

**HIGH COURT OF UTTARAKHAND AT
NAINITAL**

THE HON'BLE SRI JUSTICE RAKESH THAPLIYAL

Writ Petition (M/S) No. 1448 of 2024

Ashutosh Sharma and AnotherPetitioners

Versus

Madhav Samarpan SamitiRespondent

Counsel for the petitioners : Mr. Piyush Garg, learned counsel

Counsel for the respondent : Mr. Sunil Khera, learned counsel along with
and Mr. Lalit Sharma, learned counsel and Mr.
Yogesh Kumar Sharma, learned counsel

Reserved on : 18.06.2024

Delivered on : 01.08.2024

Hon'ble Rakesh Thapliyal, J. (Oral)

1. By the instant petition, preferred under Article 227 of the Constitution of India, the petitioners are praying for the following reliefs: -

"(a) Issue a writ, order or direction in the nature of certiorari quashing the impugned judgment and order dated 24.04.2024 (contained as Annexure No.1 to the writ petition) passed by Board of Revenue, Dehradun, in Revision No. 89/2020-21, U/s 219 of L.R. Act, Madhav Samarpan Samiti Vs. Ashutosh Sharma and another.

(b) Issue a writ, order or direction in the nature of certiorari quashing the order dated 30.09.2020 passed by Assistant Collector 1st Class, Haridwar, in appeal no.04/2018, Ashutosh Sharma and another Vs. Madhav Samarpan Samiti and the order dated 08.05.2018 passed by Tehsildar Haridwar, in case no. 69/2015-16, Ashutosh Sharma and another Vs. Madhav Samarpan Samiti.

(c) Issue any other suitable writ order or direction which this Hon'ble Court may deem fit, just and proper under the facts and circumstances of the case.

(d) Cost of the petition be awarded in favor of the petitioner."

2. Brief facts of the case are that the father of the petitioners namely late Shri Bhushan Sharma was the absolute owner of property measuring 0.6330 hectare and 0.4420 hectare falling in khasra Nos. 175M, 186M, 187M, 188M and 192 situated in village Shekhpura @ Kankhal, Pargana Jwalapur, Tehsil and District Haridwar.

3. The issue in the present writ petition pertains to the mutation of respondent in the revenue records in place of the petitioners' father pursuant to a Will dated 25.10.1995, registered on 26.10.1995, whereby the petitioners' father Bhushan Sharma, being the testator bequeathed the property in favour of Madhav Samarpan Samiti (a society formed by Rashtriya Swayamsevak Sangh members).

4. Learned counsel for the petitioners submits that in the mutation proceedings initiated pursuant to an Application moved by the respondent under Section 34 of the Land Revenue Act, neither the petitioners were impleaded nor any proclamation was issued and earlier mutation application, filed by the respondent was dismissed in default by order dated 15.01.2016 and subsequently a Restoration Application was filed and by order dated 25.02.2016, the Tehsildar allowed the Restoration Application, as well as allowed the mutation proceedings in favour of the

respondent and directed to mutate the name of the respondent in place of the deceased father of the petitioners.

5. It is submitted by the learned counsel for the petitioners that the petitioners were completely unaware about the said mutation proceedings and thereafter, the petitioners moved an Application under Section 201 of the Land Revenue Act on 04.08.2017 after more than one and half year, seeking recall of the order dated 25.02.2016, wherein the fact about the Will dated 25.10.1995, registered on 26.10.1995 was completely denied and contended therein that the father of the petitioners executed a registered Will on 20.09.2000 in favour of the petitioners in respect of his entire property.

6. In the said application, preferred under Section 201 of the Land Revenue Act, it was prayed that the order dated 25.02.2016 be recalled and the mutation application be heard on merits after grant of opportunity of hearing to the petitioners.

7. Learned counsel for the petitioners further submits that the Restoration Application was filed on 04.08.2017, seeking recall of the order dated 25.02.2016 and a separate Delay Condonation Application was also filed under Section 5 of the

Limitation Act, seeking condonation of delay in filing of the Restoration Application in which the objections were filed by the respondent and in response thereto the reply was also filed.

8. By order dated 08.05.2018, the Tehsildar dismissed the Restoration Application by holding that the petitioners have not filed any mutation application on the basis of the Will dated 20.09.2000 and the Restoration Application is barred by limitation.

