IN THE HIGH COURT OF MADHYA PRADESH AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE SANJAY DWIVEDI

ON THE 17th OF AUGUST, 2023

WRIT PETITION No.6344 of 2023

BETWEEN:-

1. **RAKESH MANOCHA S/O S.P. MANOCHA, AGED ABOUT 57 YEARS, PRIVATE JOB, R/O 47 NUTAN BHARAT SOCIETY ALKAPURI VADODARA GUJRAT**
2. **RAJESH MANOCHA S/O LATE S.P. MANOCHA, AGED ABOUT 54 YEARS, BUSINESS R/O CLUB TOWN ENCLAVE 20 CHINAR PARK KOLKATA-700 157**
3. **RAMESH MANOCHA S/O LATE S.P. MANOCHA, AGED ABOUT 51 YEARS, PRIVATE JOB, R/O RAJUL FLAT GYANN VIHAR NARMADA ROAD, JABALPUR.**

.....PETITIONERS

(BY SHRI VIPIN YADAV - ADVOCATE)

AND

1. **M/S ERA CONSTRUCTION THROUGH PARTNER GURVINDER SINGH BHASIN R/O BHASIN ARCADE THIRD FLOOR, MAIN ROAD, GORAKHPUR, JABAPLUR.**
2. **M/S NIPANI INFRA AND INDUSTRIES PVT. LTD. THROUGH DIRECTOR RAJIV PURI S/O K.D. PURI AGED ABOUT 58 YEARS, OFFICE SECOND FLOOR, BHASIN ARCADE, GORAKHPUR, MAIN ROAD, JABALPUR**

.....RESPONDENTS

(RESPONDENT NO.1 BY SHRI DINESH UPADHYAY - ADVOCATE)

(RESPONDENT NO.2 BY SHRI AMIT SAHNI - ADVOCATE)

.....

Reserved on : 24.07.2023

Pronounced on : 17.08.2023

.....

This petition having been heard and reserved for orders, coming on for pronouncement this day, the Court pronounced the following:

ORDER

Since pleadings are complete and learned counsel for the parties are ready to argue the matter finally, therefore, on their joint request, it is heard finally.

2. By the instant petition filed under Article 226/227 of the Constitution of India, the petitioners are calling in question the legality, validity and propriety of order dated 17.02.2023 (Annexure-P/9) passed by the Additional Commissioner, Jabalpur Division, Jabalpur in the second appeal preferred by respondent No.2 under Section 44(2) of the Madhya Pradesh Land Revenue Code, 1959 (in short the 'Code, 1959') whereby the Additional Commissioner setting aside the order of Sub Divisional Officer has allowed the appeal and also directed the Tahsildar to correct the revenue record.

3. As per the facts of the case, an agreement dated 18.02.2010 (Annexure-P/2) was executed between the petitioners and respondent No.1 for developing the land situated at Mouza Polipathar, Settlement No.164, P.H. No.24/2-29 (New No.08) Tahsil and District Jabalpur of Khasra No.2/1 area measuring 0.121 hectare, Khasra No.2/2 area measuring 0.162 hectare, Khasra No.6 area measuring 2.146 hectares, Khasra No.7/1 area measuring 1.052 hectares, Khasra No.14 area measuring 0.251 hectare,

Khasra No.5 area measuring 1.595 hectares, Khasra No.9/2 area measuring 1.012 hectares total area 6.339 hectare i.e. 15.66 acres. The agreement got registered as a development agreement under Article 6(d) of the Indian Stamp Act, 1899 (in short the 'Act, 1899'). The parties to the agreement had arrived at a settlement that party No.1 (the petitioners) are the owners of the land which was to be developed by respondent No.1 being a developer and in lieu of development, respondent No.1 would be given 54% of the saleable land/plots whereas 46% of the saleable land/plots would be of the petitioners. However, the agreement also contained a clause that salable right of land/plots in respect of share of respondent No.1 would accrue in his favour only after obtaining completion certificate. Subsequently, respondent No.1 after obtaining requisite permission from various authorities had acted upon the agreement dated 18.02.2010 and started the development work. However, the development was later on amended due to decrease in the land and thereafter, an amended layout was prepared on 17.12.2015 which got approved from the Town and Country Planning Department, Jabalpur. After approval of development plan and getting the work order from Municipal Corporation, respondent No.1 had completed the work on 22.08.2017 and thereafter, the Municipal Corporation had issued a completion certificate on 07.05.2018 as a result whereof 25% plots mortgaged with the Municipal Corporation, Jabalpur got released. The relevant documents relating to layout plan, work order, mortgage-deed, completion certificate and release-deed etc. are on record.

