



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

HON'BLE SHRI JUSTICE SUBODH ABHYANKAR

ON THE 16th OF MAY, 2025

WRIT PETITION No. 22717 of 2022

ANANDSWAROOP AND OTHERS

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

Appearance:

*Shri V K Jain- Senior Advocate along with Shri Rohit Sinnarkar,
advocate for the petitioners .*

*Shri Raghav Shrivastava -Govt. Advocate appearing on behalf of
Advocate General/ respondents no.1 to 3.*

*Shri Sunil Jain, Senior Advocate along with Shri Vinay Puranik,
Advocate for the respondents no.4 to respondents no.10.*

ORDER

1] This petition has been filed by the petitioners under Article 226 of the constitution of India seeking the following relief:-

“(a) This Hon’ble Court be pleased to allow this. petition. and be pleased to issue a writ in the nature of. mandamus/certiorari or any other appropriate writ, direction or order in exercise of Supervisory jurisdiction for quashment of the orders dated 21.06.2022 (Annexure P/1) and 06.07.2021 (Annexure P/2) passed by the



Additional Commissioner and the Additional Collector respectively.

b. Costs of 'the petition be awarded to the: petitioners from the respondents.

c. Any other relief, as this Hon' ble Court may deem fit in the facts and circumstances of the case, be granted to the petitioners."

2] The petitioners are aggrieved by the order dated 21.6.2022 passed by the respondent no.2/Additional Commissioner, Bhopal Division Bhopal, arising out of an order dated 6.7.2021, passed by the respondent no.3/Additional Collector, District Rajgarh (Biaora) by which respondent no.3 has ordered to correct the map of the disputed property.

3] In brief facts of the case are that the petitioners are the legal representatives of Purshottam Das S/o Mandanlal Mahajan whereas respondents no.4 to 10 are the legal representatives of Bhagwandas Mundada S/o Mandanlal Mahajan whereas respondents no.11 to 15 are the legal representatives of Kishan s/o Govardhan.

4] The issue involved in the present case is that the disputed land, i.e., survey nos.1454 admeasuring 12.404 hectares was initially owned by Govardhan, the ancestor of petitioners, who had two sons namely Kishan and Madanlal. Whereas Madanlal had two sons Purshottam and Bhagwandas, who are the fathers of the petitioners and respondents no.4 to 10 as aforesaid.



5] The case of the petitioners is that a decree was passed in a civil suit which was filed in the year 1990 by the legal representatives of Kishan and petitioner no.1/Anandswaroop as plaintiffs against Purshottam, Bhagwandas and Gyanswaroop. The aforesaid suit was decreed through compromise and Kishan was given half of the land whereas the other half of the land was given to Madanlal, also indicating as to how much land shall be shared by each of the parties concerned. The map was also drawn in the decree indicating the portions which were to be given to each of the parties.

6] According, to the petitioners, pursuant to passing of the aforesaid decree, the Tahsildar also drew the map indicating the shares of each of the parties. According to the petitioners, the parties had also agreed to the said map and took possession of their respective portions. It is the further case of the petitioners that on 11.12.2019, the respondents filed an application under Section 115 of the M.P. Land Revenue Code, 1959 (hereinafter to be referred to as “Code of 1959”) before the SDO, contending that the Tahsildar has wrongly drawn the map despite there being a decree passed by the civil Court in Civil Suit No.7-A/1990 dated 26.9.1990. The application was filed on 11.12.2019, however, the same was dismissed by the SDO vide order dated 10.3.2021, holding that the aforesaid application does not fall under the scope of Section 115 of the Code of 1959. The aforesaid order was challenged by the



respondents no.4 to 10 in an appeal before the Additional Collector, District Rajgarh (Biaora), and vide order dated 6.7.2021, the same was allowed directing the Tahsildar to redraw the map in accordance with the decree. The order was again challenged by the petitioners before the Additional Commissioner, Bhopal Division, who has rejected the same vide the impugned order dated 21.6.2022. Thus, the present petition has been filed.



7] Shri V.K.Jain, learned senior counsel assisted by Shri Rohit Sinnarkar counsel for the petitioners, has submitted that both the orders are liable to be quashed for the reasons that the respondents have tried to execute the decree passed in the year 1990, if it was not executed in the year 2006 and also in the year 2019, i.e., after a period of around 29 years. Whereas the limitation to execute the decree is 12 years as per Article 136 of the Limitation Act, 1963. It is also submitted that otherwise also the amended section 115 of the Code of 1959 would not be applicable which came into force on 20.9.2018, whereas, prior to the said date, the old sections 115 and 116 of the Code of 1959, which were in force, provided that if the Tahsildar finds that a wrong entry has been made in the Land Record under section 114 by an officer subordinate to him, he shall direct necessary changes to be made as prescribed therein and section 116 provided that the Tahsildar should have done such correction within a period of one year from the date of such entry. Thus, it is submitted that even considering the case of the respondents on its face value, admittedly, the Tahsildar had passed the order regarding the correction of the map on 29.4.2006, and, if the respondents had any grievance regarding the same, they could have challenged the same within a further period of one year therefrom. However, they have challenged the same in the year 2019, by filing an application under Section 115 of the Code of 1959, and in such circumstances, the application before the SDO was



not maintainable under the new Section 115 of the Code of 1959.

