$~14 & 15

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Decision:13th July, 2026

\+ W.P.(C) 5858/2008 & CM APPL. 15890/2025

BALDE RAM .....Petitioner

Through: Mr. Madhu Sudan Bhayana and Mr. Madhav, Advocates.

versus

FINANCIAL COMMISSIONER & ORS. .....Respondents

Through: Mr. A. K. Sen, Advocate for R-6.

15

\+ W.P.(C) 5884/2008

BADLE RAM .....Petitioner

Through: Mr. Madhu Sudan Bhayana and Mr. Madhav, Advocates.

versus

FINANCIAL COMMISSIONER & ORS .....Respondents

Through: Mr. A. K. Sen, Advocate for R-11.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

JUDGMENT

SANJEEV NARULA, J. (Oral):

1. These petitions arise from a common order dated 29th November, 2007 passed by the Financial Commissioner, Delhi, dismissing Revision Petition Nos. 283/2001-CA and 284/2001-CA. The revisions, in turn, arose from a common order dated 24th September, 2001 passed by the Deputy Commissioner (South-West) in two appeals preferred against mutation entries relating to land situated in the revenue estate of Village Ghitorni.

2. The parcels of land and the chains of transfer in the two petitions are not identical. The challenge in both, however, proceeds from the same

asserted source of title and raises substantially overlapping questions concerning the alienability of an undivided *bhumidhari* interest, the prohibition contained in Section 33 of the Delhi Land Reforms Act, 1954,[1] the requirement of notice in mutation proceedings, and the effect of the absence of a prior partition. The Financial Commissioner considered the two revisions together and disposed of them by the impugned common order. It is, therefore, appropriate that the present petitions also be decided by this common judgment.

Factual background

3. The dispute has its origin in agricultural and abadi land which, according to the Petitioner, originally belonged to the common ancestor of the contesting family, i.e., late Chhajjan. The Petitioner, Badle Ram, traced his interest through his father, late Kishan Sahai. Ram Pal, the Petitioner's brother, belonged to the same branch, while the other branch descended from Kale Ram, the Petitioner's paternal uncle, and was represented by his successors.

4. The property originally belonged to the common ancestor of the parties. The dispute traces back to the consolidation proceedings and preparation of the revenue records in 1953-54, when the ancestral land came to be recorded separately in the two branches of the family. While the Petitioner claims that the ancestral property was liable to devolve equally upon the two branches and that a disproportionately larger portion was recorded in the name of Kale Ram, the Respondents maintain that the holdings were separately settled during consolidation, having regard to the area and quality of the respective parcels, and the resultant entries reflected

---

[1] "DLRA"

distinct *bhumidhari* holdings.

5. This dispute over the original distribution of the ancestral estate underlies both petitions. The transactions directly impugned in the two matters must, however, to the extent necessary, be noticed separately.

W.P.(C) 5858/2008

6. The subject matter of W.P.(C) 5858/2008 is the Petitioner's challenge to the mutation of the half share formerly standing in the name of Ram Pal (Petitioner's brother) in land comprised in Khasra Nos. 5 (3-14), 10/1 (2-8) and 10/2 (2-8), admeasuring 8 bighas and 10 biswas in all.

7. It is not in dispute that the Petitioner and Ram Pal were recorded as co-*bhumidhars* of this land in equal shares. The Petitioner, however, claims that in 1955-56, Ram Pal decided to shift his residence and orally relinquished his entire interest in the ancestral property in the Petitioner's favour for a consideration of INR 2,000/-. He asserts that the arrangement was communicated to the revenue authorities and that he thereafter remained in exclusive possession as the sole owner. The alleged relinquishment did not, however, result in any corresponding alteration of the record-of-rights, and Ram Pal continued to be shown as a co-*bhumidhar*.

8. In 1974, Ram Pal executed a registered gift deed in favour of his wife, Ram Kali, and his sons, transferring his share in the aforesaid agricultural land. The donees subsequently executed a registered sale deed dated 6th July, 1984 in favour of Rajinder Kumar Sharma, the private purchaser. On the strength of the registered instrument, mutation was sanctioned on 18th December, 1984.

9. The mutation order records that publication was effected in the names of the concerned parties, service was completed and the relevant notices

were placed on record. No objections were received within the stipulated period. The vendors' general power of attorney holder appeared before the Tehsildar, affirmed receipt of the sale consideration and delivery of possession, and produced the original registered sale deed. Upon consideration of the sale deed and the Patwari's report, the Tehsildar concluded that no infraction of Section 33 was disclosed and consequently sanctioned mutation of the vendors' share in Khasra Nos. 5 (3-14), 10/1 (2-8) and 10/2 (2-8) in favour of the purchasers.

10. A report dated 25th April, 2000 was thereafter prepared by the Halqa Patwari, tracing the revenue entries relating to the gift and subsequent transfers. The report notes that Khasra No. 298/24/2, described therein as extended *abadi*, continued to stand in the names of Ram Kali and others. It also points to an anomalous entry concerning Khasra No. 431/2, inasmuch as Ram Kali and the other purported vendors had been shown as selling a share in that khasra to Ram Pal even though their own acquisition of that interest was not reflected in the relevant revenue record. The report consequently described the latter transfer as having been wrongly recorded. It did not, however, return a legal conclusion that the sale of the agricultural land to the private purchaser contravened Section 33.

