

**IN THE BOARD OF REVENUE FOR RAJASTHAN, AJMER**

**Reference No. 6071/2001/LR/Sawaimadhopur :**

State of Rajasthan, through Tehsildar Bahrawandakala,  
Tehsil Khandar, District Sawaimadhopur.

Petitioner.

**Versus**

1. Madan Lal S/o Shri Shiv Lal, by caste Mahajan, resident of Village Rodawad, Tehsil Khandar, District Sawaimadhopur.
  2. Ratni
  3. Sushila
  4. Pushpa
  5. Tara
- } daughters of Shri Shiv Lal, by caste Mahajan
- All residents of Village Rodawad, Tehsil Khandar,  
District Sawaimadhopur.

... Non-Petitioners.

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**S.B.**

Shri Pramil Kumar Mathur, Member

**Present :**

Shri Surendra Sharma, Dy.Govt.Advocate for the State.  
Shri V.P. Singh Rajawat, counsel for the Non-Petitioners.

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Dated : May 2, 2012

**J U D G M E N T**

This reference has been moved to the Board of Revenue by Additional District Magistrate, Sawaimadhopur vide order dated 31.7.2001 on the report of Naib Tehsildar, Bahrawandakala made against the mutation no.52 dated 13.6.1996 attested by Sarpanch, Gram Panchayat Rodawad Tehsil Khandar District Sawaimadhopur by which disputed land of the deceased khatedar Shiv Lal Mahajan was mutated in favour of his son Madan Lal alone instead of all daughters of deceased Shiv Lal.

2. I have heard the arguments of learned Dy.Govt.Advocate and learned counsel for the non-petitioners and perused the record.

3. Learned counsel for the State has submitted that when an agricultural holding belongs to father, then tenancy rights devolve on all children whether son or daughter, on death of their father. As per the relevant revenue law, if any person relinquishes his right, then it is necessary to relinquish existing rights by way of registered deed, but instead of it, mutation was attested solely in favour of his son Madan Lal which, being the contrary to law, is liable to be set aside.

4. On the contrary, learned counsel for the non-petitioners has contended that disputed land is not government land and it pertains to private person. No government policy or government interest was violated as the matter relates between the private parties having their independent rights. If any private party is aggrieved against the mutation, then he can challenge the mutation proceedings or file regular suit independently. The reference being devoid of merits is liable to be rejected. In support of his arguments, the learned counsel has placed reliance on following judgments :-

- (i) 1987 RRD page 532 (State of Rajasthan Vs. Murari Lal)
- (ii) Judgment of the Board of Revenue dated 27.02.2012  
passed in case no.7414/2006  
(State of Rajasthan Vs. Durga Devi & others)

5. I have given my thoughtful consideration to the rival contentions and scanned the matter carefully.

6. On the close scrutiny of the facts of the given case, it is evident that albeit reference was moved with regard to agricultural land of private khatedari. It is also true that mutation is purely a fiscal proceeding and does not create the rights & titles in the disputed land. It only fixes the liability to pay land revenue. If any party is aggrieved against the mutation proceedings, he can approach before competent court for redressal of his right. But at the same time, it is also true that on the death of the recorded khatedar, all the legal heirs of the deceased khatedar are entitled to succeed in mutation proceedings. The only escape from this well established rule is to file a release deed by renouncing his interest in the property in favour of the other co-parcener and no departure from the above rule is possible unless the strict compliance of this rule is made.

7. In the given case, concerned Patwari has reported the name of all the legal heirs who were entitled for mutation but instead of it concerned Gram Panchayat attested the mutation in favour of son Madan Lal only, by making the following endorsement :-

“शिवलाल महाजन रोड़ावद फौत हो चुका है । उसके एक लड़का मदन लाल व चार पुत्रियां हैं । जिनकी शादी हो चुकी है, स्थानीय रिवाज के अनुसार लड़कियां अपना हिस्सा नहीं लेना चाहती हैं ।

अतः शिवलाल मृतक के बजाए उसके पुत्र मदन लाल के नाम विरासत का नामान्तरकरण स्वीकार किया जाता है ।”

In support of above endorsement, no writing was offered by the daughters of deceased Shiv Lal. Before the learned Additional District Magistrate, Sawaimadhopur, daughters of Shiv Lal have submitted the affidavits instead of registered relinquish deed which is not in consonance with the prevailing revenue laws. Furthermore, if we allow such type of practices, besides encouragement to arbitrary, capricious & felonious approach, no fruitful legal purpose will be served.

8. Looking to the peculiar facts of the present case, the judgments produced by the learned counsel for the non-petitioners carry no force.

9. Hence, disputed mutation being contrary to law is not tenable. Thus reference is accepted with the order of deletion of the name of non-petitioner no.1 Madan Lal as khatedar from the revenue records. Mutation no. 52 dated 13.6.1996 effected in favour of Madan Lal is hereby cancelled.

10. Concerned Tehsildar is directed to pass appropriate order afresh in accordance with the law. The daughters of deceased Shiv Lal are at liberty to file registered release deed in favour of Madan Lal S/o Shiv Lal as per the law. The reference is disposed of accordingly.

Pronounced in open court.

**(PRAMIL KUMAR MATHUR)**  
Member