8] Counsel for the petitioners has also submitted that on the basis of the map drawn by the Tahsildar in the year 2006, the parties have also occupied their respective lands and while acting upon the said map only, they have also transferred the property by way of execution of sale deed and also leasing the same.

9] Counsel for the petitioners has also drawn the attention of this Court to the sale deed dated 8.9.2010, executed by the legal representatives of Kishan to one Jyoti Bala in respect of 2.658 hectares of land from survey no.1454/1 out of the entire area of 6.202 hectares.

10] Counsel for the petitioners has submitted that after the drawing of the map in the year 2006, the legal representatives of Kishan occupied survey No.1454/1, whereas Purshottam and Bhagwandas had their respective share at survey no.1454/2 and 1454/3. Whereas Kishan's legal representatives have already sold a part of their land to Jyoti Bala at survey no.1454/1/2. Whereas the land situated at survey no.1454/1/1 remained with the legal representatives of Kishan.

11] Counsel for the petitioners has also drawn the attention of this Court to the aforesaid sale deed (Annexure P-4) in which the boundaries of the aforesaid piece of land has also been mentioned, to submit that despite the fact that the aforesaid piece of land which was



sold by the legal representatives of Kishan in the year 2010, but it has not been disputed by the respondents, hence they cannot be allowed to challenge the map after lapse of around 13 years. It is also submitted that the partition between the legal representatives of Bhagwandas has already been taken place, and the parties are in possession of their respective lands. It is also submitted that the legal representatives of Bhagwandas have also executed a registered lease deed dated 18.1.2021 (annexure P-4) in favour of L&T limited, and it is submitted that when such a huge piece of land was being leased to a limited company, it cannot be presumed that the said land was given without verifying its boundaries. Thus, it is submitted that the respondents are now estopped from taking a “U-turn”, challenging the map which was rightly drawn by the Tahsildar and was acted upon by all the parties concerned.



12] Counsel for the petitioners has also drawn attention of this Court to section 6 of the General Clauses Act, 1897 and section 30 and 31 of the Limitation Act, 1963 to buttress his submissions that since the period of limitation had already expired to invoke old section 115 of the Code of 1959, it could not have subsequently invoked by resorting to the new section 115 of Code of 1959, in which it is also provided that if any correction is required to be made which is prior to five years, the Collector's permission was necessary. It is also submitted that the petitioners had no live right in the year 2018 to file any such application.

13] In support of his submission, counsel for the petitioners has placed reliance on a decision rendered by the Supreme Court in the case of *T.Kaliyamurthi and others Vs. Five Gori Thaikkal Wakf and others* (2008) 9 SCC 306, *Union of India and others Vs. Uttam Steel Ltd* reported as (2015) 13 SCC 209, *The Commercial Tax Officer, Anchal and others Vs. S. Neejam and others* reported as *Manu/Ke/2053/2018* and in the case of *S.S.Gadgil Vs. Messrs. Lal & Co.*, reported as AIR 1965 SC 171 and also in the case of *Jitendra and others Vs. State of M.P. Through Revenue Department and others* passed by the coordinate Bench of this Court in *W.P.No.11071/2020* vide order dated 20.9.2024.

14] On the other hand, Shri Sunil Jain, learned senior counsel for the respondents no.4 to 10 has vehemently opposed the prayer, and



it is submitted that none of the facts are admitted, except that the decree was passed in the year 1990, and it was executed also, however, the map which has been drawn by the Tahsildar in the year 2006 came to the knowledge of the respondents only in the year 2019, when they applied for the copy of the map on 27.11.2019, and, the application under Section 115 was filed on 11.12.2019.

15] Counsel for the respondents no.4 to 10 has also submitted that in the present case amended Section 115 of the Code of 1959 would only be applicable for the reasons that the respondents came to know about the said wrong entry in the year 2019, and, since the aforesaid provision is procedural in nature it cannot be said that it has a prospective application and in fact it can be applied to a period prior to 2018. It is further submitted that prior permission of the Collector was also obtained as provided under section 115 of the Code of 1959 which is also reflected in the order dated 10.3.2021 (Annexure P-8) passed by the SDO (Revenue) Khilchipur, District Jirapur.