11. The dispute in W.P.(C) 5858/2008 thus centres on the mutation of Ram Pal's half share in favour of the private purchaser. The Petitioner questions the same on the basis of Ram Pal's alleged relinquishment of his interest in 1955-56 and the validity of the subsequent gift and sale transactions, besides alleging non-compliance with Section 33 of DLRA

W.P.(C) 5884/2008

12. The second petition concerns land comprised in Khasra Nos. 15 (4-

16), 31/1 (3-0) and 33/1 (2-7), admeasuring 10 bighas and 3 biswas in all. This land stood recorded in the branch of Kale Ram.

13. The recorded *bhumidhars* transferred the aforesaid land to Rajinder Kumar Sharma through two registered sale deeds executed on 26th June, 1984. The Respondents maintain that the deeds, though separate, were executed contemporaneously in favour of the same purchaser and together conveyed the entire recorded agricultural holding of the vendors. Mutation was thereafter sanctioned in favour of the purchaser.

14. Herein, the dispute arises from the Petitioner's claim that the common ancestral estate was unequally recorded between the branches of Kishan Sahai and Kale Ram during consolidation. On this premise, he questions the subsequent transfer of the subject land by Kale Ram's branch and the mutation sanctioned in favour of the private purchaser, besides alleging non-compliance with Section 33 of DLRA.

Proceedings before the revenue authorities

15. Nearly fifteen years after the mutations were sanctioned, the Petitioner preferred Appeal Nos. 363/1999 and 364/1999 before the Deputy Commissioner (South-West). The appeals were heard together. The Petitioner questioned the mutations, *inter alia*, on the ground that the transfers contravened the provisions of DLRA and that the mutations had been sanctioned without notice to him.

16. By a common order dated 24th September, 2001, the Deputy Commissioner declined to interfere with the mutations. The authority found, in substance, that the recorded *bhumidhars* had transferred their entire relevant agricultural interests and that the built-up or extended-*abadi* parcels relied upon by the Petitioner did not establish a violation of Section 33. The

Deputy Commissioner further observed that the objections concerning the validity of the gift and sale deeds raised issues which fell within the domain of the competent civil court.

17. The Petitioner thereafter preferred Revision Petition Nos. 283/2001-CA and 284/2001-CA under Section 187 of DLRA. By the common order dated 29th November, 2007, the Financial Commissioner dismissed both revisions and affirmed the findings of the Deputy Commissioner.

18. The Financial Commissioner examined the transactions forming the subject matter of both revisions and found no contravention of Section 33. He further declined to adjudicate upon the validity of the registered instruments, observing that such questions were within the jurisdiction of the competent civil court. It was, however, clarified that, in the event the sale deeds were subsequently declared invalid by the civil court, the consequential revenue entries and attendant rights could be revisited in accordance with law.

Civil proceedings and subsequent urbanisation

19. The sale deed dated 6th July, 1984 was, in fact, challenged by the Petitioner in Civil Suit No. 747/1998. By judgment dated 2nd July, 2018, the Civil Judge-06 (Central) dismissed the suit, finding no documentary or revenue record to substantiate the alleged oral relinquishment by Ram Pal in 1955-56. The Court also sustained the registered gift deed dated 19th February, 1974, which stood reflected in the revenue record, and the subsequent sale deed dated 6th July, 1984, rejecting, *inter alia*, the challenge founded on the alleged minority of one of its executants.

20. The said judgment was affirmed in appeal by the Additional District Judge in RCA No. 65/2018, *vide* judgment dated 13th December, 2023. The

Appellate Court concurred with the findings of the Trial Court and dismissed the appeal.

21. There is one further development. Village Ghitorni was urbanised by a notification dated 20th November, 2019 issued under Section 507(a) of the Delhi Municipal Corporation Act, 1957. The Respondents contend that, after urbanisation, the Delhi Land Reforms Act ceased to apply and that the petitions are liable to be dismissed on that ground alone.

Submissions

22. Counsel for the Petitioner submits that the revenue entries made during consolidation in 1953-54 did not reflect the equal devolution of the ancestral estate upon the two branches descending from late Chhajjan. A disproportionately larger portion of the ancestral land is stated to have been recorded in the branch of Kale Ram, without any partition of the joint estate. The Petitioner, therefore, disputes the authority of the recorded *bhumidhars* in W.P.(C) 5884/2008 to exclusively deal with Khasra Nos. 15, 31/1 and 33/1.

23. Insofar as W.P.(C) 5858/2008 is concerned, it is submitted that Ram Pal had orally relinquished his interest in favour of the Petitioner in 1955-56 and had, therefore, ceased to possess any transferable interest in the subject land. The Petitioner further questions the sale transaction on the ground that one of the executants was a minor at the relevant time and that his signature on the sale deed was forged. The authority of the natural guardian to deal with the minor's interest is also disputed. It is further asserted that physical possession was never delivered to the private purchaser.

