

**IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR
BEFORE
HON'BLE SHRI JUSTICE GURPAL SINGH AHLUWALIA
ON THE 26th OF APRIL, 2024
WRIT PETITION No. 3355 of 2017**

BETWEEN:-

1. **RAJENDRA KUMAR S/O CHHOTELAL JAIN
(DEAD) THROUGH LEGAL
REPRESENTATIVES:**

1. **SMT. KAMLA BAI W/O LATE RAJENDRA
KUMAR JAIN, AGED ABOUT 67 YEARS,
OCCUPATION: HOUSE WIFE R/O NEAR
PANCHAYATI JAIN MANDIR NEW
GAURDEVI WARD GOTEGAON TEHSIL
GOTEGAON DISTRICT NARSINGHPUR
(MADHYA PRADESH)**

2. **SHRI SATYENDRA KUMAR JAIN S/O LATE
RAJENDRA KUMAR JAIN, AGED ABOUT 48
YEARS, OCCUPATION: AGRICULTURIST
R/O NEAR PANCHAYATI JAIN MANDIR
NEW GAURDEVI WARD GOTEGAON
TEHSIL GOTEGAON DISTRICT
NARSINGHPUR (MADHYA PRADESH)**

3. **SMT. RITU BAFNA W/O VIKAS BAFNA D/O
LATE RAJENDRA KUMAR JAIN, AGED
ABOUT 41 YEARS, OCCUPATION: HOUSE
WIFE R/O 1001 NEAR GANESH TEMPLE
MOTILAL NEHRU WARD JABALPUR
(MADHYA PRADESH)**

4. **SMT. VARSHA JAIN W/O PRADUMN JAIN
D/O LATE RAJENDRA KUMAR JAIN, AGED
ABOUT 41 YEARS, OCCUPATION: HOUSE
WIFE R/O MAALPANI BARATGHAR
HANUMANTAL WARD JABALPUR
(MADHYA PRADESH)**

.....PETITIONERS

(BY SHRI BHANU PRATAP YADAV - ADVOCATE)

AND

1. PRAMOD S/O LATE SHRI SURESH JAIN R/O
BAJRANG NAGAR NEAR MEDICAL
COLLEGE JABALPUR, DISTRICT
JABALPUR (MADHYA PRADESH)
2. PRAKASH S/O LATE SHRI SURESH JAIN R/O
BAJRANG NAGAR, NEAR MEDICAL
COLLEGE, JABALPUR, DISTRICT
JABALPUR (MADHYA PRADESH)
3. SHOBHNA D/O LATE SHRI SURESH JAIN
R/O BAJRANG NAGAR, NEAR MEDICAL
COLLEGE, JABALPUR DISTRICT
JABALPUR (MADHYA PRADESH)
4. SUNITA D/O LATE SHRI SURESH JAIN R/O
BHOJPUR, TEHSIL MUNDRA, DISTRICT
KACHH (GUJARAT)
5. TEK SINGH S/O NANHELAL LODHI R/O
DEVNAGAR, PURANA TEHSIL GOTEGAON
DISTRICT NARSINGHPUR (MADHYA
PRADESH)
6. BHURELAL S/O PREMCHAND JAIN R/O
NEAR PANCHAYATI JAIN MANDIR,
INFRONT OF LANKESH KIRANA SHOP,
GOTEGAON DISTRICT NARSINGHPUR
(MADHYA PRADESH)
7. ARVIND KUMAR S/O PREMCHAND JAIN
R/O NEAR PANCHAYATI JAIN MANDIR,
INFRONT OF LANKESH KIRANA SHOP,
GOTEGAON DISTRICT NARSINGHPUR
(MADHYA PRADESH)

.....RESPONDENTS

(BY SHRI KAPIL DAYAL GUPTA- ADVOCATE)

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

ORDER

This petition under Article 226 of Constitution of India has been filed seeking following reliefs:

“(i) That, this Hon’ble Court may kindly be

pleased to set aside impugned order dated 28.12.2016 passed by Board of Revenue, Gwalior, in Revision Case No.460-1/2016 & the application filed by the petitioner may pleased by allow.

(ii) That, any other relief which this Hon'ble Court deem fit and proper may also be granted in favour of petitioner, in the interest of justice.”

2. It is submitted by counsel for petitioner that in the year 1984, on the basis of acceptance letter executed by Suresh Chandra, name of petitioner was recorded in Khasra No.9/4 area 2.007 hectares and Khasra No.10/4 area 0.16 hectares situated in Village Mouja Devnagar, Gotegaon, District Narsinghpur. Thereafter, original petitioner had alienated some part of said land also. It is submitted that respondents No.1 to 4 filed an appeal before SDO alongwith an application under Section 5 of Limitation Act on the ground that they were not aware of mutation order. The appeal was filed in the year 2011 i.e. 27 years after the order of mutation was passed. However, the SDO by order dated 28.11.2011 passed in case No.10A/6-Year 2010-11 dismissed the application filed under Section 5 of Limitation Act and accordingly, dismissed the appeal as barred by time.

3. Being aggrieved by said order, respondents No.1 to 4 preferred an appeal before Additional Commissioner, Jabalpur Division Jabalpur, which was registered as Appeal No.253/A-6/11-12, which too was dismissed by order dated 11.01.2016.

4. Being aggrieved by the said order, respondents No.1 to 4 preferred a Revision before Board of Revenue, which was registered as Revision No.460-One/2016. The Board of Revenue allowed the appeal by order dated 28.12.2016 and set aside the orders passed by the

Authorities below and directed for mutation of names of respondents No.1 to 4.

5. It is submitted by counsel for petitioner that name of petitioner Rajendra Kumar was recorded on the basis of an acceptance letter executed by Suresh Chandra in which he had admitted that after taking money he has left his share in the property.

6. Accordingly, counsel for petitioner was directed to address this Court as to whether title would stand transferred on the basis of such acceptance letter executed on a plain paper or not?

7. It is submitted by counsel for petitioner that the basis for mutation of name of original petitioner was *Kabuliyatnama*.

8. Considered the submissions made by counsel for petitioner.

9. From the acceptance letter (*Kabuliyatnama*), it is clear that Suresh Chandra had given a declaration that after taking money he has left his share in favour of original petitioner. Either it is a relinquishment deed or it is a sale deed and in both the cases, the document was required to be a registered one. However, so called acceptance letter has been executed on a plain paper and thus, no right or title stood transfer in favour of original petitioner Rajendra Kumar. Furthermore, it appears that the Tahsildar had also adopted a very unique method of mutating the names of parties. It appears that no separate case was registered and no notices were issued and the order was passed in the mutation register only.

10. Under these circumstances, this Court is of considered opinion that in absence of registered relinquishment deed or in absence of a registered sale deed, no right stood transferred in favour of original petitioner Rajendra Kumar and thus, mutation of name of Rajendra

Kumar by Tahsildar was contrary to law. Since it was done in a most illegal manner without registering a separate case, therefore, Board of Revenue did not commit any mistake by directing the Authorities to record the names of respondents No.1 to 4 also.

11. Under these circumstances, no case is made out warranting interference.

12. Petition fails and is hereby **dismissed**.

(G.S. AHLUWALIA)
JUDGE

SR*