



2026:AHC:59267

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - B No. - 1195 of 2026

Deen Mohammad

.....Petitioner(s)

Versus

State of U.P. and 12 others

.....Respondent(s)

Counsel for Petitioner(s)	: Qazi Wakil Ahmad
Counsel for Respondent(s)	: C.S.C., Durga Charan Singh Yadav

Court No. - 55

HON'BLE ARUN KUMAR, J.

1. Heard Sri Qazi Wakil Ahmad, learned counsel for the petitioner, learned Standing Counsel for the respondent nos.1 to 5 and Sri Durga Charan Singh Yadav, learned counsel for the respondent nos.6 to 9.
2. The present writ petition has been filed challenging the order of the respondent no.2 dated 1.12.2025 passed in revision filed under Section 210 of the U.P. Revenue Code, 2006 (hereinafter referred to as the Revenue Code).
3. The facts of the case as borne out of the writ petition are, that the land comprised in Khata No.198, Plot No.137/1, Area 1.023 hectare, situated at Village Bhada Bangar, Tehsil Chhata, District Mathura, was originally held by one Bhawani, who died leaving behind his daughter Lalmati, as his heir and legal representative. Prior to his death, he executed a Will dated 15.2.2000 in her favour. Before the name of Smt. Lalmati could be recorded in the revenue records in place of Bhawani, she executed a sale deed dated 5.8.2005 in respect of the plot in dispute

to respondent nos.6 to 9. Subsequently, after getting her name recorded in the revenue records on the basis of the Will, on 16.11.2005, a second sale deed dated 9.5.2008 was executed in favour of respondent nos.12 and 13, who subsequently executed another sale deed in favour of the petitioner on 6.6.2008, of the plot in dispute.

4. In the meantime, the respondent nos. 6 to 9, moved a mutation application before the Tehsildar, for getting their name recorded over the plot in dispute on the basis of the sale deed dated 05.08.2005, which was rejected by the order dated 16.11.2005, on the ground that at the time of the sale deed the name of the vendor was not recorded in the revenue records. The said order was upheld in Appeal by the order of the Additional Commissioner, Agra Division, Agra, dated 30.10.2007. The revision filed before the respondent no. 2 was also dismissed by the order dated 13.07.2010. The respondent nos. 6 to 9, have filed Writ C No. 74 of 2011, before this court challenging the aforesaid orders. This Court by its interim order dated 20.01.2011, directed the parties to maintain status quo with regard to possession over the land in dispute. The aforesaid writ petition is still pending final adjudication.

5. On the basis of the sale deed dated 6.6.2008, the petitioner got his name recorded in the relevant revenue records, by the order of the Tehsildar, dated 20.12.2008. The respondent nos.6 to 9 filed Original Suit No.324 of 2008 challenging the sale deed dated 9.5.2008. The aforesaid suit was decreed ex-parte by the judgment and decree dated 25.1.2014 declaring the sale deed dated 9.5.2008 to be null and void.

6. The respondent nos.6 to 9 initiated fresh mutation proceedings under Section 34 of the Revenue Code, for recording their names on the basis of sale deed dated 5.8.2005 and the judgment and decree dated 25.01.2014, before the Tehsildar, Tehsil Chhata, District Mathura. The said proceedings were opposed by the petitioner on the ground that the proceedings for recording the name of respondent nos.6 to 9, on the basis of sale deed dated 5.8.2005, had already been rejected by the revenue authorities under Section 34 of the Revenue Code, against

which the Writ-C No.74 of 2011 was pending before this Court. However, the Tehsildar by his order dated 4.1.2023, rejected the objection of the petitioner and fixed the Case No.2777 of 2021 registered before him, for being decided on merits. Considering the judgment and decree of the trial court dated 25.1.2014, the Tehsildar by his order dated 17.3.2023 directed that the name of Smt. Lalmati be expunged from the revenue record and those of respondent nos.6 to 9 be recorded over it.

7. The petitioner, in the meantime, had already filed a recall application for recalling the judgment and decree dated 25.1.2014, passed in Original Suit No.324 of 2008, before the Civil Judge (Sr. Division), Mathura. The said decree was set aside and the suit was restored to its original number by the order of the Trial Court dated 22.11.2023.

8. Aggrieved by the order of the Tehsildar dated 17.3.2023, the petitioner filed appeal under Section 35(2) of the Code, 2006 challenging it on the basis of sale deed dated 9.5.2008 executed by Smt. Lalmati, in his favour, in respect of the same plot no.137. The aforesaid appeal was allowed and the matter was remitted back to the respondent no.5 to decide the matter, afresh, after taking into consideration the orders passed in Original Suit No.324 of 2008, pending between the parties before the Civil Judge (Sr. Division), Mathura. The aforesaid order of the Deputy District Magistrate, Tehsil Chhata, District Mathura was challenged by the respondent nos.6 to 9 in revision before the respondent no.2, under Section 210 of the Code, 2006. The said revision has been allowed by the order of the respondent no.2 dated 01.12.2025, allowing the revision and setting aside the order of the appellate authority, the respondent no.4, dated 15.5.2025, which is the subject matter of challenge in this petition.