9. Thereafter, the petitioners, feeling aggrieved with the order dated 08.05.2018 passed by the Tehsildar, preferred an Appeal under Section 210 of the Land Revenue Act, bearing Appeal No. 4 of 2018 before the Assistant Collector, Ist/SDM, Haridwar; however, the said Appeal was also dismissed by order dated 30.09.2022, by holding therein that petitioner No. 2 Atharv Sharma is shown to be one of the witness in the Will dated 26.10.1995 relied upon by the respondent and the petitioner No. 2 has not denied his signatures on the said Will. The Assistant Collector further held that the Restoration Application is barred by limitation.

10. Being aggrieved with the order passed by the Assistant Collector dated 30.09.2022, a Revision, bearing Revision No.

20 of 2020-21 was filed by the petitioners under Section 219 of the Land Revenue Act before the Additional Commissioner and the Additional Commissioner allowed the Revision by order dated 21.01.2021 by holding that as per law, the Delay Condonation Application filed by the petitioners along with the Restoration Application was to be decided first and no order on the Delay Condonation Application was passed by the Tehsildar. Further, the Additional Commissioner also observed that the procedure as prescribed under Section 34 of the Land Revenue Act were not followed and complied with and no proclamation was issued before passing mutation order. It is further observed by the Additional Commissioner that there were two Wills set up by the parties and the Revisional Court had no jurisdiction to scrutinise the Wills and since the petitioners were not parties to the mutation proceedings, they had no knowledge of the proceedings initiated by the respondent and as such there is no delay. The Additional Commissioner, by order dated 21.01.2021 remanded the matter back to the Tehsildar, by directing the parties to maintain status quo.

11. Thereafter, the respondent preferred a Revision under Section 219 of the Land Revenue Act, bearing Revision No. 89 of 2020-21 against the order dated 21.01.2021, passed by the Additional Commissioner before the Board of Revenue

and the Board of Revenue allowed the revision preferred by the respondent by order dated 24.04.2024.

The Board of Revenue, while allowing the Revision hold that the Additional Commissioner while remanding the matter back, have not set aside the order passed by the Tehsildar dated 25.02.2016 and the matter cannot be kept pending for indefinite period.

The Board of Revenue further hold that Mr. Atharv Sharma, petitioner No. 2 herein, himself is one of the signatory as witness in the Will dated 26.10.1995 and he never denied his signature in the registered Will dated 26.10.1995, which in fact was the sole basis of initiation of mutation proceedings by the respondent.

The Board of Revenue further observed that the respondents who are petitioners herein never moved an application for mutation on the basis of the subsequent Will dated 20.09.2000 under Section 34 read with Section 35 of the Land Revenue Act after the death of their father though as a matter of fact they should have immediately moved an application for their mutation, which they failed to do so.

The Board of Revenue further holds that the application under Section 201 of the Land Revenue Act can be moved only by a person who was the party to the proceeding and against whom the ex-parte proceedings have been initiated and in this particular case, the respondents i.e. the

petitioners herein were not party to the mutation proceedings initiated by the respondent.

The Board of Revenue further hold that the proceedings under Sections 34 and 35 of the Land Revenue Act are summary proceedings and any mutation entry does not confer any right, title or interest over the property and the mutation entry in the revenue record is only for the fiscal purposes.

The Board of Revenue further observed in the order impugned that the Assistant Collector, Ist/SDM, Haridwar rightly dismissed the Appeal preferred by the petitioners under Section 210 of the Land Revenue Act and there is no any infirmity in the order passed by the Tehsildar on 08.05.2018.

12. Being aggrieved with the order dated 24.04.2024, whereby the Revision filed by the respondent was allowed by the Board of Revenue, the instant writ petition has been preferred.

13. Learned counsel for the petitioners submits that the Board of Revenue erred in law and failed to appreciate that, by the restoration application, the petitioners were only praying for recall of the ex-parte order and also for grant of opportunity of hearing and the findings recorded are

completely unwarranted in view of the nature of the proceedings viz. restoration application alone.

14. He further submits that the Board of Revenue has recorded a finding that the petitioners had not disputed their signature on the Will and the petitioners have not taken any action in respect of the Will and such findings are absolutely perverse and the petitioners have nowhere admitted their signature and the petitioners have categorically stated in the Recall Application that the Will relied upon by the Madhav Samarpan Samiti is an act of forgery. He further submits that the occasion to deny the signature would have arisen only in case restoration application was allowed and the matter is heard on merits and the petitioners cannot be expected to lead their evidence at the time of filing of and disposal of the restoration application itself.