24. The principal challenge in both petitions is founded upon Section 33 of DLRA. Counsel for the Petitioner submits that the provision embodies a

legislative policy against fragmentation and must receive an interpretation which preserves viable agricultural holdings. It is argued that a *bhumidhar* possessing less than eight standard acres may transfer only the entirety of the land held by him. Since parts of the respective holdings remained with the vendors, the transfers were contrary to Section 33(2), void under Section 45 and incapable of sustaining the consequential mutations.

25. In this regard, reliance is placed upon the report of the Halqa Patwari dated 25th April, 2000. Particular emphasis is laid on the entries relating to Khasra Nos. 298/24/2 and 431/2 to contend that interests in other parcels continued to remain with the vendors and that the entirety of the land held by them had not been transferred. The revenue authorities failed to appreciate the import of the said report while examining compliance with Section 33.

26. It is further submitted that the lands were held jointly and had never been partitioned in accordance with DLRA. An individual co-*bhumidhar* could not transfer an undivided interest in favour of a stranger without first obtaining partition by metes and bounds. In this regard, reliance is placed on ***Smt. Hanso Devi (Deceased) through LRs v. Sh. Chandru (Deceased) through LRs***.[2]

27. The Petitioner also invokes the scheme of Sections 57 to 60 of DLRA and asserts a preferential right to purchase the land. It is urged that the revenue authorities failed to examine this aspect and erroneously proceeded on the premise that a holding could be transferred without regard to the rights of the other recorded *bhumidhars*.

---

[2] In *RSA No. 89/2008*, decided on 3rd June, 2011.

28. On the question of procedure, reliance is placed upon ***Master Mayank Vashishth v. Financial Commissioner***,[3] to contend that once a dispute concerning title or a possible contravention of DLRA arose, the Tehsildar was obliged, under Section 23 of the Delhi Land Revenue Act, 1954, to refer the matter to the Revenue Assistant instead of sanctioning mutation. The Petitioner also disputes the recital of service contained in the mutation order and submits that no individual notice was ever served upon him. The mutation proceedings are, therefore, stated to be vitiated.

29. Counsel for the Respondents controverts the Petitioner's attempt to reopen the revenue entries settled during consolidation in 1953-54. The holdings of the two branches were separately settled during consolidation, having regard to the area and quality of the respective parcels, and that the resultant entries reflected distinct *bhumidhari* holdings. The Petitioner, having never successfully assailed those entries, cannot question the title of the recorded *bhumidhars* in collateral proceedings arising from mutation.

30. On Section 33, the Respondents submit that the vendors transferred their entire recorded interests in the relevant agricultural holdings. In W.P.(C) 5858/2008, the vendors conveyed the whole of Ram Pal's half share in Khasra Nos. 5, 10/1 and 10/2. The parcels relied upon by the Petitioner, including Khasra Nos. 298/24/2 and 431/2, do not constitute residual agricultural holdings so as to attract the prohibition under Section 33.

31. In W.P.(C) 5884/2008, it is submitted that the two sale deeds dated 26th June, 1984 were executed contemporaneously in favour of the same purchaser and together conveyed Khasra Nos. 15, 31/1 and 33/1 in their

---

[3] 2004 SCC OnLine Del 582.

entirety. The fact that the transfer was evidenced by two instruments is immaterial, since no part of the recorded agricultural holding remained with the transferors.

32. The Respondents further submit that the Petitioner's challenge to the sale deed dated 6th July, 1984 was rejected in Civil Suit No. 747/1998, and the said decision was affirmed in RCA No. 65/2018. The validity of the underlying gift and sale transactions, therefore, cannot be reopened in the present proceedings.

33. Lastly, relying upon ***Mohinder Singh (Dead) through LRs v. Narain Singh***,[4] the Respondents submit that the urbanisation notification dated 20th November, 2019 brought the applicability of DLRA to an end. On this basis, it is urged that no useful purpose would now be served by remanding the matter to any revenue authority.

Questions for determination

34. On the basis of the pleadings, the material on record and the submissions advanced, the following questions arise for consideration:

(i) Whether the challenge to the mutation orders, though ostensibly confined to the revenue entries, can be adjudicated without determining disputed questions concerning title, possession and the validity of the underlying registered instruments; and what bearing the civil proceedings instituted in respect of those instruments have upon the scope of the present writ petitions;

(ii) Whether the concurrent finding of the Deputy Commissioner and the Financial Commissioner that the impugned transfers did not contravene Section 33 of DLRA, discloses any error of law, perversity or failure to consider material evidence warranting interference under Article 226 of the Constitution;

(iii) Whether a recorded co-*bhumidhar* was legally disabled from transferring his undivided interest merely because the holding had not previously been partitioned by metes and bounds;

(iv) Whether the mutation proceedings were vitiated on account of non-service of notice upon the Petitioner or for failure of the Tehsildar to refer the matter to the Revenue Assistant under Section 23 DLRA; and

(v) What is the effect of the subsequent urbanisation of Village Ghitorni upon the maintainability of the present challenge and the relief, if any, that may now be granted.