16] Counsel for the respondents no.4 to 10 has also placed reliance on the decision rendered by the coordinate Bench of this Court in the case of **in the case of Smt. Manju Rai Vs. State of M.P. And others passed in W.P.No.25382/2024 order dated 6/9/2024 passed by the coordinate Bench of this Court at Principal Seat, Jabalpur, in the case of Mandir Shri Garud**



Govindji Banke Loharpur Shivpuri Vs. Sharda Arora and others passed by the Division of this Court at Gwalior Bench in W.A.No.634/633 of 2006 order dated 18.9.2013.

17] Heard learned counsel for the parties and perused the record.

18] From the record it is found that on 11.12.2019, the respondents no.4 to 10 preferred an application under Section 115 of the Code of 1959, stating that **on 26.9.1990**, a decree has been passed by the Civil Court **in Civil Suit No.7A/1990** and along with the decree, the map of the land to be allotted to the respondent no.4 to 10 is also appended as **(S, D, E. F)**. However, when the respondents obtained the map of survey no.1451 on 27/11/2019, they found that in the said map their land has wrongly been depicted and the decree passed by the Civil Court has not been complied with. Thus, correction of the map was sought.

19] It was also found that so far as the map which according to the respondents no.4 to 10 has been wrongly drawn by the Tahsildar on 25.4.2006 is concerned, it is not known as to at whose instance it has been drawn. However, it is also found that in the meantime, a part of the land which had fallen in the share of Kishan has been sold to one Jyoti Bala through a registered sale deed dated 8.9.2010, wherein the boundaries were also mentioned. The said land has been sold out of survey No.1454/1/1. It is also found that



the contesting respondents had also leased out their land situated at survey nos.1454/3/1 and 1454/3/21 to Larsen and Turbo company limited for a period of one year, through a lease dated 18.1.2021 .

20] A perusal of the lease dated 18.1.2021 would also reveal that the boundaries of the land are also provided. In such circumstances, when a part of the land out of survey no.1454/1/1 was sold by the co-owners way back in the year 2010, and the contesting respondents no.4 to 10 themselves leased out their land to Larsen and Turbo company limited on 18.1.2021, it is difficult to believe that during all this time the respondents never bothered to enquire regarding the execution of the decree which was passed way back in the year 1990.

21] It is also not the case of the respondents no.4 to 10 that they were not aware of passing of the decree on 26.9.1990 in fact in their application under section 115 of Code of 1959 itself they have stated that the decree was passed in their favour on 26.9.1990, in such circumstances the contention of the respondents cannot be accepted that they were not aware that the wrong map has been drawn by the Tahsildar because if the decree was already passed in their favour on 26.9.1990, it was incumbent upon them to get the same executed within a period of 12 years specially when the decree is a compromise decree, and their contention that the period of limitation



would start to run from the date of knowledge of the wrong map drawn by the Tehsildar is without any substance and is hereby rejected.

22] So far as the legal grounds raised by the parties regarding the period of limitation provided under the old provision of section 116 of the Code of 1959 is concerned it would be relevant to refer to both the amended and unamended sections for ready reference.

23] The new section 115 of the Code of 1959 reads as under:

" 115. [Correction of wrong or incorrect entry in land record.

(1)A Sub-Divisional Officer may, on his own motion or on application of an aggrieved person, after making such enquiry as he deems fit, correct any wrong or incorrect entry including an unauthorised entry in the land records prepared under section 114 other than Bhoo-Adhikar Pustika and record of rights, and such corrections shall be authenticated by him :

Provided that no action shall be initiated for correction of any entry pertaining to a period prior to **five years** without the sanction in writing of the Collector.

2)No order shall be passed under sub-section (1) without-

(a)getting a written report from the Tahsildar concerned; and

(b)giving an opportunity of hearing to all parties interested :Provided that where interest of Government is involved, the Sub-Divisional Officer shall submit the case to the Collector.

(3)On receipt of a case under sub-section (2), the Collector shall make such enquiry and pass such order as he deems fit."



24] The aforesaid new section 115 was earlier in two parts, namely under section 115 and section 116 and the same read as under:-

“115. Correction of wrong entry in Khasra and any other land records by superior officers- If any Tahsildar finds that a wrong or incorrect entry has been made in the land records prepared under section 114 by an officer subordinate to him, he shall direct necessary changes to be made therein in red ink after making such enquiry from the person concerned as he may deem fit after due written notice.”

116. Disputes regarding entry in Khasra or in any other land records -(1) If any person is aggrieved by an entry made in the land records prepared under section 114 in respect of matters other than those referred to in section 108 he shall apply to the Tahsildar for its correction within one year of the date of such entry.

(2) The Tahsildar shall after making such enquiry as he may deem fit pass necessary orders in the matter.”

25] It is apparent from the aforesaid old sections that prior to the amendment in the year 25.9.2018, as per section 116 mandated that such an application for correction of map could have been filed within one year of date of such entry. Whereas, subsequent to 2018, it is provided that such an application can be filed for correction of any entry pertaining to a period prior to 5 years.