15. Learned counsel for the petitioners submits that the Board of Revenue erred in law and failed to appreciate that even if the Will relied upon by the respondent is considered though specifically denied, the same is of no consequences as the registered Will in favour of the petitioners is subsequent in time and it is settled position of law that it is last Will executed by the testator which prevails in law.

16. Learned counsel for the petitioners further submits that the Board of Revenue had erroneously held that the Will dated 26.10.1995 has not been challenged by the petitioners since the Will in question is a void document and a void document is not required to be challenged and if that be so the fact remains that the Will dated 20.09.2000 similarly has never been challenged by the respondents.

17. Learned counsel for the petitioners submits that the Tehsildar, Assistant Collector, Ist/SDM, as well as Board of Revenue erred in law and they failed to appreciate that the petitioners are real sons of late Shri Bhushan Sharma and have a registered Will executed by late Shri Bhushan Sharma in their favour and their serious rights were thus involved in the matter.

18. Learned counsel for the petitioners submits that the mutation in favour of respondent took place without serve of any notice upon the petitioners and thus the order dated 25.02.2016 was liable to be recalled and the petitioners were required to be given opportunity of hearing.

19. Learned counsel for the petitioners submits that all the authorities had erred in law and failed to appreciate that the alleged Will dated 20.10.1995 was surrounded with

suspicious circumstances and no mutation on the basis of the said Will could have been directed.

20. Mr. Sunil Khera, learned counsel for the respondent raised a preliminary objection about the maintainability of the present writ petition and submits that the subject matter of the writ petition admittedly arises from the mutation proceedings which are summary in nature, which do not decide any rights or title of the parties.

21. Mr. Sunil Khera, learned counsel for the respondent, first of all, placed reliance on a judgment rendered by the Hon'ble Apex Court in the case of **Suraj Bhan Vs. Financial Commissioner, (2007) 6 SCC 186**, wherein it is observed and held 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", i.e., payment of land revenue, and no ownership is conferred on the basis of such entries. It is further observed that so far as the title of the property is concerned, it can only be decided by a competent civil court. Similar view has been expressed in the cases **Suman Verma v. Union of India, (2004) 12 SCC 58; Faqrudin v. Tajuddin (2008) 8 SCC 12; Rajinder Singh v. State of J&K, (2008) 9 SCC 368; Municipal Corporation, Aurangabad v. State of**

Maharashtra, (2015) 16 SCC 689; T. Ravi v. B. Chinna Narasimha, (2017) 7 SCC 342; Prahlad Pradhan v. Sonu Kumhar, (2019) 10 SCC 259; and Ajit Kaur v. Darshan Singh, (2019) 13 SCC 70."

22. Mr. Sunil Khera, learned counsel for the respondent submits that it is settled principle of law that the writ petition is not maintainable arising out of mutation proceedings and in reference to this, he further placed reliance on the judgment rendered by this Court in the case of **Bharat Dei and another Vs. Additional Commissioner Garhwal Mandal and others**, decided on 21.11.2020 in **Writ Petition (M/S) No. 73 of 2013**, wherein this Court held that it the settled law that the proceedings under Sections 34 and 39 of the Land Revenue Act, are summary in nature and any adjudication which is made on the same, does not decide a title of the parties litigating over an issue for getting themselves to be recorded in the revenue records. Learned counsel for the respondent placed reliance on para 2 and 3 of the said judgment, which are being reproduced herein as below: -

"2. It is the settled law that the proceedings under Sections 34 and 39 of the Land Revenue Act, are summary in nature and any adjudication which is made on the same, does not decide a title of the parties litigating over an issue for getting themselves to be recorded in the revenue records. Rather to the contrary, the Law contemplates that any entries which are made as a consequences of the orders passed under the proceedings which are provided under Sections 34 and 39 of the Land Revenue Act, would only

be having a fiscal affect because it only determines the entitlement of the State and liability of a person/revenue holder, to ensure the remittance of the Land Revenue, payable towards the land which was the subject matter of the proceedings under Section 34 of the Land Revenue Act. Hence, it has been consistently held by the High Courts, that no Writ Petition, as against the aforesaid judgments would be maintainable before the High Court. Some of the judgments, the reference of which has been made by the counsel for the respondents in relation to the aforesaid subject, have been reported in 2004 (97) RD 696, Smt. Manorma Devi and others vs. Board of Revenue U.P. Lucknow and others; 2002 (93) RD 510, Smt. Gyan Mati Vs. Additional Commissioner (Admn.), Basti Division and others; 1996 (6) SCC 223, Sawarni (Smt) vs. Inder Kaur (Smt) and others as well as 1999 (4) A.W.C. 3038, Smt. Rani Devi vs. Board of Revenue, U.P. at Lucknow and others.