Analysis

Scope of judicial review and the nature of a mutation entry

35. The present petitions invoke the writ jurisdiction of this Court and seek issuance of a writ of certiorari against the order passed by the Financial Commissioner. This Court is not exercising appellate jurisdiction over the impugned decision. Its concern is with the legality of the exercise undertaken by the statutory authorities, i.e., whether they acted within jurisdiction, observed the requirements of procedural fairness, correctly understood the governing law, and reached conclusions reasonably supported by the material before them. Interference is warranted where an authority has acted without jurisdiction, failed to exercise jurisdiction vested in it, violated the principles of natural justice, misconstrued a statutory provision, ignored material evidence, or returned a finding so perverse that no reasonable authority, properly instructed in law, could have reached it.

[4] 2023 SCC OnLine SC 261.

Certiorari does not permit a rehearing on facts or a reappraisal of disputed evidence merely because another view may also be possible.[5]

36. Equally settled is the legal character of a mutation entry. Mutation is essentially a fiscal and administrative arrangement maintained for revenue purposes. It enables the State to identify the person liable for payment of land revenue and to keep the revenue record current. It neither creates nor extinguishes title, nor does it confer proprietary rights upon the person in whose favour it is sanctioned.[6] This principle applies equally to entries concerning succession or transfer of *bhumidhari* rights under the Delhi land laws. Questions concerning the validity, genuineness or legal effect of the instruments from which title is claimed cannot be conclusively determined in mutation proceedings and must be left to the competent civil or revenue forum, as the governing statutory scheme may require.

37. This does not place mutation orders beyond judicial review. A mutation sanctioned without jurisdiction, in breach of a statutory prohibition or contrary to the prescribed procedure remains amenable to interference. Under the Delhi land laws, while the Tehsildar may sanction an undisputed mutation, a disputed transfer or one appearing to contravene the DLRA may require consideration by the competent revenue authority.

38. The enquiry in the present petitions is, therefore, confined to whether the revenue authorities acted within their statutory jurisdiction and in accordance with law. It does not extend to a fresh adjudication of the

---

[5] ***Syed Yakoob v. K.S. Radhakrishnan*** AIR 1964 SC 477.

[6] ***Sawarni (Smt) v. Inder Kaur (Smt) & Ors***. 1996 6 SCC 223; ***Suraj Bhan & ors. v. Financial Commissioner & ors.*** (2007) 6 SCC 186.

parties' competing claims to title or possession, or the validity of the underlying registered instruments.

The Petitioner's title-based objections and the civil proceedings

39. A substantial part of the Petitioner's challenge in W.P.(C) 5858/2008 rests upon the alleged oral relinquishment by Ram Pal in 1955-56. The same plea formed the foundation of Civil Suit No. 747/1998, wherein the Petitioner challenged the sale deed dated 6th July, 1984. By judgment dated 2nd July, 2018, the Civil Judge-06 (Central) rejected the plea, finding no documentary evidence or corresponding revenue entry to substantiate the alleged relinquishment.

40. The Civil Court also examined the chain of transactions culminating in the sale deed dated 6th July, 1984. It sustained the validity of gift deed dated 19th February, 1974 and rejected the challenge to the subsequent sale deed, including the plea founded on the alleged minority of one of its executants. These findings were affirmed in RCA No. 65/2018 by judgment dated 13th December, 2023. The Appellate Court further held that Ram Pal, as a co-sharer, was competent to deal with his undivided share notwithstanding the absence of a formal partition.

41. The Petitioner has also referred to separate civil proceedings in Civil Suit No. 524/02/00 concerning the underlying instruments. However, no final adjudication in those proceedings has been placed before this Court. Likewise, in W.P.(C) 5884/2008, there is no material to indicate that the sale deeds dated 26th June, 1984 were challenged or invalidated before a competent civil forum.

42. Thus, insofar as W.P.(C) 5858/2008 is concerned, the pleas founded on the alleged relinquishment, Ram Pal's authority to deal with his

undivided share and the challenge to the sale deed on the ground of minority have already been examined and rejected by the competent civil courts. The same cannot be reopened indirectly through a challenge to the consequential mutation. As regards the remaining objections to the underlying instruments, including those urged in W.P.(C) 5884/2008, these raise questions of title and validity which cannot be adjudicated for the first time in summary mutation proceedings or in the present writ petitions. Any final determination by a competent court on such issues would bind the parties and may entail consequential correction of the revenue record in accordance with law.

Section 33 of the Delhi Land Reforms Act

43. Section 31 declares the interest of a *bhumidhar* to be transferable, subject to the conditions thereafter prescribed. Section 33 imposes one such restriction. Sub-section (1) prohibits a transfer which would leave the transferor with less than eight standard acres. Sub-section (2) addresses the position of a *bhumidhar* who already holds less than eight standard acres and permits a transfer only where it comprises the entire land held by him. The enquiry must, therefore, be governed by the statutory text and not by an abstract invocation of the policy against fragmentation.