9. It was contended by learned counsel for the petitioner that, as the sale deed dated 05.08.2005, was executed by Smt. Lalmati, without getting her name recorded over the plot in dispute, it did not transfer any right in favour of the respondent nos. 6 to 9. It was further contended

that the judgment and decree of the Trial Court dated 25.01.2014, having been recalled, by the order dated 22.11.2023, the basis of the order of the Tehsildar dated 17.03,2023, ceased to exist. It has been further contended that the revision filed against the remand order was not liable to be entertained, as the subsequent development of setting aside of the judgment and decree dated 25.1.2014, ought to have been considered by the Tehsildar, as his earlier order dated 17.3.2023 was based on it.

10. It has been further contended by the learned Counsel for the petitioner that, the revision has been decided ex-parte behind the back of the petitioner, as he had not filed any Vakalatnama in the said revision. Learned counsel for the petitioner in paragraph nos. 21 to 23 of the writ petition has stated that as the Vakalatnama, which has been filed in revision, has not been endorsed by the Registry of the Board of Revenue, as such, he could not obtain the certified copy of the said Vakalatnama. The entire proceedings were concluded on two dates, which also shows that no proper opportunity had been afforded to the petitioner. He has also contended that signature of the petitioner on the Vakalatnama is forged.

11. Learned counsel appearing for the respondent nos.6 to 9, on the other hand, has contended that there is nothing on record to show that the sale deed dated 5.8.2005 executed by Smt. Lalmati is a forged and fabricated document. The aforesaid sale deed in respect of the plot in dispute executed prior in time to the sale deed dated 9.5.2008, subsequently executed by Lalmati, was without any right and title in the plot in dispute. As such, even if the claim of petitioner is accepted on its face that he was not heard by the revisional court, his claim cannot be sustained, on the basis of the subsequent sale deed executed by Smt. Lalmati. He has further contended that even if, the judgment and decree dated 25.1.2014 has been recalled, it does not affect the rights of the respondent nos.6 to 9, over the plot in dispute, on the basis of sale deed dated 5.8.2005. As no right could have been transferred by Lalmati, in the plot in dispute, through the sale deed dated 9.5.2008, the petitioner

does not get any right over it, on the basis of sale deed dated 6.6.2008 executed in his favour by subsequent transferees. In the aforesaid circumstances, no interference is warranted with the order of the respondent no.2, under challenge.

12. I have considered the submissions of the learned counsel for the parties and perused the records.

13. It is not in dispute that the plot in dispute belongs to Bhawani, which was inherited by Lalmati under the Will dated 15.2.2000. There is nothing on record to show that the sale deed dated 5.8.2005 executed by Lalmati in favour of respondent nos.6 to 9, had been challenged before any court or authority, by her or the respondent nos. 12 and 13 or by the petitioner. Neither there is any allegation in the writ petition that the said document is a forged and fabricated. The only contention raised is that on the date of execution of the said sale deed, her name was not recorded in the revenue records. However, her right over the plot in dispute has not been denied.

14. The aforesaid contention is legally untenable. It is well settled that mutation entries are fiscal in nature and do not confer or extinguish title. Title flows from lawful ownership and not from entries in revenue records. Once the ownership of Smt. Lalmati is not in dispute, the sale deed executed by her on 05.08.2005 validly transferred her rights in the land in dispute to respondent nos. 6 to 9.

15. Consequently, after execution of the sale deed dated 05.08.2005, Smt. Lalmati ceased to have any right, title or interest in the land in dispute. Any subsequent sale deed executed by her, including the sale deed dated 09.05.2008, and the consequential transfer in favour of the petitioner, would not confer any valid title.

16. The contention of the petitioner that the sale deed dated 05.08.2005 did not transfer any right on account of absence of mutation

in favour of Smt. Lalmati is legally untenable. It is well settled that mutation entries are fiscal in nature and do not confer or extinguish title.

17. The Original Suit No.324 of 2008, was filed by respondent nos. 6 to 9, for declaring the sale deed dated 9.5.2008 void, which was decreed by the judgment and decree dated 25.01.2014. The recall of the ex parte decree dated 25.01.2014 by order dated 22.11.2023 merely restores the suit to its original position and does not invalidate or affect the independent rights flowing from the prior sale deed dated 05.08.2005.

18. The appellate authority remanded the matter primarily on the ground that the civil suit had been restored and that any decision might prejudice the petitioner. Such reasoning is misconceived, inasmuch as the rights of the parties flow from the admitted and unchallenged sale deed dated 05.08.2005, which predates all subsequent transactions.

19. As regards the contention that the revisional order was passed ex parte, even assuming that adequate opportunity was not afforded, no prejudice is demonstrated in the facts of the present case. In view of the settled legal position and the admitted facts, remanding the matter would serve no useful purpose. In view of the admitted execution of the sale deed by the owner of the plot no.137/1 in favour of respondent nos. 6 to 9 on 5.8.2005, the claim of petitioner on the basis of subsequent sale deeds stands unsubstantiated.

20. In view of the aforesaid discussion, this Court finds no illegality or infirmity in the order dated 01.12.2025 passed by the revisional authority.

21. The writ petition lacks merit and is accordingly dismissed.

(Arun Kumar,J.)

March 23, 2026
Anil