

**IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR**

BEFORE

HON'BLE SHRI JUSTICE GURPAL SINGH AHLUWALIA

ON THE 25th OF APRIL, 2024

MISC. PETITION No. 2045 of 2024

BETWEEN:-

1. SANGEETA DEVI W/O CHHOTE LAL SINGH,
AGED ABOUT 62 YEARS, OCCUPATION:
AGRICULTURIST R/O VILLAGE MADRO
TEHSIL TEONTHAR DISTRICT REWA
(MADHYA PRADESH)
2. GEETA DEVI W/O NAGENDRA SINGH,
AGED ABOUT 50 YEARS, OCCUPATION:
AGRICULTURIST R/O VILLAGE MADRO
TEHSIL TEONTHAR, DISTRICT REWA
(MADHYA PRADESH)
3. NIRMALA DEVI W/O LATE BHAGWAT
SINGH, AGED ABOUT 52 YEARS, R/O
VILLAGE MADRO TEHSIL TEONTHAR,
DISTRICT REWA (MADHYA PRADESH)
4. ROSHAN LAL S/O RAJ NARAYAN, AGED
ABOUT 40 YEARS, R/O VILLAGE MADRO
TEHSIL TEONTHAR, DISTRICT REWA
(MADHYA PRADESH)

.....PETITIONER

(BY SHRI BHUPENDRA KUMAR SHUKLA -ADVOCATE)

AND

1. DEV LAL SINGH S/O BHOLA SINGH R/O
KUTHILA TEHSIL TEONTHAR DISTRICT
REWA (MADHYA PRADESH)
2. ASHA DEVI D/O JANGILAL SINGH R/O
VILLAGE SURBAL TEHSIL BARA, DISTRICT
ALLAHABAD (UTTAR PRADESH)

.....RESPONDENTS

(NONE)

This petition coming on for admission this day, the court passed the following:

ORDER

This petition under Article 227 of Constitution of India has been filed seeking following relief(s):-

“(i) That, this Hon’ble Court be pleased to set aside the impugned order dated 29.09.2023 (Ann. P-3), passed by Additional Commissioner Rewa (M.P.) passed in Case No. 1456/appeal/11-12 , in the interest of justice.

(ii) That, the Hon'ble Court be pleased to call the entire records pertaining to the case of the petitioners for kind perusal of this Hon'ble Court.

(iii) That, this Hon'ble Court may kindly be please to direct the respondents/Authorities to decide the case of the petitioners on merits after giving proper opportunity of hearing to the persons and through proper inquiry, in the interest of justice.

(iv) Any other relief which this Hon'ble Court may kindly be deemed fit and proper in favour of petitioners may also be given together with cost of petition, in the interest of justice.”

2. It is submitted by counsel for petitioners that Asha Devi/respondent No.2 had executed a registered sale deed in favour of the Dev Lal/respondent No.1 in respect of disputed property and accordingly, Dev Lal got his name mutated in the revenue records. The

order of mutation was challenged by Asha Devi and the said appeal was allowed by the SDO and the order of mutation in favour of Dev Lal was set aside. Accordingly, name of Asha Devi was once again mutated in the revenue records. Although, the petitioner was not aware that Dev Lal has already preferred a second appeal against the order of SDO, but under a *bona fide* belief that Asha Devi is the owner, purchased the same land by a registered sale deed executed by Asha Devi. In the meanwhile, Asha Devi had also filed a civil suit for challenging the sale deed executed by her in favour of Dev Lal but said civil suit was also dismissed. The appeal filed by Dev Lal against the order of SDO by which the order of mutation in favour of Dev Lal was set aside was also allowed and the name of Dev Lal has been restored back in the revenue records.

3. In the meanwhile, since the petitioners had purchased the disputed property by registered sale deed, therefore their name was recorded. However, in view of the facts that Asha Devi had already alienated the said land to Dev Lal and not only her civil suit has also been dismissed but order of mutation of her name was also set aside, the order of mutation passed in favour of the petitioners has also been set aside.

4. Heard the learned counsel for petitioners.

5. It is well established principle of law that mutation entry is not a document of title. The facts of the present case can be summarized as under:-

- (i) Asha Devi/respondent No.2 executed a registered sale deed in favour of Dev Lal/respondent No.1.

- (ii) Dev Lal/respondent No.1 filed an application for mutation and his name was mutated.
- (iii) Asha Devi/respondent No.2 challenged the order of mutation and the order of mutation was set aside by SDO.
- (iv) Dev Lal/respondent No.1 challenged the order of SDO by filing second appeal.
- (v) Asha Devi/respondent No.2 executed another sale deed in favour of the petitioners in respect of the same land.
- (vi) Civil suit filed by Asha Devi/respondent No.2 challenging the sale deed executed in favour of Dev Lal/respondent No.1 was dismissed.
- (vii) The order of SDO, which was in favour of Asha Devi/respondent No.2 was set aside in appeal and the name of Dev Lal /respondent No.1 was re-mutated in the revenue records.
- (viii) In the meanwhile, the petitioners had got their name mutated on the basis of sale deed executed in their favour.
- (ix) By the impugned order, the order of mutation in favour of petitioners has been set aside.

6. From the above mentioned facts, it is clear that once Asha Devi had already alienated the property to Dev Lal, then she had lost all her title in the property and therefore she had no authority whatsoever to execute another sale deed in favour of petitioners.

7. It is well established principle of law that a seller cannot transfer a title better than what he himself is having. Since, Asha Devi/respondent No.2 had no title, therefore no title would transfer in

favour of the petitioners even on execution of registered sale deed by Asha Devi in their favour.

8. Under these circumstances, this Court is of considered pinion that the authorities below did not commit any mistake by setting aside the order of mutation of the petitioners and directing for mutation of name of Dev Lal/respondent No.1.

9. However, it is submitted by counsel for petitioners that petitioners may be granted liberty to file a civil suit seeking damages against Smt. Asha Devi for playing fraud on them. Since, Smt. Asha Devi had executed a registered sale deed even after executing a sale deed in favour of Dev Lal/respondent No.1, therefore, the liberty sought by the petitioners appears to be *bonafide*.

10. Accordingly with liberty to the petitioners to file a suit for damages against Smt. Asha Devi, this petition is **dismissed**.

(G.S. AHLUWALIA)
JUDGE

VB*