under section 44 (1) of M.P. Land Revenue Code ,1959 along with application for condonation of delay
8)	26-03-2019	S.D.O. has allowed the application for condonation of delay and passed the order in favour of respondent Nos 4 to 8
9)	03-06-2019	The order of S.D.O was assailed by petitioner by submitting a revision before Additional Collector under section 50 of M.P. Land Revenue Code, 1959 which was dismissed.
10)	06-06-2019	After dismissal of revision record was remitted to the office of S.D.O.
11)	07-06-2019	Petitioner filed application for grant of time Before S.D.O. for seeking transfer of the case
12)	10-06-2019	Application was rejected and final order was passed on same day by S.D.O. without proper hearing-impugned order no.1
13)	01-07-2019	Petitioner's preferred a second appeal against the order of S.D.O which was admitted in which stay was granted and extended from time to time.
14)	18-03-2020	Petitioner's appeal was dismissed by Commissioner vide the impugned order dated 18.03.2020 Impugned order no.2.

34] It is apparent from the aforesaid family tree as also the chronology of events that in the order of mutation dated 22.03.2006, all the 9 children of Abbas Ali Bohra, including Imdad Ali, the father of the respondents no.4 to 8 have consented to the mutation application filed by the petitioner on 12.01.2006.

35] The consent affidavit dated 14.02.2006 of late Imdad Ali is also filed on record which was submitted in the mutation proceedings. In the said affidavit, Imdad Ali has acknowledged the family partition between the parties and the lands which were already given to him by his late father.

36] It is an admitted fact that Imdad Ali died in the year 2017 whereas the Revision u/s.44 of the Code was filed by the respondent nos.4 to 8 on 10.08.2018, along with an application under Section 5 of the Limitation Act for condonation of



delay, in which it was mentioned that they came to know about the mutation dated 22.3.2006 in the name of the petitioner only on 02.8.2018, when they obtained the certified copy of the Khasra entries, and thereafter, they applied for obtaining all the relevant documents on 08.08.2018 and on 09.08.2018, they were provided the certified copies of the proceedings, and thereafter preferred the appeal on 10.08.2018.

37] The application for condonation of delay was also opposed by the respondents however, the delay was condoned by the SDO vide its order dated 26.03.2019 by a detailed order observing that the mutation order was passed without hearing the legal representatives of the deceased hence, they were not aware of the order of mutation, although, this ground was not even taken in the application for the condonation of delay.

38] Whereas, the aforesaid order was also challenged by the petitioner before the Additional Collector, who rejected the same vide its order dated 03.06.2019, holding that the mutation proceedings were of 2005-2006 and the signatures of the opposite parties have also not been obtained in the proceedings, and thus, it is appears that they were not aware of the mutation proceedings hence, it was concluded that the order passed by the SDO condoning the delay needs no interference, and the SDO was directed to pass the final order. Thus, the final order was passed by the SDO on 10.06.2019, holding that the application for mutation was filed on 25.02.2006 before the Tahsildar, and as per the provisions of the Code, one month's publication ought to have been issued as per section 110 of the Code of 1959, however, entire proceedings was concluded within twenty days time and thus, the appeal was allowed also holding that the petitioner Kaid Johar has not made all the interested persons as parties to the application for mutation, and it was observed that the case was registered on 25.02.2006, in which, it is also mentioned that the Patwari's report regarding the LR's of Late Abbas Ali Bohra has



also been obtained but the LRs were not noticed, and the publication was also directed to be made, and the next date was fixed on 20.03.2006, however in the proceedings of 20.03.2006, it is mentioned that the publication has been made and there is no objection, and thereafter on 22.03.2006, the final order was passed.

39] It is also found that after the mutation order was passed in favour of the petitioner/Kaid Johar on 22.03.2006, two registered sale deeds dated 01.03.2008 and 05.03.2008 were also executed by the petitioner in favour of one Tasneem, wife of the respondent no.6/Yusuf in which, it is also averred that the petitioner has developed a colony at survey no.196 and 197, the user of which has already been changed through the office of SDO Manasa on 28.06.2006. Whereas, the map of the colony has been sanctioned through the Town and Country Planning, Neemuch on 13.06.2006.

40] [It is apparent from both the sale deeds that the respondent no.6, who is a contesting respondent was well aware of the ownership of the disputed land by the petitioner in the year 2006 itself, however, this fact have been suppressed in the appeal and also in the application filed under Section 5 of the Limitation Act.

41] In the considered opinion of this Court when all the parties were residing together in the same vicinity, and in the year 2008 the wife of respondent no.6 had also purchased two plots from the said disputed land from the petitioner, it is difficult to come to a conclusion that the contesting respondents no.4 to 8, who are all the legal representatives of **Lt. Imdad Ali**, were not aware of the mutation proceedings.