44. The application of Section 33 is transferor-specific. Where there are several vendors, compliance cannot be tested by aggregating their interests and treating them as a single undifferentiated holding. It must be ascertained whether each transferor, viewed individually, has divested himself of the entire land held by him to which the provision applies. Conversely, the requirement is not defeated merely because the complete divestment is effected through more than one instrument or in favour of more than one

purchaser, provided the transactions form part of the same arrangement and leave no prohibited residue with the transferor.

45. Nor can the expression "entire land held by him" be read as referring to the entire joint holding of all co-*bhumidhars* collectively. The restriction attaches to the interest of the particular transferor. An undivided share is capable of transfer, subject always to the restrictions contained in the Act. The transferee acquires no interest larger than that possessed by the vendor and cannot, merely on the strength of the conveyance, claim exclusive ownership or possession of a specified portion to the prejudice of the other co-sharers. He steps into the shoes of the transferor and must work out his rights, where necessary, through partition. The general principle was explained by the Supreme Court in ***Ramdas v. Sitabai & Ors***.[7]

46. The consequence of a contravention also bears emphasis. Section 45 declares a transfer made in breach of the provisions of the Chapter to be void, while Section 42 renders the transferee and every person who has obtained possession liable to ejectment in the manner prescribed. Neither provision enlarges the share of another co-*bhumidhar* or vests the transferred interest in him. Thus, even if a contravention of Section 33 were established, the Petitioner's claim for mutation of the entire land exclusively in his name would not follow as a statutory consequence.

Application to W.P.(C) 5858/2008

47. The registered sale deed dated 6th July, 1984 conveyed the vendors' recorded half share in Khasra Nos. 5, 10/1 and 10/2. That establishes a complete divestment of their recorded interest in those three khasras. It does

---

[7] (2009) 7 SCC 444.

not, by itself, conclude the enquiry under Section 33(2), for the Petitioner contends that the vendors continued to retain interests in Khasra Nos. 298/24/2 and 431/2.

48. The position concerning Khasra No. 431/2 is far from clear. The Patwari's report records that, although Ram Pal had purportedly gifted an interest in the said khasra to his wife and sons, the corresponding mutation was not effected. It further notes that Ram Kali and the other vendors were shown as transferring an interest in Khasra No. 431/2 to Ram Pal, even though their own acquisition of that interest was not reflected in the revenue record. The report, therefore, merely points to an inconsistency in the revenue entries. It does not establish that, on 6th July, 1984, the vendors continued to hold a subsisting *bhumidhari* interest in Khasra No. 431/2 so as to attract Section 33(2).

49. Khasra No. 298/24/2 stands on a somewhat different footing. The Patwari's report records that Ram Pal's share in that khasra had been gifted to Ram Kali and his sons and that the relevant entry continued in their names. It also describes the parcel as forming part of the extended *abadi*. The existence of that entry cannot, therefore, be disregarded. It does not, however, by itself determine the legal character in which the parcel was held.

50. The Financial Commissioner proceeded on the basis that land situated in an *abadi* or extended *abadi* was not required to be taken into account while examining compliance with Section 33. In the context of the present case, the conclusion is correct, though the principle requires to be stated with precision.

51. Section 3(13) defines "land" inclusively and expressly refers to

village *abadis*. That definition cannot, however, be read in isolation. Section 3 itself makes the statutory definitions applicable *"unless the context otherwise requires"*. Section 33 occurs in the part of the Act which regulates transfers by *bhumidhars* and operates upon land held by the transferor in that statutory capacity. The enquiry under Section 33 is, therefore, not concerned with every parcel of immovable property which may answer the wider description of land, but with land forming part of the *bhumidhari* tenure regulated by the Act.

52. This construction is borne out by the statutory scheme. A "holding" under Section 3(11A) comprises a parcel or parcels of land held under one tenure, lease, engagement or grant. An "uneconomic holding", as defined in Section 3(22), is a holding of less than eight standard acres which, according to local conditions, is insufficient to maintain the prescribed family unit, while a "standard acre" under Section 3(20) is itself determined with reference to the yield and quality of the soil. Section 33 employs the same measure of eight standard acres. The restriction is thus directed towards preservation of the economic integrity of the transferor's agricultural holding and the prevention of its further fragmentation.

53. The use of the expression "land", instead of "holding", in Section 33 does not compel a different conclusion. Sub-section (2) speaks of a *bhumidhar* who "holds" less than eight standard acres and permits transfer where it comprises the "entire land held by him". The words "held by him" connect the land to the transferor's *bhumidhari* tenure. The provision cannot reasonably be construed as requiring a *bhumidhar* proposing to transfer his agricultural holding also to alienate a residential plot or other property situated in an extended *abadi* which does not form part of that holding. Such

an interpretation would neither further the object of preventing fragmentation nor bear any rational connection with the concept of an economic agricultural unit.

54. In ***Raj Kishore Tyagi v. Radhey Shyam***,[8] this Court recognised that land situated in an extended *abadi* may fall within the wider definition of "land" under Section 3(13), yet may not constitute a "holding" within Section 3(11A). The distinction was drawn in the context of Section 185, but it reflects the structure of the Act: all land within the inclusive definition is not necessarily land held under an agricultural tenure.

