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WP-4216-2021

IN THE HIGH COURT OF MADHYA
PRADESH
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE VISHAL DHAGAT

WRIT PETITION No. 4216 of 2021**RAMRANI RAJAK***Versus***JAGJEET WADHWA AND OTHERS**

Appearance:

Shri Ashok Lalwani - Senior Advocate with Shri Abhishek Singh - Advocate for petitioner.

Shri Devendra Kumar Tripathi - Advocate for respondent No.1.

Shri Pramod Pandey - Government Advocate for respondents No. 2 to 4/State.

Shri Rupesh Singh Thakur - Advocate for caveator.

Reserved on : 26.03.2025

Delivered on : 30.05.2025

ORDER

Petitioner has filed this petition under Article 226 of the Constitution of India challenging order dated 08.01.2021, contained in Annexure P/2. Said order is passed in Second Appeal by Commissioner, Sagar Division, Sagar (M.P.) i.e. respondent No.2.

2. Brief facts of the case are that petitioner has preferred an appeal before S.D.O.(R) against order of Tehsildar dated 22.03.1997, by which part of Khasra No. 83, area 0.80 Are land was entered in name of respondent No. 1. It was averred that land belongs to petitioner's



husband and same was never sold to respondent No.1. Khasra No. 83, total area 1.449 hectare situated in Mouza Ladanbag, Hirdepur, Damoh was vested on Param Lal Rajak in family settlement. Said khasra number was given new Khasra No. 123. Param Lal is said to have executed sale deed dated 09.01.1997 in respect of 2 acres of land in favour of respondent No.1. Mutation was done in favour of respondent No.1 vide order dated 22.03.1997. Param Lal had not raised any dispute over said mutation proceedings. After selling of 2 acres of land i.e. 0.809 hectare, 0.640 hectare land still remained with Param Lal, but no such entries were there in revenue record. After sale, Khasra No. 83 became Khasra No. 123, but there was no renumbering of khasra number in respect of remaining 0.640 hectare of land. S.D.O.(R) gave finding that from year 1981-82, Khasra No. 83, measuring 1.449 hectare was entered in name of bhumiswami Roopchand S/o Nannai. In year 1991-92, name of Param Lal was entered over said khasra number. From 1992-93 to 2000-2001, Khasra No. 83, area 0.17 hectare, was recorded in name of State of Madhya Pradesh (pani). S.D.O.(R) found that in year 1997, Khasra No. 83 was recorded in name of State of Madhya Pradesh. Seller does not have any right to sell the land in question. From records, it was found that new number of khasra No. 83 is 123. S.D.O.(R) held that after purchase of land, no action was taken for correcting the records. He purchased 0.80 hectare land, but was in possession of 0.73 hectare, but no action was taken for correction of record. It was found that Rule 27 of



Mutation Rules was violated. No proclamation was issued. In view of same, mutation order dated 22.03.1997 was set aside by S.D.O.(R). Respondent preferred appeal before Commissioner against order of S.D.O.(R). Commissioner held that mutation order was passed on 22.03.1997 and appeal was filed on 07.01.2020 after 23 years. S.D.O.(R) had committed an error in interfering in appeal after period of 23 years. Respondent No.1 was in possession of same khasra number, which was sold to him. Change of khasra number will not affect the title of the party and order dated 01.10.2020 passed by Sub-Divisional Officer, Damoh was set aside and order of tehsildar was affirmed.

3. Learned counsel appearing for the petitioner submitted that order dated 08.01.2021 passed by Commissioner, Sagar is based on presumption and assumption. Material piece of evidence has been ignored by Commissioner. Commissioner failed to appreciate findings given by Sub-Divisional Officer that land in question vested in State Government in year 1992-93, therefore, selling of Khasra No.83 does not arise. Sale deed has been executed on 09.01.1997 is fabricated. Khasra No.123 was not sold to respondent No.1. Respondent No.1 claimed to be owner of Khasra No.83 but got his name mutated in Khasra No.123 measuring 0.730 hectare. In these circumstances, order passed by Commissioner is illegal and deserves to be set aside.

4. Learned counsel appearing for the respondents supported the order passed by Commissioner and it is submitted that a well reasoned



order has been passed and complete details of land has been mentioned in the order and changing of hand in respect of land and also changing of khasra number during *Bandobast* was taken into consideration and thereafter, order has been passed. No illegality can be found in the order, therefore, petition may be dismissed.

5. Heard the counsel for the parties.

6. On going through the aforesaid facts and circumstances of the case, it is found that Commissioner has passed a well reasoned order. One Paramlal who is husband of petitioner-Ramrani Rajak became owner of land when same devolved upon him in family settlement. Paramlal got Khasra No.83 measuring 1.449 hectare in family settlement. He sold 0.809 hectare of land to respondent No.1 by registered sale deed dated 09.01.1997, thereafter, mutation order was passed by Tehsildar in favour of respondent No.1 on 22.03.1997. Said order was not challenged by petitioner i.e. wife of Paramlal or by Son during life time of Paramlal. An appeal was preferred before Sub-Divisional Officer after delay of about 23 years. After selling of land, settlement took place and Khasra No.83 was renumbered as Khasra No.123. In registered sale deed, Khasra No.83 was wrongly mentioned. Sale was made of Khasra No.123. Respondent No.1 was in possession of only 0.730 hectare of land. He was in peaceful possession from long time. How Khasra No.83 was entered in name of State Government in year 1997 is not clear nor any explanation has been given by Sub-



Divisional Officer in respect of same. Commissioner found that merely mentioning of wrong khasra number in sale deed will not affect the title as boundaries in sale deed have correctly been mentioned and respondent No.1 is in occupation of the same land which has been sold to him.

7. On going through aforesaid facts, it is found that no illegality has been committed by Commissioner in passing of impugned order. Commissioner has rightly detailed all the facts in its order dated 08.01.2021 and has also dealt with matter correctly.

8. Petition is *dismissed*.

(VISHAL DHAGAT)
V. JUDGE

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