(3.1) Clause (E)(1)(a) of the agreement dated 18.02.2010 (Annexure-P/2) deals with the rights of the party which reads as under:-

> "(E)(1)(a) On Project Completion, the LANDOWNERS shall by way of consideration for the development of the Project

> undertaken at the sole cost of the DEVELOPER make available to the DEVELOPER, 54% (Fifty Four percent) of the earmarked and defined Saleable Area as the DEVELOPER's Allocation. The balance 46% (Forty Six percent) of the Saleable Area representing the LANDOWNERS' Allocation shall remain with the LANDOWNERS. The area representing the LANDOWNERS' Allocation/ DEVELOPER's Allocation shall be marked in the plan."

In view of aforesaid clause of the agreement, respondent No.1 had executed a sale-deed of the land/plot of his share on 14.08.2019 whereas the owners (petitioners) have also executed a sale-deed of their share on 05.12.2019. However, a declaration-deed was also executed on 10.01.2019 (Annexure-R-2/9) which contained a clause that both the parties agreed to sale the plots falling in their respective shares and thereafter respondent No.1 will organize release of mortgaged plots, meaning thereby, both the parties i.e. the petitioners (the owners) and respondent No.1 (the developer) as per the agreed terms of the agreement dated 18.02.2010 have again entered into an agreement for selling the plots of their shares i.e. 46% and 54 % respectively.

(3.2) As per the declaration-deed, the plots came in the share of the petitioners have been described in Schedule No.I whereas the plots which came in the share of respondent No.1 have been described in Schedule No.II. Thereafter, respondent No.1 had sold the plots/Block No.A area 2040 square meters i.e. 21950.40 square feet in a sale consideration of Rs.1,17,00,001/- to respondent No.2 vide a registered sale-deed dated 14.08.2019. Thereafter, respondent No.2 on the basis of said sale-deed, had filed an application under Sections 109 and 110 of the Code, 1959 and pursuant thereto, a revenue case got registered vide case No.565/A-6/2019-20 before the Tahsildar, Jabalpur and that application was decided vide order dated 14.02.2020 whereby the revenue entries were directed to

be corrected and the name of respondent No.2 was also directed to be mutated in the revenue record.

(3.3) As per the petitioners, before mutating the name of respondent No.2 in the revenue record, since they were not given an opportunity of hearing, therefore, against the order passed by the Tahsildar, Jabalpur, they preferred an appeal before the Sub Divisional Officer and in turn, the said authority vide order dated 01.04.2022 had allowed their appeal and set aside the order passed by the Tahsildar on 14.02.2020.

(3.4) Against the order passed by the Sub Divisional Officer, respondent No.2 had preferred a second appeal before the Additional Commissioner, Jabalpur Division, Jabalpur and the authority vide impugned order dated 17.02.2023 (Annexure-P/9) maintaining the order of Tahsildar passed on 14.02.2020 had allowed the appeal and set aside the order of the Sub Divisional Officer. Hence, this petition.

4. Shri Yadav, learned counsel for the petitioners has assailed the impugned order passed by the Additional Commissioner, Jabalpur Division, Jabalpur mainly on two counts; firstly, that the Additional Commissioner while maintaining the order of Tahsildar has not taken into account the fact that before allowing the application preferred by respondent No.2 under Sections 109 and 110 of the Code, 1959, the Tahsildar did not provide any opportunity of hearing to the petitioners though being the original owners of the land, they were the necessary party to be heard whose names were there in the revenue record and as such, the order passed by the Tahsildar was liable to be set-aside and secondly, that the Additional Commissioner has also failed to take into account the fact that the sale-deed executed by respondent No.1 in favour of respondent No.2 was invalid for the reason that as per map annexed

with the agreement, the land which was sold to respondent No.2 is of the area which does not come within the definition of "saleable or developed area" and, therefore, sale-deed of that area could not have been executed by respondent No.1 in favour of anybody including respondent No.2. He has further submitted that the revenue authority without considering the important aspects of the matter had allowed the application of respondent No.2 that too on the basis of invalid sale-deed. He has also submitted that though the Additional Commissioner in its order has taken note of the provision of Article 6(d) of the Act, 1899 and given benefit to respondent No.2, but according to Shri Yadav, the said provision is not applicable in the facts and circumstances of the present case and, therefore, according to him, the order of Additional Commissioner is illegal and liable to be set-aside. In support of his contention, learned counsel for the petitioners has placed reliance upon a case reported in **(2022) 8 SCC 210 [Asset Reconstruction Company (India) Ltd. Vs. S.P. Velayutham and others]**.