55. The same construction accords with the object of Section 33. In ***Deepak Yadav v. Government of NCT of Delhi***,[9] the Division Bench held that the provision is intended to prevent fragmentation of agricultural holdings into uneconomical sizes. The statutory concern is, therefore, with the residue of the agricultural holding left with the transferor, and not with property held by him independently of that tenure.

56. It is true that in ***Narain Singh v. Financial Commissioner***,[10] the Court described the distinction between "land" and "holding", in the specific context of Section 33, as not "*free from difficulty*" and left the question open. That decision however does not lay down a contrary proposition.

57. Upon a conjoint reading of Sections 3(11A), 3(13), 31 and 33, the expression "the entire land held by him" in Section 33(2) must be understood as referring to the entirety of the land held by the transferor in his capacity as a *bhumidhar* and forming part of the holding governed by the Act. Section 31 makes the interest of a *bhumidhar* transferable, while

---

[8] In *FAO No. 188/2007*, decided on 25th April, 2008.
[9] 2015:DHC:1808-DB

Section 33 imposes a restriction upon the exercise of that very right. The restriction must, therefore, operate within the same juridical field, namely, the *bhumidhari* tenure which the Act creates and regulates. Although the inclusive definition in Section 3(13) may bring village-*abadi* land within the general expression "land", it does not follow that every parcel so described necessarily forms part of a "holding" under Section 3(11A). To require a *bhumidhar*, while transferring his agricultural holding, also to alienate a residential or extended-*abadi* parcel held independently of that tenure would neither prevent fragmentation of an agricultural holding nor advance the object of preserving an economically viable unit. Accordingly, land situated in an *abadi* or extended *abadi* is relevant to the enquiry under Section 33(2) only if it is shown to form part of the land held by the transferor under his *bhumidhari* tenure.

58. Khasra No. 298/24/2 is consistently described in the material relied upon by the petitioner as extended-*abadi* land. The Patwari's report records the continuance of the names of Ram Kali and the sons of Ram Pal against that khasra, but does not indicate that the parcel formed part of the agricultural holding comprising Khasra Nos. 5, 10/1 and 10/2. Nor does it show that Khasra No. 298/24/2 was held under the same agricultural tenure, was assessed as part of the same holding, or entered into the computation of its standard acreage.

59. The continued revenue entry in respect of Khasra No. 298/24/2 did not, therefore, establish that the vendors retained a portion of the agricultural holding after execution of the sale deed dated 6th July, 1984. They had transferred their entire recorded interest in Khasra Nos. 5, 10/1 and 10/2.

[10] 2008 SCC OnLine Del 806.

The Financial Commissioner was consequently correct in holding that retention of the extended-*abadi* parcel did not render the transfer contrary to Section 33(2).

Application to W.P.(C) 5884/2008

60. The position in W.P.(C) 5884/2008 is comparatively straightforward. The land comprised in Khasra Nos. 15, 31/1 and 33/1, admeasuring 10 bighas and 3 biswas, was transferred to the private purchaser through two registered sale deeds executed on 26th June, 1984. The deeds were executed on the same date, by the recorded *bhumidhars*, in favour of the same purchaser and, when read together, covered the entirety of the agricultural land recorded in the names of the transferors in the aforesaid khasras.

61. The enquiry under Section 33(2) must be undertaken with reference to the holding of each transferor as it stood on the date of transfer. The Petitioner has not identified any specific parcel of agricultural land which continued to be held by any of the vendors after execution of the two sale deeds. His case proceeds instead on the broader assertion that the entire estate of the common ancestor, late Chhajjan, continued to be jointly owned by the two branches of the family and that the entries made during consolidation in favour of Kale Ram and his successors were themselves erroneous.

62. That contention travels beyond the scope of the mutation proceedings. The entries made during consolidation had continued in the revenue record for several decades and formed the basis upon which the transferors were recognised as *bhumidhars* of Khasra Nos. 15, 31/1 and 33/1. Unless those foundational entries were displaced in proceedings before the competent forum, the revenue authorities were entitled to examine compliance with

Section 33 on the basis of the recorded holdings as they existed on the date of sale. A claim founded upon a reconstructed ancestral title cannot, without first establishing the invalidity of the subsisting entries, be employed to demonstrate that the transferors retained some part of their holding after the impugned conveyances.

63. The fact that the transfer was documented through two instruments does not alter the position. Section 33 is concerned with the substantive consequence of the transaction: whether the transferor was left with any land in contravention of the statutory restriction. It does not prescribe that a complete divestment must necessarily be embodied in a single instrument. Where, as in the present case, contemporaneous deeds executed as part of the same arrangement, in favour of the same purchaser, collectively convey the whole of the recorded holding, the requirement of Section 33(2) is not defeated merely because the conveyance is contained in more than one document.

64. The Petitioner has, therefore, failed to demonstrate that the finding of the Deputy Commissioner and the Financial Commissioner, that the transferors had conveyed their entire recorded agricultural holding, was contrary to the statutory provision, unsupported by the record or otherwise perverse.

