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IS MUTATION CERTIFICATE BEFORE MUNICIPALITY A TITLE DOCUMENT OF AN IMMOVABLE PROPERTY?

INTRODUCTION & BACKGROUND

1. On 05.10.2021, the division bench of the Hon'ble Supreme Court of India ("SC") unanimously set aside the judgment delivered by the High Court of Judicature at Allahabad ("HC") and restored the order passed by the Deputy Director of Consolidation ("DDC"). [*Prabhagiya Van Adhikari Awadh Van Prabhag v. Arun Kumar Bhardwaj*, 2021 SCC OnLine SC 868]

2. The case primarily concerns the revenue entry of the title of the land which was ordered to be corrected in the name of the Department of Forest by the DDC. The HC, in a writ petition preferred before it, set aside this order of the DDC. Thereafter, in civil appeal, the SC finding the impugned order of the HC erroneous clarified that that the land vests in the name of the Department of Forest by virtue of notification issued under the U.P. Zamindari Abolition and Land Reforms Act, 1950 (U.P. Act 1 of 1951) and the opposite party cannot be entitled to any right in the land only on the basis of an entry in the revenue records.

3. In light of the SC's ruling on the entitlement of right in the land on the basis of revenue records, this Article briefly discusses the meaning and concept behind the same.

WHAT IS MUTATION OF IMMOVABLE PROPERTY?

1. Mutation of a property is the transfer or change of title entry in revenue records of the local Municipal Corporation showing the change in the title ownership amongst the transferor and transferee.

2. The transferee or the new owner effects the process of mutating property records post which the property shall stand in his name and the ensuing rights and obligations shall attach to him.

WHETHER MUTATION CREATES TITLE OVER IMMOVABLE PROPERTY?

1. It is to be noted that mutation does not confer title on a person as has been reiterated by the Hon'ble Supreme Court on several occasions:

a. The SC in *Sawarni v. Inder Kaur and Ors.* [1996 (6) (SCC) 223] held that "Mutation of a property in the revenue record does not create or extinguish title nor has it any presumptive value on title. It only enables the person in whose favour mutation is ordered to pay the land revenue in question." It further noted that the lower appellate Court did not reach any positive find-

ings on the title of the respondent to the property and was swayed away with the mutation in the revenue record reflecting the name of the respondent.

b. The above principle was upheld in *Balwant Singh and Ors. v. Daulat Singh (dead) by L.Rs. and Ors.*, [1997 (7) (SCC) 137], where it was held "mutation cannot extinguish title nor it can have presumptive value on title." In this case, the SC has opined that the trial Court has erred in assuming that by Mutation, the widow had divested herself of the title to the suit property. Since mutation entries do not convey or extinguish any title, they are relevant only for the purpose of collection of land revenue.

c. In the SC decision of *Suraj Bhan v. Financial Commissioner*, [(2007) 6 SCC 186], it was observed that an entry in revenue records does not confer title on a person whose name appears in record-of-rights. Entries in the revenue records or jamabandi have only "fiscal purpose". So far as the title of the property is concerned, it can only be decided by a competent civil Court.

2. The SC has been consistent in its view as indicated above and the same is reflected in judgments till recent when in *Jitendra Singh v. The State of Madhya Pradesh and Ors.*, [2021 SCC OnLine SC 802], the SC upheld that if there is any dispute with respect to the title and more particularly if the mutation entry is sought on the basis of a Will, the concerned party has to first approach the appropriate civil Court and get his rights crystallised. Only on the basis of the decision of the civil Court, necessary mutation entries can be made as it is already settled that mutation entry in revenue records does not confer any right, title or interest in favour of anyone and is done only for fiscal purposes

IMPORTANCE OF MUTATION

Although mutation of immovable property doesn't confer any right, title on the immovable property, its necessity are manifold such as mutation helps in preliminary ascertainment of the ownership of land; fixing the tax liability, updating the government revenue records, getting the utilities like electricity, water, etc., for future sale of the property, etc. Property mutation is, therefore, a necessary formality for those who acquire property in any way and it should be done promptly to avoid any unnecessary hassles for the property owner in the future.



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LAW GOVERNING MUTATION

As far as the laws governing mutation of immoveable property is concerned, since land is a matter of State subject under State List (List II) of the Seventh Schedule of the Constitution of India, it is governed by the respective state governments under their respective state legislations.

TITLE DOCUMENT OF AN IMMOVEABLE PROPERTY

Registration, essentially, is the process of getting the title of ownership of land legally transferred in the name of the buyer. Mutation, on the other hand, is what follows the process of registration. Getting a land

mutated means that the registration has been duly recorded in the revenue records. While registration does confer title of ownership and acts as a proof of the same, it is not so in the case of mutation.

CONCLUSION

The basis of conferment of title viz. a mutation entry in the land revenue records has been well settled since long. The SC, in the case of *Prabhagiya Van AdhikariAwadh Van Prabhag v. Arun Kumar Bhardwaj* has just reiterated the well settled principle of law, thereby, re-affirming its position.