

HIGH COURT OF MADHYA PRADESH AT JABALPUR

CR No. 213/2016

Girish Kumar Shrivastav

Vs.

Jagdish Prasad Kewat & Anr.

[Single Bench : Hon'ble Smt. Anjali Palo, Judge]

Shri Umesh Shrivastav, learned counsel for the appellants.

Shri K.S.Jha, learned counsel for respondent No.1.

Whether approved for reporting ? Yes

Law laid down :- Jurisdiction of the Civil Court is not barred under Section 257 of MP Land Revenue Code, 1959 in respect of suit for declaration of title and consequential relief.

Significant Paragraphs :- 6 to 9

**ORDER
(01/09/2017)**

1. This Civil Revision has been filed under Section 115 of the Civil Procedure Code challenging the order dated 25.04.2016, passed by the learned Civil Judge, Class-II, Chitrakoot, District Satna, in Civil Suit No. 15-A/2015 wherein the application under Order 7 Rule 11 of CPC has been dismissed.

2. The main contention of the learned counsel for the applicant/defendant No. 1 is, the respondent No. 1/plaintiff has filed a suit for declaration and injunction with the relief of possession of suit property in which the question regarding corrections in map and

revenue records is involved. The jurisdiction of the Civil Court under Section 257 of MP Land Revenue Code is barred for such relief.

3. Learned counsel for respondent No.1/plaintiff vehemently opposed the prayer of the applicant.

4. Heard the parties. Perused the record.

5. Learned Trial Court held that the question of title over the suit property involved in the suit, will be adjudicated on the basis of evidence. The jurisdiction of the Revenue Court is barred to adjudicate the question of title. Jurisdiction of civil Court is not barred. Therefore, the application under Order 7 Rule 11 of CPC has been dismissed by the learned Trial Court. This Court is in agreement with the aforesaid finding of the learned Trial Court. For proper adjudication of the case where the mixed question of law and fact involved, whether the respondent/plaintiff is entitled for a decree of his title, permanent injunction and possession, the same can be decided on the basis of evidence.

6. On the other hand, in case of **Om Prakash & Anr. Vs. Ashok Kumar [2013 (1) MPLJ 681]**, it was held that :-

“the plaintiff, *bhumiswami* of the agricultural land in question can bring a suit in the civil Court for declaration of his title for possession. Such suit is not barred under Section 257 of the MP Land Revenue Code.”

7. In case of **Ramgopal Vs. Chetu [1976 MPLJ (FB) 325]**, the Full Bench of this Court has categorically held at paragraph 10 that :-

“.....determination of the question of title is the province of the civil Court and unless there is any express provision to the contrary, exclusion of the jurisdiction of the civil Court cannot be assumed or implied. Further it

has been held that although a speedy remedy is provided under Section 250 of the Code to a *Bhumiswami* but he is not bound to avail that remedy and it is open to him to take recourse to the summary remedy under Section 250 or even without it straightway the plaintiff can bring a suit in the Civil Court for declaration of his title and possession. Further it has been held in para 17 that even if there has been a decision under Section 250 by a revenue Court, the party aggrieved may institute a civil suit to establish his title to the disputed land. Nowhere in this decision it has been held that simplicitor suit for possession is not maintainable if it has been filed on the basis of title.”

8. The Full Bench decision in case of Ramgopal (supra) has been affirmed and approved twice by the Apex Court; firstly, in case of **Rohini Prasad & Ors. Vs. Kasturchand & Anr. [(2000) 3 SCC 668]** and secondly, in case of **Hukum Singh (dead) by LRs & Ors. Vs. State of MP [(2005) 10 SCC 124]**. In these two decisions also, it was held that the jurisdiction of civil Court is not barred under Section 257 of MP Land Revenue Code, 1959 in respect to question of title.

9. Similar view has been taken in case of **Munda Vs. State of MP [2014 SCC Online MP 5968]**; **Satendra Kumar vs. Radheshyam Vishwakarma [2015 SCC Online MP 3011]** and **Madho Singh & Ors. Vs. Moni Singh (dead) by LRs & Ors. [(2004) 12 SCC 214]**. Even though, correction of entry in revenue record cannot be faulted with, as it is within the right of plaintiff and is within the jurisdiction of the civil Court in entertaining the suit for title which is not being provided under Section 257 of the Code of 1959.

10. At this juncture, the present suit cannot be dismissed on the mere submission of the applicant particularly on the ground that the suit is barred under Section 257 of MP Land Revenue Code, 1959.

11. In view of the discussions in the foregoing paragraphs and in the light of the legal principles, this Court finds that the suit filed by the respondent for declaration of possession and permanent injunction is not barred under Section 257 of MP Land Revenue Code, 1959.

12. For the aforesaid reasons the petition stands dismissed.

(Smt. Anjali Palo)
Judge

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