Absence of partition and reliance upon Sections 55 to 61

65. The further contention that a co-*bhumidhar* is incapable of transferring his undivided interest unless the holding has first been partitioned cannot be accepted. Section 31 expressly declares the interest of a *bhumidhar* to be transferable, subject to the restrictions contained in the succeeding provisions. The Act does not make a prior partition a condition

precedent to the transfer of an undivided *bhumidhari* interest.

66. As noted above, joint tenure does not render an undivided *bhumidhari* interest inalienable. A transferee merely steps into the shoes of the transferor and remains subject to the rights of the other co-*bhumidhars* until a lawful partition takes place. The absence of partition, therefore, does not invalidate the transfer itself.

67. The decision in ***Hanso Devi (Deceased) through LRs v. Chandru (Deceased) through LRs*** does not advance the Petitioner's case. It recognises that co-*bhumidhars* recorded jointly are entitled to joint possession and that one co-*bhumidhar* cannot exclude another from any part of the holding without a lawful partition. It does not lay down that a co-*bhumidhar* is altogether disabled from transferring his undivided interest. The transfer remains subject to the rights of the other co-*bhumidhars*, but is not rendered void solely because no partition by metes and bounds had preceded it.

68. In the present case, the Petitioner's plea of want of partition rests, in any event, upon his disputed assertion that he continued to hold an undivided interest in the entire ancestral estate, including Khasra Nos. 15, 31/1 and 33/1. The subsisting revenue entries did not recognise such an interest. They recorded the transferors as *bhumidhars* of the aforesaid land. The Petitioner cannot establish a right as co-*bhumidhar* in those khasras merely by invoking the absence of a partition, without first displacing the entries upon which the transferors' recorded tenure was founded.

69. Sections 55 to 61 operate in a distinct field. They govern proceedings instituted for partition of a *bhumidhari* holding. Section 57 prescribes the course to be adopted where the holding is of, or a partition would produce,

less than eight standard acres. In specified circumstances, the Court may direct sale instead of physical division. Sections 58 to 60 thereafter regulate valuation, the order of preference among co-tenure holders and the manner of sale. These provisions become operative when a competent court directs sale in a partition proceeding; they do not confer upon every co-*bhumidhar* a general right of pre-emption or first refusal whenever another co-*bhumidhar* voluntarily transfers his interest.

70. The Petitioner's reliance upon the partition provisions, therefore, does not invalidate the registered conveyances or furnish a ground to interfere with the mutations sanctioned on their basis.

Notice and the requirement of a reference under Section 23

71. Section 23 of the Delhi Land Revenue Act contemplates an enquiry by the Tehsildar upon receipt of a report of succession or transfer, or when the relevant facts otherwise come to his knowledge. Where the succession or transfer is undisputed and appears to have taken place, the Tehsildar may direct its entry in the Annual Register. Where, however, the succession or transfer is disputed, or the Tehsildar finds that it contravenes DLRA, the matter must be referred to the Revenue Assistant for determination after the prescribed enquiry.

72. The statutory scheme necessarily permits the Tehsildar to undertake a preliminary scrutiny of the transaction. The mere fact that he examines whether the transfer appears to conform to DLRA does not amount to an assumption of the adjudicatory jurisdiction of the Revenue Assistant. A reference becomes necessary where a rival claim is raised, the material discloses a genuine dispute concerning the succession or transfer, or the Tehsildar finds a *prima facie* contravention of the Act. What he cannot do is

finally adjudicate a contested title or determine a disputed statutory infraction in summary mutation proceedings.

73. In ***Master Mayank Vashishth v. Financial Commissioner***, mutation had been sanctioned without notice to the joint *bhumidhars*. The absence of notice itself prevented the rival claim from being placed before the Naib Tehsildar, who thereafter treated the matter as undisputed and proceeded to decide an issue arising under DLRA. The Court held that, had notice been issued, the rival claim would have given rise to a dispute regarding the proposed mutation, thereby taking the matter outside the jurisdiction of the Naib Tehsildar under Section 23. The dispute ought, therefore, to have been referred to the Revenue Assistant for determination. The decision thus rests upon the combined circumstances of absence of notice, the existence of a competing claim, and the assumption by the Naib Tehsildar of jurisdiction reserved for the Revenue Assistant.

74. The facts of the present cases are materially different. The contemporaneous mutation records refer to issuance of notice, publication and service in the manner recorded therein, and further note that no objection was received. The registered instruments were produced before the Tehsildar; the vendors or their authorised representatives appeared; and the relevant revenue reports were considered. Nothing in the material then before the Tehsildar disclosed a subsisting rival claim or a dispute concerning the transfer which required adjudication by the Revenue Assistant.

75. The observation in the mutation orders that the transactions did not offend Section 33 must be understood in this setting. The Tehsildar was not deciding an inter partes dispute under that provision. He was undertaking the

threshold scrutiny inherent in Section 23 to determine whether the matter could be treated as an undisputed mutation or required a reference. Upon the recorded facts, he found no apparent contravention and no objection had been lodged by any affected person.