26] Now the question before this Court is whether the amended provision wherein the period of limitation is stated to be 5 years with permission of the Collector can be applied in the present case, also considering the fact that the respondents' contention is that the period



of limitation has to be counted from the date of knowledge as according to them, they came to know about the wrong drawing of the map on 27/11/2019 when they obtained the copy of the map.

27] This Court has already recorded a finding that the contention of the respondents that they came to know about the wrong map only on 27.11.2019, cannot be accepted considering the fact that prior to 2019, way back in the year 2010 a part of property was already sold by the respondents no.11 to 15 to one Jyoti Bala, and the respondents no.4 to 10 themselves had leased out their land to the L & T Ltd.

28] In such circumstances, when the petitioners have also pleaded in para 5 of the petition that the respondents no.4 and 5 had obtained the loan from the bank in the year 2004, which has gone unrebutted as the respondents no.4 to 10 have also not filed any reply to the petition, in such circumstances, it is difficult to accept the contention of the respondents that all along they never tried to take the copy of the map of the disputed land, and apart from that, when the decree itself was passed in the year 1990 there was no reason for them not to apply for the execution of the same or to get the map drawn by the concerned revenue officer in accordance with the decree within the period of 12 years.



29] So far as the issue of period of limitation is concerned although counsel for the respondents has relied upon a decision rendered by the coordinate Bench of this Court in the case of **Smt. Manju Rai (Supra)** wherein in para 15 it has been as under:-

“15. It is well established principle of law that unless expressed otherwise, all amendments in procedural law would be retrospective in nature and all amendments in substantive laws would be prospective in nature.”

30] The counsel for the petitioners has relied upon the decision rendered by the Supreme Court in the case of **T-Kaliamurthi (Supra)** para 40,41 and 42 which has been held as under:-

“40- In this background, let us now see whether this section has any retrospective effect. It is well settled that no statute shall be construed to have a retrospective operation until its language is such that would require such conclusion. The exception to this rule is enactments dealing with procedure. This would mean that the law of limitation, being a procedural law, is retrospective in operation in the sense that it will also apply to proceedings pending at the time of the enactment as also to proceedings commenced thereafter, notwithstanding that the cause of action may have arisen before the new provisions came into force. However, it must be noted that there is an important exception to this rule also. Where the right of suit is barred under the law of limitation in force before the new provision came into operation and a vested right has accrued to another, the new provision cannot revive the barred right or take away the accrued vested right.

41. At this juncture, we may again note [Section 6](#) of the General Clauses Act, as reproduced herein earlier. [Section 6](#) of the General Clauses Act clearly provides that unless a different intention appears, the repeal shall not revive



anything not in force or existing at the time at which the repeal takes effect, or affects the previous operation of any enactment so repealed or anything duly done or suffered thereunder; or affect any right, privilege, obligation or liability acquired, accrued, or incurred under any enactment so repealed.

42. From the above, it is clear that the right of action, which is barred by limitation at the time when the new act comes into force, cannot be revived by the change in the law subsequently. In *Ram Murthi & Ors. Vs. Puran Singh*, it has been held that Section 107 renders the *Limitation Act, 1963* inapplicable to suits for possession of immovable properties comprised in any Wakf or any interest therein but the right of a person to institute such a suit which is already barred at the commencement of this Act can not revive. It was further held that his title is extinguished and a good title is acquired by the person in possession and that where the title of the true owner is extinguished in favour of the wrong doer, it is not revived by that person again getting into possession. There is no remitter to the old title.”

31] A perusal of the aforesaid decision rendered by the Supreme Court would clearly reveal that there is an exception to the general rule that the amendments in procedural law would be retrospective in nature and all amendments in substantive law would be prospective in nature. The exception is that where the right is barred under the law of limitation in force before new provision came into operation, and a vested right has accrued to another, the new provision cannot revive the barred rights or take away the accrued vested right. In such circumstances, this Court is of the considered opinion that the decision relied upon by the counsel for the respondents in the case of



Smt. Manju Rai (supra) would not be applicable as the law laid down by the Supreme Court regarding exception to the general rule of retrospectivity of a procedural law would be binding on this Court.

32] In such circumstances, this Court is of the considered opinion that it was incumbent upon respondents no.4 to 10 to apply for the correction of map within one year from 29.4.2006 when it was drawn by the Tahsildar.

33] In view of the aforesaid, the impugned orders dated 21.06.2022 (*Annexure P/1*) and 06.07.2021 (*Annexure P/2*) cannot be countenanced in the eyes of law and are hereby quashed, and accordingly, the petition stands allowed.

34] The petition stands **allowed**.

(SUBODH ABHYANKAR)
JUDGE

das