42] It is also surprising to note that the respondents no. 4 to 8 had never tried to agitate this issue of ownership of the disputed land land bearing khata no. 1677 (comprising of survey nos. 382/2and 435), khata no. 178 (comprising of survey nos.382/2, 384 and 433) of village Manasa, District Neemuch and khata no. 338 (comprising of survey nos. 196 and 197) of village 'Rampuriya, Tahsil Manasa, District Neemuch in the life time of their father **Lt. Imdad Ali**, and soon after his



death, have filed the appeal in the year 2018 before the SDO to set aside the order of mutation dated 22.03.006. , Whereas, ***Lt. Imdad Ali died*** in the year 2017.

43] It is also found that admittedly, the petitioner has already sold the lands to various persons after developing the colony and none have been made party by the respondents. Even the wife of respondent no.6/Yusuf is not made a party, who had purchased the plot from the petitioner.

44] In such circumstances, this Court is of the considered opinion that the SDO has erred in condoning the delay of 12 long years only on the ground, that the respondents were not served the notice. Whereas, it is also found that late Imdad Ali, the husband of respondent no.4, and father of the respondent no.5 to 8 had also given his affidavit dated 14.02.2006 in favour of the petitioner, and it has not been challenged by the contesting respondents in any civil proceedings, and it is simply averred that the aforesaid affidavit is forged by the petitioner. Although it is also found that a civil suit has also been filed by the respondents in the year 2022 for partition.

45] So far as the validity of the order of mutation passed in the year 2006 is concerned, reference may also be had to provision of section 42 of the Code which reads as under:-

“42. Order, of Revenue officer when reversible by reasons of error or irregularity:

No order passed by a Revenue Officer shall be reversed or altered in appeal or revision on account of any error, omission or irregularity in the summons, notice, proclamation, warrant or order or other proceedings before or during any enquiry or other proceedings under this Code, unless such error, omission, or irregularity has in fact occasioned a failure of justice.

Explanation.- In determining whether any error, omission or irregularity in any proceedings under this Code has occasioned a failure of justice regard shall be had to the fact whether the objection could and should have been raised at an earlier stage in the proceedings.”

46] It is indeed provided that the order passed by the Revenue officer can be



reversible or altered in an appeal or revision on account of any error, omission or any irregularities in summon, notice etc, provided such error, omission or irregularities has in fact occasioned in failure of justice, and in the explanation appended to the said section, it is also provided that in determining the error or omissions etc., regard shall also be had to the fact that whether the objection should and should not have been raised at an earlier stage of the proceedings.

47] In the considered opinion of this Court, when the respondents failed to raise any objection despite the knowledge of the petitioner claim over the land which is also apparent from the sale deeds executed in favour of wife of respondent no.6, in such circumstances, it cannot be said that any failure of justice has occasioned on account of mutation proceedings which were conducted in the presence of the father of the respondents no.4 to 8.

48] Shri V.K.Jain, learned senior counsel for the respondents has also relied upon various decisions ***Kallobai v. Babukhan*, 2009 SCC (2009) 3 MP LJ 2312. Sulaxani v. Sattar Ali and others passed by the Chattisgarh High Court in SA. No.474 of 2007 order dated 02/05/2022**, but the same are distinguishable as in the case of ***Kallobai (supra)*** one of the questions was:-

“1. Whether no consent of other co-sharers was required in law when the Will was only for 1/3rd share of the property?”

Thus, the aforesaid decision is distinguishable as in the present case, the delay of 12 years is also a relevant question.

49] Whereas, the case of Sulaxani (supra) also relates to bequest on the basis of a Will, whereas this Court is not reflecting upon the Will on which the petitioner is relying for the first time before this court.

50] This court is of the considered opinion that by not objecting to the mutation proceedings which took place the year 2006, of which they had the knowledge looking to the sake deeds executed in favour of the wife of the respondent no.6, the respondents had already given their deemed consent to the mutation in favour of the petitioner. Thus, the respondents are estopped from contending that they were not



heard while the order of mutation was passed, specially, when they were also enjoying the fruits of family settlement/partition which has also been accepted by their father, who has also given the details of the properties which had fallen in to his share in the family partition in the affidavit dated 14.02.2006.

CONCLUSION.

51] In such circumstances, this Court has no hesitation to come to a conclusion that the petitioner has made out a case for interference, and accordingly the order dated 10.06.2019 passed by the SDO, Neemuch in Appeal Case No.71/2017-18 as also the order (Annexure P/18) dated 18.03.2020 passed by the Additional Commissioner, Ujjain in Appeal Case No.322/2019 are hereby set aside and order dated 22.03.2006 of mutation passed by the Tahsildar is hereby upheld.

52] Accordingly, the petition stands **allowed and disposed of.**

(SUBODH ABHYANKAR)
JUDGE

Das