76. A dispute raised several years after a mutation has been sanctioned does not, by itself, retrospectively convert an undisputed mutation into a disputed one. The position would, however, be different if the absence of objections resulted from a failure to issue notice in accordance with law. In the present case, the Petitioner has placed no material on record to displace the contemporaneous recitals in the mutation order regarding publication and service. A bare denial, raised after nearly fifteen years, is insufficient to rebut the official record.

77. In any event, the Petitioner was thereafter heard at length by the Deputy Commissioner and the Financial Commissioner. All the objections now urged, including the alleged violation of Section 33, absence of partition, retention of other parcels, the Patwari's report and the validity of the underlying transactions, were duly considered. This subsequent hearing is not relied upon to cure any defect of jurisdiction; rather, it demonstrates that the Petitioner's substantive objections received full consideration in the appellate and revisional proceedings.

78. ***Master Mayank Vashishth*** is, therefore, distinguishable. The impugned mutations cannot be set aside either for failure to serve notice or for want of a reference under Section 23.

Effect of urbanisation

79. In ***Mohinder Singh (Dead) through LRs v. Narain Singh***, the Supreme Court held that once an area is urbanised by a notification issued

under Section 507(a) of the Delhi Municipal Corporation Act, 1957, the Delhi Land Reforms Act ceases to apply to that area and proceedings then pending under the latter enactment become *non est* and lose their legal significance.

80. The factual chronology in ***Mohinder Singh***, however, is material. The notification urbanising the land had been issued on 23rd April, 1982, whereas the sale deed, mutation and the proceedings arising therefrom were all subsequent events. The revenue authorities were thus called upon to exercise jurisdiction under DLRA after that enactment had ceased to govern the land.

81. The chronology in the present cases is the reverse. The transfers were effected in 1984; the mutations were sanctioned in 1984-85; the statutory appeals were decided in 2001; and the revisions were dismissed by the Financial Commissioner in 2007. Village Ghitorni was urbanised only by the notification dated 20th November, 2019. The proceedings before the hierarchy of revenue authorities had, therefore, concluded approximately twelve years before the change in the status of the village.

82. The distinction founded upon the timing of urbanisation was explained by the Division Bench of this Court in ***Madan Pal Gupta & Anr. v. Maya Devi & Anr***.[11] The Court held that where proceedings under the Delhi Land Reforms Act had been instituted before urbanisation, the rights asserted therein were to be reckoned with reference to the date of institution. The fact that their eventual determination occurred after urbanisation did not, by itself, render the exercise *non est*; its legal effect would relate back to the commencement of the proceedings.

83. The present petitions stand on an even firmer footing. They are

proceedings under Article 226 of the Constitution questioning the legality of statutory orders which had attained finality within the revenue hierarchy long before urbanisation. They are not original proceedings initiated under the Delhi Land Reforms Act after the notification of 2019. The subsequent change in the status of Village Ghitorni does not retrospectively extinguish the jurisdiction lawfully exercised by the revenue authorities when the land was governed by that enactment, nor does it erase the orders passed by them.

84. The legality of the impugned transfers and mutations must, therefore, be examined with reference to the law applicable when the transactions occurred and the statutory proceedings were undertaken. The notification of 2019 alters the legal regime prospectively; it does not retrospectively validate an unlawful transfer or invalidate a transaction which was lawful when made. Nor does it render the present writ petitions infructuous or relieve the Court of examining the challenge to the Financial Commissioner's order on its merits.

85. Urbanisation is nevertheless relevant to the forum and remedies now available in respect of any surviving controversy. Any fresh claim concerning present title, possession, the validity or effect of the registered instruments, or correction of the records maintained after urbanisation must be pursued before the forum competent under the law presently governing the land. Since no ground has been made out in these petitions to interfere with the concluded revenue proceedings, the question whether a remand could otherwise have been directed after urbanisation does not arise for determination.

Conclusion

---

[11] 2024:DHC:9465-DB.

86. In view of the foregoing discussion, this Court finds no merit in the present petitions. No ground is made out to interfere with the concurrent orders passed by the Deputy Commissioner and the Financial Commissioner.

87. Accordingly, W.P.(C) 5858/2008 and W.P.(C) 5884/2008 are dismissed. The common order dated 29th November, 2007 passed by the Financial Commissioner, Delhi, and the common order dated 24th September, 2001 passed by the Deputy Commissioner (South-West) are upheld.

88. It is clarified that the present judgment is confined to the legality of the impugned revenue orders and the mutation proceedings. Save to the extent issues have already been adjudicated by the competent civil court in Civil Suit No. 747/1998 and affirmed in appeal, nothing contained in this judgment shall be construed as a determination of any surviving dispute concerning title, proprietary shares, possession or the validity of any transaction which has not attained finality before the competent forum.

89. Insofar as Civil Suit No. 524/02/00 and RSA No. 114/2007 are concerned, no final adjudication has been placed on record. The rights of the parties in those proceedings, and in any other proceedings concerning issues not finally determined, shall be governed by the outcome before the competent forum, in accordance with law.

90. All pending applications also stand disposed of.

SANJEEV NARULA, J

JULY 13, 2026/*hc*