5. In contrast, Shri Upadhyay, learned counsel for respondent No.1 has opposed the submissions advanced by learned counsel for the petitioners and submitted that in the agreement (Annexukre-P/2), it was clearly mentioned that the petitioners would have 46% share over the saleable land/plots whereas the developer (respondent No.1) would have 54% share over the saleable land/plots. He has submitted that in pursuance to terms and conditions of agreement (Annexure-P/2), land was developed and thereafter on the basis of right conferred in the agreement itself that the owner and the developer after developing the land can execute the sale-deed in respect of the land of their respective shares, respondent No.1 had executed the sale-deed relating to his share. He has also submitted that

the Additional Commissioner in its order has not only taken into account the legal aspects of the matter but also the fact that sale-deed which was the foundation of allowing the application for mutation has already been challenged before the Civil Court by filing a civil suit wherein interim injunction has been granted in favour of the petitioners restraining the parties from alienating the property in favour of anybody till pendency of the suit. He has also submitted that the Additional Commissioner has also observed that the order passed by the Civil Court would govern the revenue entries made in the revenue record. He has submitted that the Additional Commissioner has exercised the jurisdiction properly and, therefore, the order passed by the authority does not call for any interference. According to him, the petition is without any substance and deserves to be dismissed.

6. Shri Sahni, learned counsel for respondent No.2 has submitted that before mutating the name of respondent No.2 in the revenue record, the petitioners were not required to be heard for the reason that in pursuance to agreement (Annexure-P/2), the developer (respondent No.1) has become the owner of the land and since respondent No.2 has purchased the land from developer (respondent No.1) that too by a registered sale-deed, therefore, the revenue authority before correcting the revenue entries has given an opportunity of hearing to the developer (respondent No.1) and purchaser (respondent No.2) and under the existing circumstances, the action of the revenue authority cannot be said to be illegal. He has further submitted that the validity of the sale-deed cannot be questioned before the revenue authority and in fact, the revenue authority has no jurisdiction to make an enquiry to ascertain the sanctity of the said sale-deed. Learned counsel for respondent No.2 has submitted that

sale-deed has been executed in pursuance to the declaration-deed (Annexure R-2/9) whereunder there was a clear declaration of plots which came in the shares of petitioners and respondent No.1 (the developer). He has submitted that not only respondent No.1/developer, but the petitioners have also acted upon the said declaration-deed and executed the sale-deed in respect of the land/plots which came in their share and, therefore, the revenue authority did nothing wrong while allowing the application of mutation of respondent No.2 that too without giving any opportunity of hearing to the petitioners. Learned counsel for respondent No.2 has submitted that in the present facts and circumstances of the case not giving any opportunity of hearing to the petitioners does not cause any prejudice to them and in fact, it does not make the order of revenue authority vitiated. He has further submitted that the developer in pursuance to the clause of agreement has become the agent of the land owner, acted upon the said agreement and executed the sale-deed, therefore, if agent has been heard by the revenue authority, further hearing to the petitioners is not required and if that is not done then that cannot be considered to be in violation of principle of natural justice. Even otherwise, he has submitted that the natural justice if at all is not followed that does not cause any prejudice to the petitioners and as such, order cannot be said to be illegal. To bolster his submissions, he has placed reliance upon the cases reported in **(2005) 7 SCC 725 [R.C. Tobacco (P) Ltd. and another Vs. Union of India and another]**; **(2012) 1 SCC 656 [Suraj Lamp and Industries Private Limited Vs. State of Haryana and another]**; **(2015) 8 SCC 519 [Dharampal Satyapal Limited Vs. Deputy Commissioner of Central Excise, Gauhati and others]** and **2022 SCC OnLine SC 898 [Rameshwar and others Vs. State of Haryana and others]**.

7. In response to the submissions made by the counsel for the respondent No.2, learned counsel for the petitioners has submitted that declaration-deed is nothing but a fraudulent document and in fact, it is neither properly stamped nor signed by any of the witnesses. He has submitted that the petitioners had never acted upon the said declaration-deed. He has also submitted that in none of the sale-deeds, there was any reference of the said declaration-deed, therefore, it cannot be taken into account.