3. In view of the aforesaid ratio, it has been consistently held by the Courts, that, any adjudication which is made in a mutation proceedings under the Land Revenue Act, 1901 would always be a subject to the provisions contained under Section 40A of the Land Revenue Act, i.e. if any person is aggrieved against the determination made or on a denial made to record, his name in the Revenue records, under Section 34 of the Land Revenue Act, the effected person will have had to resort the proceedings of instituting the regular suit for deciding their rights.

23. Another judgment which has been relied by the learned counsel for the respondent is in the case of **Girish Chandra Vs. Apar Ayukt (Prakashan) Garhwal Mandal and others, 2004 (2) UD 325**, wherein this Court dismissed the petition by holding that the mutation proceedings do not confer a title and are summary in nature and therefore a writ petition is not maintainable and opportunity was given to the petitioner to approach the appropriate Court for redressal of rights. The relevant paras of the said judgment are also being reproduced herein as below :-

"3. Mutation proceedings do not decide rights or title of parties. These proceedings are just fiscal in nature and no writ petition under Article 226 of the Constitution of India is maintainable. Division Bench of Allahabad High Court in a case Jaipal vs. Board of Revenue, AIR 1957 Allahabad 205 has held as under:

"The only exception to this general rule is in those cases in which the entry itself confers a title on the petitioner by virtue of the provisions of the U.P. Zamindari Abolition and Land Reforms Act. This petition does not fall in that class and we think, therefore, this Court should not entertain it. It is accordingly dismissed with costs.

4. Reference was also made to the decision in Smt. Amrendra Kaur vs. Collector, Rampur and others, R.D. 2003 (95) 211, it has been held by Allahabad High Court as under:

"A reference in this regard may be made to the decisions in Avadhesh Pratap Singh and others vs. Pahupat Pratap Singh and others 1941 RD 1068, Smt. Lakhpati and another vs. Board of Revenue, 1984, RD 378, Chhedi Lal vs. Board of Revenue, 1982 RD 201, Mohar Tewari vs. Board of Revenue, V.P. and another 1990 RD 20, and Nagai and another vs. Board of Revenue and others, 2002 (93) RD 365. In all the aforesaid decisions, it has consistently been held that the mutation proceedings are summary in nature. The findings recorded and observations made by the authorities in those proceedings have got no binding effect on the regular side either upon the parties or upon the Courts. In the present case, as stated above, the petitioner has already filed suit for cancellation of sale deeds in question and has, thus, already availed of the alternative remedy thus the present petition filed under Article 226 of the Constitution of India is legally not maintainable. It is, however, observed that the findings recorded and observations made by the Courts below on the merits of the case, will have no adverse effect upon the parties or upon the Courts below while deciding the said suits. They will be at liberty to decide the said suits on the basis of the evidence produced by the parties ignoring the orders passed in the mutation proceedings."

24. Another judgment which has been relied upon by the learned counsel for the respondent is in the case of **Jia-UI-Haq & Others Vs. Sri Walidin and another, 2016 (1) UD 447**, decided on 12.10.2015, wherein this Court held that the mutation proceedings are summary in nature and does not confer any right and title in favour of the persons whose names have been mutated, and Section 40 (a) of the U.P. Land Revenue Act provides that if a person is aggrieved by

any order passed in mutation proceedings, the aggrieved party has an efficacious remedy to get its title declared from the competent Court.

25. Learned counsel for the respondent submits that Section 40 (a) of the Land Revenue Act gives an elaborative right to an aggrieved party to get its right declared from the competent Court and the orders passed in mutation proceedings are not final and the same are fiscal in nature and therefore the writ petition against the proceedings arising out of a mutation proceeding is not maintainable.

26. The Allahabad High Court, in the case of **Smt. Rani Devi Vs. Board of Revenue, 1999 (90) RD, 633**, has held that the writ petition arising out of mutation proceedings is not maintainable. In another case, i.e. in the case of **Ram Bharose Lal Vs. State of U.P., 1991 RD 72**, the Allahabad High Court held that the mutation proceedings under Section 34 of the U.P. Land Revenue Act, 1900, do not decide rights or title of the parties and proceedings are just fiscal in nature and the High Court need not to interfere under Articles 226 and 227 of the Constitution of India and the remedy can be availed by aggrieved party in appropriate Court.

