



**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

CIVIL APPEAL No. 15077 OF 2025
(Arising out of SLP (C) No. 22439/2024)

TARACHANDRA

...APPELLANT

VERSUS

BHAWARLAL & ANR.

...RESPONDENT (S)

J U D G M E N T

MANOJ MISRA, J.

1. Leave granted.
2. This appeal impugns judgment and order of the High Court of Madhya Pradesh at Indore¹ dated 14.08.2024 passed in Misc. Petition No. 7284 of 2023² whereby the Misc. Petition of the first respondent was allowed and orders dated 27.09.2023, 17.12.2020 and 09.11.2020 passed by Additional Commissioner, Ujjain³, Sub-

¹ The High Court

² Misc. Petition

³ Commissioner

Divisional Officer (Revenue), Manasa⁴ and Tehsildar, Manasa, respectively, were set aside and a direction was issued to mutate the name of legal heirs of Roda alias Rodilal, as per Hindu Succession Act, 1956⁵, and if they are not available, to enter the name of the State Government in the records.

FACTS

- 3.** Roda alias Rodilal was recorded as tenure holder of Survey Nos. 148, 195, 218, 225, 229/Min-1, 230/Min-1, 231, 234 located at Mouza Bhopali measuring 5.580 hectares. He died on 06.11.2019. The appellant claiming to be legatee under a registered will of Rodilal dated 01.05.2017 applied for mutation under Section

⁴ SDO

⁵ 1956 Act

110⁶ of the M.P. Land Revenue Code, 1959⁷. On the said application, Case No. 605/A/6/2019-2020 was registered before Tehsildar, Manasa. To the said application, an objection was filed by the first respondent claiming himself to be in possession of Survey No. 195 based on a written sale agreement executed by Rodi alias Rodilal.

⁶ **Section 110. Mutation of acquisition of right in land records-** (1) The patwari or Nagar Sarvekshak or person authorised under Section 109 shall enter into a register prescribed for the purpose every acquisition of right reported to him under Section 109 or which comes to his notice from any other source.

(2) The Patwari or Nagar Sarvekshak or person authorised, as the case may be, shall intimate to the Tahsildar, all reports regarding acquisition of right received by him under sub-section (1) in such manner and in such Form as may be prescribed, within thirty days of the receipt thereof by him.

(3) On receipt of intimation under Section 109 or on receipt of intimation of such acquisition of right from any other source, the Tahsildar shall within fifteen days,-

(a) register the case in his Court;

(b) issue a notice to all persons interested and to such other persons and authorities as may be prescribed, in such Form and manner as may be prescribed; and

(c) display a notice relating to the proposed mutation on the notice board of his office, and publish it in the concerned village or sector in such manner as may be prescribed;

(4) The Tahsildar shall, after affording reasonable opportunity of being heard to the persons interested and after making such further enquiry as he may deem necessary, pass orders relating to mutation within thirty days of registration of case, in case of undisputed matter, and within five months, in case of disputed matter, and make necessary entry in the village khasra or sector khasra, as the case may be, and in other land records.

(5) The Tahsildar shall supply a certified copy of the order passed under sub-section (4) and updated land records free of cost to the parties within thirty days, in the manner prescribed and only thereafter close the case:

Provided that if the required copies are not supplied within the period specified, the Tahsildar shall record the reasons and report to the Sub-Divisional Officer.

(6) Notwithstanding anything contained in Section 35, no case under this section shall be dismissed due to the absence of a party and shall be disposed of on merits.

(7) All proceedings under this section shall be completed within two months in respect of undisputed case and within six months in respect of disputed case from the date of registration of the case. In case the proceedings are not disposed of within the specified period, the Tahsildar shall report the information of pending cases to the Collector in such Form and manner as may be prescribed.

⁷ 1959 Code

4. Based on the will, the Tehsildar after recording the statement of witnesses including attesting witnesses ordered mutation. However, the mutation order was made subject to determination of rights of the parties in the pending civil suit.
5. Aggrieved by the order of the Tehsildar, the first-respondent preferred an appeal before the SDO. The appeal was dismissed. Thereafter, the first respondent preferred a second appeal before the Commissioner which too was dismissed.
6. Being aggrieved by the order(s) of the Tehsildar, SDO and the Commissioner, the first respondent filed Misc. Petition before the High Court under Article 227 of the Constitution of India.
7. The High Court by a short order, and by placing reliance on its earlier decision in ***Ranjit Vs. Smt. Nandita Singh and Others***⁸, set aside the order of the revenue authorities and directed that names of legal

⁸ 2021 SCC Online MP 3410

heirs of Rodi alias Rodilal, as per 1956 Act, shall be mutated, and if they are not available then the land shall be recorded in the name of the State Government. The High Court, however, clarified that the above direction shall be subject to the outcome of the civil suit pending between the parties.

8. Aggrieved by the order of the High Court, this appeal has been filed.
9. We have heard learned counsel for the parties and have perused the record.