8. No other point is argued.

9. I have heard the rival submissions of counsel for the parties and perused the record.

10. Though, learned counsel for the petitioners has contended that before mutating the name of respondent No.2 in the revenue record, the Tahsildar did not issue any notice to the petitioners who being the original owners of the land were required to be heard, but this aspect has been considered by the Additional Commissioner, Jabalpur Division, Jabalpur, in its order dated 17.02.2023 which is impugned in this petition whereby the said authority has observed that in relation to land recorded in the name of the petitioners in the revenue record, a registered agreement got executed between the petitioners and respondent No.1 which was properly stamped as per the provision of Article 6(d) of the Act, 1899 (although in the order of Additional Commissioner it is incorrectly typed as 5(d)). The Additional Commissioner in its order has also taken note of the terms and conditions of the agreement especially Clauses (E)(1)(b), (E)(1)(c), (E)(1)(d); the fact in respect of requisite sanction granted by the respective authorities and also the work completion certificate issued. Clauses (E)(1)(b), (E)(1)(c) and (E)(1)(d) are relevant to resolve the dispute involved in

the case which read as under:-

> "(E)(1)(b) The LANDOWNERS and the DEVELOPER are independently free and entitled to make bookings and advise sale of Plots in respect of their respective shares of Saleable Area by executing Agreement to Sell with the Purchaser.
>
> (E)(1)(c) The LANDOWNERS and the DEVELOPER are entitled to receive consideration from the Purchaser in respect of the Plot falling under their respective shares. Both the parties would be liable for all taxes on such sale of Plot falling under their respective shares.
>
> (E)(1)(d) Notwithstanding anything to the contrary the DEVELOPER shall have the right to sell its share of the Plots on its own only if the DEVELOPER has fulfilled the requirements of Project Completion."

According to the Additional Commissioner, the terms of agreement specify that after obtaining completion certificate, the parties to the agreement i.e. the petitioners and respondent No.1 both were entitled to sell the plots of their respective shares and they were also entitled to receive the proper consideration of sale made by them from the respective purchasers. The Additional Commissioner in its order has observed that after obtaining completion certificate as per the agreement, respondent No.1 became the owner of the land which came in his share and as such, if any sale-deed is executed by respondent No.1, he was required to be heard, but not the petitioners. However, I am also of the opinion that the petitioners could be heard only under the circumstances when any sale-deed is executed by them in respect of their share. Since the agreement was a registered agreement which defines the rights and obligation of the parties and as per the agreed terms between the parties, if a sale-deed got executed in favour of respondent No.2 by respondent No.1, consideration amount of sale received by respondent No.1 and that land as per the schedule appended with declaration-deed came in the share of respondent

No.1, therefore, the petitioners in the said proceeding of mutation initiated by respondent No.2 cannot be said to be a necessary party. In my opinion, while passing the order, there was nothing wrong committed by the revenue authority because the agreement is a written and registered document which gives authority to respondent No.1 to execute the sale-deed of the plots which came in his share and since that was done, therefore, the petitioners cannot assail the order only on the ground that they have not been provided an opportunity to be heard. Likewise, the second ground of challenge whether the sale-deed executed by respondent No.1 in favour of respondent No.2 was valid or not and that it was not of the area which falls within the definition of developed area, is not a subject matter of consideration of the revenue authority for the reason that if validity of a sale-deed is to be questioned, then the same can be answered only by the competent Court i.e. Civil Court, but not by the revenue authority. Challenging the said sale-deed, a civil suit is already filed and pending before the Court and as such, the grievance of the parties shall be settled finally by the competent Court and accordingly, the revenue entries could be corrected. The Additional Commissioner has also observed that in respect of right of the parties if any dispute arises, then the same can be settled by the Civil Court only but the revenue authority has no jurisdiction to enter into the said field which according to me is just and proper. The Additional Commissioner has further observed that the sale-deed is under challenge before the Civil Court and as per the order passed by the Civil Court, the revenue authority will act upon, but at this juncture, there is no need to keep the application of mutation pending. However, the above observation made by the Additional Commissioner is also proper for the reason that ultimately the revenue entries would govern with the final decision of Civil Court, but keeping the application of mutation pending

would not serve any purpose. The State of Madhya Pradesh has also formulated the rules known as Madhya Pradesh Bhu-Rajasv Sanhita (Bhu-Abhilekhon Mein Namantaran) Niyam, 2018, relating to the procedure and other aspect for mutation of name in the revenue record. The said rules provide the mode of acquisition of lease hold rights/interest and also provide as to what are the documents on the basis of which mutation can be done in which the documents which are registered and determining the rights over the land can also be made basis for mutation and, therefore, the orders passed by the Tahsildar and also by the Additional Commissioner cannot be said to be illegal.

