

**HIGH COURT OF MADHYA PRADESH, PRINCIPAL SEAT AT
JABALPUR**

Case No.	W.P. No. 3653/2019
Parties Name	Smt. Tarasiya and Others vs. Ramlakhan and Others.
Date of Order	09/09/2021
Judgment delivered by	Justice Vishal Dhagat
Whether approved for reporting	yes
Name of counsels for parties	Petitioners: Shri Ashok Kumar Jain, Advocate. Respondents: Shri Rakesh Dwivedi, Advocate.
Law laid down	<p>(8) Revenue Court does not have any jurisdiction to dwell upon the question of title of a party. Civil rights of the party are to be determined by Civil Court and not by Revenue Courts.</p> <p>(9) In case of <i>Jitendra (supra)</i> Apex Court in paragraph-5 held as under:- "...As per the settled proposition of law, if there is any dispute with respect to the title and more particularly when the mutation entry is sought to be made on the basis of the Will, the party who is claiming title/right on the basis of the Will has to approach the appropriate civil court/court and get his rights crystalised and only thereafter on the basis of the decision before the civil court necessary mutation entry can be made."</p>
Significant paragraph numbers	8 and 9

(ORDER)
(09.09.2021)

Learned counsel appearing for respondents submitted that respondent No.2 has died.

2. Learned counsel appearing for petitioner submitted that no relief is claimed against respondent No.2 and he does not want to bring on record Legal Representatives of respondent No.2 in the writ petition.
3. Considering the said submission, writ petition against respondent No.2 and other LRs of respondent No.2/Thakurdeen except Ramrakhan is abated.
4. Petitioner has filed this writ petition challenging order dated 07.02.2019 contained in Annexure-P/10 passed by Additional Commissioner Linc Court-Satna/Sidhi, Rewa Division, Rewa (MP).
5. Learned counsel for the petitioners submitted that Tehsildar has passed an order of mutation on basis of Will dated 14.10.2009 in favour of respondent No.1. Thereafter, non-applicants before Tehsildar preferred an appeal before Sub Divisional Officer. Sub Divisional Officer set aside the order of mutation dated 30.06.2017. Respondent No.1 preferred an appeal before Additional Commissioner which was allowed and order passed by S.D.O. was set aside. Learned counsel for the petitioner further submitted that Additional Commissioner committed an error of law in setting aside the well reasoned order passed by S.D.O. Tehsildar does not have any jurisdiction to consider a disputed Will and pass order of mutation. He relied upon order dated 06.09.2021 passed in *Special Leave Petition (C) No.13146/2021 {Jitendra Singh Vs. State of Madhya Pradesh & Others}*.
6. Learned counsel for respondents opposed the said contention of counsel for petitioner and submitted that Additional Commissioner has considered all the issues and evidences available on record and has passed a reasonable and proper order. There is no error in the order of Additional Commissioner.
7. Heard the counsel for the parties.

8. Revenue Court does not have any jurisdiction to dwell upon the question of title of a party. Civil rights of the party are to be determined by Civil Court and not by Revenue Courts.

9. In case of *Jitendra (supra)* Apex Court in paragraph-5 held as under:-

"...As per the settled proposition of law, if there is any dispute with respect to the title and more particularly when the mutation entry is sought to be made on the basis of the Will, the party who is claiming title/right on the basis of the Will has to approach the appropriate civil court/court and get his rights crystalised and only thereafter on the basis of the decision before the civil court necessary mutation entry can be made."

10. Additional Commissioner, Rewa Division, Rewa committed an error of law in quashing the order passed by S.D.O. Hence, order passed by Additional Commissioner, Rewa Division, Rewa is quashed and writ petition filed by petitioner is ***allowed***.

(VISHAL DHAGAT)

JUDGE