Submissions on behalf of the Appellant

10. On behalf of the appellant, it was submitted:
 - (i) The order of the High Court reflects non application of mind to the implementation of ***Madhya Pradesh Bhu-Rajasv Sanhita (Bhu-Abhilekhon Mein Namantaran) Niyam, 2018⁹***. The 2018 Niyam allows

⁹ 2018 Niyam

mutation based on a will. Therefore, the judgment in ***Ranjit (supra)*** that mutation cannot be based on a will is no longer a good law. Moreover, a full bench of the High Court in ***Anand Choudhary Vs. State of Madhya Pradesh and Others***¹⁰ has held that an application seeking mutation based on a will cannot be rejected at the threshold.

- (ii) There is no serious challenge to the execution of the will, which is a registered document, and the challenge led by the first respondent is not sustainable as he is not the legal heir of the testator. Besides, the first-respondent's claim is based on an unregistered sale agreement and on adverse possession, which cannot interdict an application for mutation based on a will.
- (iii) The rights of the first respondent can only be determined in a regular suit whereas

¹⁰ 2025 SCC OnLine MP 977

mutation proceedings are summary in nature. Moreover, a mutation entry by itself does not confer any title as it is purely for fiscal purpose.

- (iv) The High Court has failed to consider a decision of this Court in ***Jitendra Singh Vs. State of MP and Others***¹¹ wherein this Court in a matter arising from a mutation proceeding under the 1959 Code had allowed mutation based on a will.

Submissions on behalf of first respondent

- 11.** *Per contra*, on behalf of the first respondent, it was submitted:

- (i) The appellant is not the natural heir of the deceased tenure holder, and the will is shrouded in suspicious circumstances, therefore, unless a competent Civil Court certifies the validity of the will, the same

¹¹ 2021 SCC OnLine SC 802

cannot be made basis of the mutation entry. Besides, the first respondent had led satisfactory evidence to demonstrate his possession over Plot No. 195. Therefore, in such circumstances, mutation in favour of the appellant cannot be allowed.

- (ii) Otherwise also, the appellant has an efficacious remedy of filing a civil suit for declaration of rights based on the will and in such circumstances, this Court should not interfere with the order passed by the High Court.

Discussions/Analysis

- 12.** We have considered the submission. Before we proceed to weigh the rival submissions an appraisal of the provisions of the 1959 Code would be appropriate.
- 13.** Section 109 of the 1959 Code provides that any person lawfully acquiring any interest or right in land shall report his acquisition of such right within six months

from the date of such acquisition in the form prescribed- (a) to the Patwari or any person authorized by the State Government in this behalf or Tahsildar, in case of land situated in non-urban area; (b) to the Nagar Sarvekshak or any person authorized by the State Government in this behalf or Tahsildar, in case of land situated in urban area. Section 110 of the 1959 Code provides for mutation in land records based on acquisition of right.

- 14.** There are various modes by which rights may be acquired in an immovable property such as sale, gift, mortgage, lease etc., which are from one living person to another. Rights may also be acquired by devolution of interest through a will or inheritance/ succession on death of the title/ interest holder.
- 15.** There is nothing in Section 109 or Section 110 of the 1959 Code limiting acquisition of rights to a particular mode. Rather, the 2018 Niyam recognizes acquisition through will as one of the modes of acquisition. Thus,

there is nothing in the 1959 Code proscribing acquisition of rights in land through a will. As a sequitur, if a will is set up, the application for mutation based thereupon will have to be considered on merits and it cannot be rejected merely because it is based on a will.

- 16.** In the instant case, there is no dispute that the recorded tenure holder had expired. The appellant had claimed acquisition of right over the land of the tenure holder by setting up a registered will of the tenure holder. The Tehsildar after calling for report, inviting objections through publications and recording evidence concluded that there was a will in favour of the appellant duly executed by the recorded tenure holder. Consequently, the Tehsildar allowed mutation. Thereafter, the appeals preferred by the first respondent were dismissed by the appellate authorities. In these circumstances, when those orders were impugned before the High Court in a petition under Article 227 of the Constitution of India, the High

Court ought to have considered whether there was any jurisdictional error, or legal infirmity in the orders impugned warranting interference under the supervisory jurisdiction of the High Court.

17. The High Court, however, without going into the merits of the order and without examining whether there was any jurisdictional error or legal infirmity in the orders passed by the revenue authorities, set aside the order by placing reliance on an earlier decision of the High Court wherein mutation based on a will was considered impermissible.

18. In our view, the High Court fell in error there. More so, when there is nothing in the 1959 Code proscribing acquisition of rights under a will. We have also been taken through the decision of the full bench of the High Court in **Anand Choudhary (supra)** where the law was summarized thus:

“In view of the aforesaid discussion, we answer the question referred to us in the negative and hold that Tehsildar cannot reject the application for mutation at threshold on the ground that it is

based upon will. However, in view of detailed discussion made by us above, it would be appropriate to summarize our conclusions serially as under:-

1) The Tehsildar while dealing with cases of mutation under sections 109 and 110 MPLRC between private parties, does not perform judicial or quasi-judicial functions, but only performs administrative functions and therefore, he is not authorized to take any evidence for the purpose of deciding applications for mutation.