11. In the case of **Rameshwar** (supra), the Supreme Court has observed as to what right is derived to developer by virtue of an agreement between the owner and developer. In the said case the Supreme Court has observed as under:-

> "**34.** The above judgment, while clarifying the purpose of collaboration agreements, falls short of delving into the legal effects of the transfer of such development rights. Parting with rights which are fundamental to ownership, for valuable consideration (in cash or by handing over constructed units), leaving only the nominal 'title' with the landowner, is a common feature of such collaboration agreements. Given the evolution in complexity of real estate contracts, and the absence of the definition of collaboration agreements in legislation, their interpretation by various High Courts assumes significance. In a question pertaining to the applicability of the Specific Relief Act, 1963 to such contracts, a Full Bench of the Calcutta High Court in Ashok Kumar Jaiswal v. Ashim Kumar Kar7 while addressing the nature of development agreements, also answered the question in affirmative:
>
> > "45. This leads to the unavoidable discussion as to what may be regarded as a Development Agreement as referred to in the questions framed for the reference and the Judgments of this Court cited by the parties. Without intending the discussion to be an exhaustive treatise on Development Agreements of all hues, it may be recognized there can be several Agreements, which can be loosely described as

Development Agreements in the sense that such expression has been used in the judgments cited in course of the present proceedings. An owner without any funds or the independent resources to construct a new building on such owner's land may engage another for such purpose with the consideration for the construction being paid by allocation of a part of the constructed area. There could be several variants of the same basic structure of a Development Agreement with the Agreement either providing for the owner being entitled to a sum of money in addition to a specified share in the constructed area or with a Developer being required to rid the land of its encumbrances, whether monetary or otherwise, prior to the construction being taken up. There may be other similar Agreements under which the Developer is required to temporarily relocate an existing tenant or occupant and ultimately provide the tenant or occupant a part of the constructed area. In the context in which certain Agreements pertaining to the construction of new buildings contemplate the construction to be undertaken or orchestrated by a person other than the owner of the land, whether upon the demolition of the existing structure or otherwise, with such person other than the owner having a share in the constructed area, such Agreements have now come to be regarded as Development Agreements. Whether or not such Agreements are in the nature of collaboration or joint venture, they are loosely referred to as Development Agreements in several Judgments. Such Agreements are not merely for the construction of any building or for the mere execution of any other work on the land. The Developer is not merely a Contractor engaged to undertake the construction; the Developer is, under the Agreement with the owner, promised a part of the constructed premises as owner thereof together with the proportionate area of the land. In the context in which certain Agreements are referred to as Development Agreements and the non-owner party to such an Agreement is regarded as the Developer qua the nature of the work envisaged under the Agreement, the Developer always has a share in the building or the area proposed to be constructed - which implies a proportionate share of the piece of earth - and such Agreement envisages the Developer to have a share of, and interest in, the final product which is the outcome of the Agreement.

46. In such sense, a Development Agreement which envisages the party thereto other than the owner being responsible for ensuring the construction of a building on the subject land and having a share therein, there is an

> inescapable contract to transfer immovable property. In form, a Development Agreement which envisages the Developer to have a share in the building proposed to be constructed in terms of the Agreement, the Agreement may appear to be somewhat not resembling an Agreement for transfer of an immovable property; and, indeed, it is not an Agreement simpliciter for sale of an immovable property. In law, however, a Development Agreement of the kind described herein entails the transfer of immovable property in the sense that the Developer or an assignee of the Developer, at the instance of the Developer, would be entitled not only to a part of the constructed area but the proportionate share of the land on which the construction is made."
>
> (emphasis supplied)
>
> **35.** Thus, collaboration agreements which enable the colonizer/developer to retain a significant portion of the constructed area as consideration, are not in the nature of pure construction contracts. An analysis of these agreements depicts the transfer of crucial rights and interests in the property, which otherwise are enjoyed only by the landowner, falling short only in respect of the 'title'."