27. Learned counsel for the respondent further placed reliance upon the judgment in the case of **Bindeshwari Vs. Board of Revenue U.P. at Lucknow and others**, reported in **(2002) 93 RD 134**, wherein the Allahabad High Court held that the mutation proceeding does not adjudicate the rights of the parties and hence the writ petition is not maintainable.

28. Learned counsel for the respondent further placed reliance on a recent judgment of this Court i.e. in the case of **Iqbal Hasan Vs. State of Uttarakhand and others**, in **Writ Petition (M/S) No. 1495 of 2022, 2022 Supreme (UK) 230**, decided on 30.08.2022.

29. In response to the preliminary objections as raised by the respondent, the learned counsel for the petitioners submits that the maintainability of a writ petition is self imposed restriction and has not an absolute rule. There are exceptions where the writ petition is maintainable even in respect of mutation proceedings and the present case is not the case of any final order passed in mutation proceedings but is the case wherein the Restoration Application filed by the petitioner against the ex parte order has not been considered by the trial Court.

30. Learned counsel for the petitioner placed reliance on the judgment rendered by the Allahabad High Court in the case of **Smt. Kalawati Vs. The Board of Revenue and others**, decided on 05.04.2022 in WRIT-B No. 295 of 2022. He refers para 40 of the said judgment which is being reproduced herein as below: -

"40. Having regard to the foregoing discussion the exceptions under which a writ petition may be entertained against orders passed in mutation proceedings would arise where :

- (i) the order or proceedings are wholly without jurisdiction;
- (ii) rights and title of the parties have already been decided by a competent court, and that has been varied in mutation proceedings;
- (iii) mutation has been directed not on the basis of possession or on the basis of some title deed, but after entering into questions relating to entitlement to succeed the property, touching the merits of the rival claims;
- (iv) rights have been created which are against provisions of any statute, or the entry itself confers a title by virtue of some statutory provision;
- (v) the orders have been obtained on the basis of fraud or misrepresentation of facts, or by fabricating documents;
- (vi) the order suffers from some patent jurisdictional error i.e. in cases where there is a lack of jurisdiction, excess of jurisdiction or abuse of jurisdiction;
- (vii) there has been a violation of principles of natural justice.

As it appears from the said judgment there are seven categories of cases in which it has been held by the Allahabad High Court that the writ petition may be entertained against orders passed in mutation proceedings.

31. I have gone through the seven categories of cases but in the opinion of this Court, the present case does not fall in any of the categories. Though, learned counsel for the petitioners placed reliance on the said judgment, but what ultimately has been held in this judgment is reflected from para 44 of the said judgment which is also being reproduced herein as below: -

"44. At this stage, learned counsel for the petitioner seeks to urge that the findings returned in the mutation proceedings may prejudice the petitioner's case in a suit pertaining to claim of title. The aforesaid apprehension is wholly without basis since findings returned by mutation courts in summary proceedings are for the limited purpose of correction of revenue records and do not have any presumptive value on a question of title which is required to be adjudicated by the court of competent jurisdiction without being influenced by any finding returned in mutation proceedings. In this regard the provision contained under Section 39 of the Code has already been taken note of wherein it is provided in unequivocal terms that order passed under Section 35 would not debar any person from establishing his rights to the land by means of a suit under Section 144.

Thus, the said judgment is of no help to the petitioners.

32. Apart from this, learned counsel for the petitioners placed reliance on another judgment of this Court in the case of **Kehar Singh Vs. State of U.P. and Another, 2011 (2) UC 1083** decided on 31.06.2010.

33. I perused the judgment; however, the facts of this case are not applicable since those who filed their objections in

the mutation proceedings, they were the party to the mutation proceedings.

34. Learned counsel for the petitioners submits that filing of objections/restoration application by the petitioners itself amounts to filing of mutation application and therefore, the Revenue Authorities were duty bound to recall the correct entries in the records are totally misconceived and not acceptable.