2) The Tehsildar can entertain application for mutation on the basis of will. However, it would be obligatory upon him to enquire about the legal heirs of the deceased and notice them in view of provisions of section 110(4) MPLRC.

3) Sections 109 and 110 have to be read along with Section 111 M.P.L.R.C. and a bare reading of Section 111 of M.P.L.R.C. leads to conclusion that where-ever rights of private parties are involved, then it will only be for the Civil Court to adjudicate the disputed cases. The jurisdiction of the Revenue Officers in the matters of mutation in Revenue records, is merely administrative.

4) A dispute as to validity of will, competence of testator to execute will or existence of two rival wills of testator, or a dispute as to validity of any other non-testamentary registered title document as enumerated in Form-1 of Mutation Rules of 2018 would create a dispute relating to any right which is recorded in the record of rights

and arising during either mutation or correction of entry would be such a dispute.

5) In case any dispute as mentioned in para (4) above is raised between private parties, then the Tehsildar would not have any competence to decide the dispute and it would be for the parties to approach the civil court to get the dispute adjudicated, in terms of detailed discussion contained in para-74 above. Such matters will either be disposed or kept pending and reported to the Collector in terms of Section 110 (7) MPLRC by the Tehsildar, in the manner discussed in detail in this order.

6) The decision in disputed cases as contemplated under Section 110 (4) M.P.L.R.C. does not give any authority to the Tehsildar to decide such dispute and assume powers of Civil Court by going into the authenticity of will or of any non-testamentary registered title document and that outer time limit has to be read only to determine whether a dispute exists in the matter and granting opportunity to parties to approach the Civil Court. If such approach to Civil Court is not made or despite approach no injunction is granted by Civil Court, then mutation will be carried out on basis of succession by ignoring disputed testamentary document and in case of non-testamentary registered title documents, by giving effect to such document. Once a dispute in the matter of competence of testator, validity of the will (whether registered or not) or into a non-testamentary registered title document or dispute as to title is raised before Civil Court and injunction is granted, then the only course

open for the Tehsildar would be not to proceed further and to report the matter to the Collector under Section 110(7) of MPLRC.

7) In case no dispute is raised by any legal heirs of the testator or by any other person in the matter of competence of testator to execute the will and authenticity of the will, then it would be open for the Tehsildar to carry out the mutation in such undisputed cases. However, even in those cases subsequent Civil Suit will not be barred.

8) In case where issue of Government having interest in the land crops up in course of mutation, then the Tehsildar may decide that question in terms of Section 111 read with Section 257 (a) MPLRC by exercising jurisdiction which is wider than administrative one and may take evidence, but in those cases also, no enquiry as to validity of will or of any registered title document can take place before the Tehsildar.”

The full bench decision makes it clear that there is no bar for seeking mutation based on a will. However, in a case of serious dispute regarding the validity/genuineness of the will including competence of testator’s capacity to execute it, or where there are two rival wills set up, it would be a dispute beyond the competence of the Tahsildar to decide, and in such a

case the appropriate course for the parties would be to approach the Civil Court to get the dispute adjudicated.

19. But what is important is that mutation does not confer any right, title or interest on a person. Mutation in the revenue records is only for fiscal purposes¹², therefore, where there is no serious dispute raised by any natural legal heir, if any, of the tenure holder, in absence of any legal bar, mutation based on a will should not be denied as it would defeat the interest of Revenue.

20. In ***Jitendra Singh (supra)*** this Court observed that if there is any dispute with respect to the title, more particularly when the mutation entry is sought on the basis of the will, the party who is claiming title/right will have to approach the appropriate Civil Court/ Revenue Court and get his rights adjudicated. However, in our view, this cannot be taken as a law proscribing mutation based on a will particularly where the legal heirs of the tenure holder raise no dispute.

¹² 2021 SCC OnLine SC 802

21. In the present case, none of the legal heirs of the deceased tenure holder raised a dispute regarding the will. The will is a registered document. The objection, if any, is from the first respondent who claims himself to be in occupation of a particular piece of land held by the deceased tenure holder. Moreover, the claim of first respondent is based on an agreement for sale, and possession thereunder. Admittedly, the same is not a registered document and there appears to be no decree of specific performance in his favour thus far. In such circumstances, if the Tehsildar and other revenue authorities had allowed mutation on the basis of the will by making it subject to regular civil proceedings, we do not find any such jurisdictional error or legal infirmity in the mutation order as may warrant interference in exercise of powers under Article 227 of the Constitution of India.

22. In our view, therefore, the High Court erred by interfering with the mutation order(s) passed in favour of the appellant. Accordingly, the appeal is allowed. The

impugned judgment and order of the High Court is set aside. The order of the revenue authorities stands restored. The mutation entry, however, shall be subject to any adjudication by a competent Civil Court/ Revenue Court.

23. Pending applications, if any, shall stand disposed of

.....**J.**

(Sanjay Karol)

.....**J.**

(Manoj Misra)

New Delhi;
December 19, 2025