12. Furthermore, in the case of **Dharampal Satyapal Limited** (supra), the Supreme Court has observed that in each and every case, violation of principle of natural justice does not vitiate the proceeding and it is also not required to remit the matter to the authority to follow the principle of natural justice. As per the Supreme Court if not giving an opportunity to be heard or violating the principle of natural justice does not cause any prejudice to the party, then it is not feasible to direct the authority to initiate the proceeding afresh giving notice to the parties. The Supreme Court in the aforesaid case has observed as under:-

> "**45.** Keeping in view the aforesaid principles in mind, even when we find that there is an infraction of principles of natural justice, we have to address a further question as to whether any purpose would be served in remitting the case to the authority to make fresh demand of amount recoverable, only after issuing notice to show cause to the appellant. In the facts of the present case, we find that such an exercise would be totally futile having regard to the law laid down by this Court in R.C. Tobacco [(2005) 7 SCC 725].

46. To recapitulate the events, the appellant was accorded certain benefits under the Notification dated 8-7-1999. This Notification stands nullified by Section 154 of the 2003 Act, which has been given retrospective effect. The legal consequence of the aforesaid statutory provision is that the amount with which the appellant was benefited under the aforesaid Notification becomes refundable. Even after the notice is issued, the appellant cannot take any plea to retain the said amount on any ground whatsoever as it is bound by the dicta in R.C. Tobacco [(2005) 7 SCC 725] . Likewise, even the officer who passed the order has no choice but to follow the dicta in R.C. Tobacco [(2005) 7 SCC 725]. It is important to note that as far as quantification of the amount is concerned, it is not disputed at all. In such a situation, issuance of notice would be an empty formality and we are of the firm opinion that the case stands covered by "useless formality theory".

47. In Escorts Farms Ltd. v. Commr. [(2004) 4 SCC 281], this Court, while reiterating the position that rules of natural justice are to be followed for doing substantial justice, held that, at the same time, it would be of no use if it amounts to completing a mere ritual of hearing without possibility of any change in the decision of the case on merits. It was so explained in the following terms : (SCC pp. 309-10, para 64)

> "64. Right of hearing to a necessary party is a valuable right. Denial of such right is serious breach of statutory procedure prescribed and violation of rules of natural justice. In these appeals preferred by the holder of lands and some other transferees, we have found that the terms of government grant did not permit transfers of land without permission of the State as grantor. Remand of cases of a group of transferees who were not heard, would, therefore, be of no legal consequence, more so, when on this legal question all affected parties have got full opportunity of hearing before the High Court and in this appeal before this Court. Rules of natural justice are to be followed for doing substantial justice and not for completing a mere ritual of hearing without possibility of any change in the decision of the case on merits. In view of the legal position explained by us above, we, therefore, refrain from remanding these cases in exercise of our discretionary powers under Article 136 of the Constitution of India."

48. Therefore, on the facts of this case, we are of the opinion that non-issuance of notice before sending communication dated 23-6-2003 has not resulted in any prejudice to the appellant and it may not be feasible to direct the respondents to take fresh action after issuing notice as that would be a mere formality."

(emphasis supplied)

13. So far as the case of **S.P. Velayutham** (supra) is concerned, in the said case, it has also been held by the Supreme Court that if a party questions the very execution of a document or the right and title of a person to execute a document and present it for registration, his remedy will only be go to the civil court.

14. Here in the present case, the petitioners have already approached the Civil Court so as to determine the right to execute the sale-deed and also the validity of the sale-deed and that aspect has also been considered by the Additional Commissioner in its order saying that the revenue entries would be governed with the order of Civil Court, which in my opinion is just and proper and does not call for any interference.

15. Considering the aforesaid enunciation of law and the fact that the Civil Court by way of interim arrangement has already restrained respondent No.2 from creating any third party right during pendency of civil suit, I am of the opinion that it is not proper to set aside the proceeding already concluded by the revenue authority allowing the name of respondent No.2 to be mutated in the revenue record that too on the basis of registered sale-deed executed by respondent No.1 in favour of respondent No.2 and remit the matter for fresh proceeding. However, in the existing facts and circumstances of case as has been discussed in the preceding paragraphs, I am of the opinion that neither hearing of the petitioners was required before mutating the name of respondent No.2 in the revenue record nor the validity of the sale-deed as has been questioned by the petitioners is required to be seen. So far as the observation made by the Additional Commissioner in its order that the order of Civil Court would govern the entries made in the revenue record is concerned, the same does not suffer from any illegality and in fact, under the existing

circumstances, I am not inclined to open a new door of litigation between the parties with regard to correction in the revenue record.

16. As an upshot of aforesaid discussion, the petition being devoid of merit, is hereby **dismissed**.

(SANJAY DWIVEDI)
JUDGE

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