35. Learned counsel for the petitioners submits that unless the Restoration Application is decided, separate mutation application could not have been filed. He submits that it is settled principle of law that restoration application could not have been decided without deciding the delay condonation application first and in a reference to this, he has placed reliance upon various judgments i.e. in the case of **Beena Kumari Vs. Raj Kumar, 2016 0 Supreme (Del) 2999** and in the case of **Mohanram Vs. Mohanram & Another, 2008 2 RLW (R) 983.**

36. I perused both the judgments and of the view that these judgments have no relevance, since the facts of the present case are entirely on different footing. The present case is arising out of a mutation proceedings which were

concluded in favour of the respondent and if the petitioners are aggrieved, at all in reference to those entries then they have to approach to the Civil Court, seeking remedies for the purposes of deciding their title over the property in question.

37. Learned counsel for the petitioners submits that since only a restoration application was filed and therefore while deciding the restoration application, the merit of the matter could not have been gone into. He further submits that there are two Wills on record; one is relied by the petitioners which is of dated 20.09.2000, whereas another Will, in which the respondent moved mutation proceeding which was allowed in their favour is of 25.10.1995, registered on 26.10.1995. Learned counsel for the petitioners submits that even if the earlier Will is not specifically revoked the same stand impliedly revoked and in the case of more than one Will executed by the testator the last Will shall prevail. In a reference to this, he has referred the judgment in the case of **Jasbir Singh Vs. Jaspal Singh and others, 2016 SCC OnLine P&H 3416** and in the case of **Pramila Tiwari Vs. Anil Kumar Mishra and others, 2024 SCC OnLine All 1588**.

38. So far as the case of **Jasbir Singh (supra)** is concerned, the same case is arising out of a regular suit, seeking declaration on the basis of a Will. This case has no

relevance in respect of the issue as involved in this petition since on the basis of the subsequent Will, the petitioners are seeking recall of the order passed in a mutation proceedings initiated by the respondent on the basis of earlier Will. Neither the earlier Will has been challenged by the petitioners nor any declaration has been sought by filing a regular suit. Thus, this judgment is not at all applicable.

39. Another judgment, i.e. in the case of **Pramila Tiwari (supra)**, also have no relevance since in this case a reference was made by the Chief Justice to answer the reference made by another Judge, which is being extracted herein as below: -

“Whether the provision of compulsory registration of will, as introduced in the form of Section 169(3) of U.P.Z.A. & L.R. Act, 1950 by the Amendment Act namely U.P. Act No. 26 of 2004, is perspective or retrospective in nature?”

Thus, from the reference itself, it is clear that the said judgment has no relevance since the entire subject matter of the present petition is pertaining to the mutation proceeding which was initiated by the respondent on the basis of a registered will dated 26.10.1995.

40. Undisputedly, the petitioners have not filed any mutation application on the basis of subsequent Will dated 20.09.2000 and furthermore, they were not the party to the mutation proceedings initiated by the respondent herein.

41. The Board of Revenue clearly observed in the order impugned that if there was a subsequent Will in favour of the petitioners then they have to move a proper application under Sections 34/35 of the Land Revenue Act after the death of their father which they have not done.

42. On the basis of the subsequent Will, intervening by moving an application for recalling the order in a mutation proceedings initiated by the respondent herein is wholly unwarranted.

43. In opinion of this Court, if the mutation proceedings initiated by the respondent were concluded and if there was a subsequent Will, the only remedy available to the petitioners to approach to the Civil Court either to challenge the Will dated 26.10.1995 on the basis of which the mutation application was filed by the respondent or to file a regular suit claiming title over the property on the basis of the subsequent Will.

44. Neither the Will dated 26.10.1995 was challenged nor any regular suit was filed by the petitioners for claiming title over the property pursuant to a subsequent Will. It is settled principle of law that mutation proceedings are summary in nature and it does not confer any title over the property and this is only for the fiscal purposes.

45. After hearing the arguments of the learned counsel for the parties and further after gone through the judgments as relied upon by the learned counsel for the parties, this Court is of the view that the present writ petition is not maintainable since the order passed in mutation proceedings is not final on the question of title and title can only be decided by competent Court of law, therefore, this Court is not inclined to interfere with the order passed by the Tehsildar, in Case No. 69 of 2015-16, as well as with order passed by the Assistant Collector, Ist/SDM, Haridwar dated 30.09.2022 in Appeal No. 04 of 2018, and with order passed by the Board of Revenue in Revision No. 89 of 2020-21, while exercising its supervisory powers conferred by Article 227 of the Constitution of India.

46. Accordingly, the writ petition fails and dismissed. However, any observations as made above, will not come on the way of the petitioners if they approach a competent Court of law for adjudication of their rights over the property in question.

Rakesh Thapliyal, J.

Dt: 01.08.2024
Mahinder/