(2015) 07 DEL CK 0186

In the Delhi High Court

Case No : C.R.P. 157 and 158 of 2013

Visa Agro Industries Pvt. Ltd. (Presently Visa Realty Limited) APPELLANT

Vs

Charan Singh and Others RESPONDENT

Date of Decision : 15-07-2015

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 23 Rule 3A, Order 7 Rule 11, 151, 9
Delhi Land Reforms Act, 1954 — Section 185, 186, 83
Delhi Land Revenue Act, 1954 — Section 83, 85
Evidence Act, 1872 — Section 114, 74(2)
Registration Act, 1908 — Section 34, 35, 35(2)
Specific Relief Act, 1963 — Section 34

Citation : (2015) 7 AD 516

Hon'ble Judges : Mukta Gupta, J

Bench : Single Bench

Advocate : A.S. Chandhiok, Senior Advocate, Rakesh Sinha, Jeemon Raju K. and Harleen Singh, for the Appellant; Suman Chaudhary, Advocates for the Respondent

Final Decision : Dismissed

Judgement

Mukta Gupta, J—These two petitions are being disposed of by a common judgment as the facts in the two petitions are similar and vide identical impugned orders dated 9th July, 2013 learned Civil Judge dismissed the applications of the petitioner under Order VII Rule 11 read with Section 151 CPC.

2. The respondents in the two petitions filed suits for declaration and injunction against the petitioner/defendant praying for cancellation of the sale deeds dated 2nd November, 1987. In the suits it was pleaded that Sohan was the Bhumidar of agricultural land comprising in khasra No. 2125 measuring (4-16) in Suit No. 244/11 and khasra No. 2126 measuring (6-18) situated in the revenue estate of village Rajokri in Suit No. 243/2011. After the death of Sohan the ownership in the land devolved on his two sons i.e. Prabhu and Hemraj having inherited one-half share each. Mutation was sanctioned in favour of Prabhu and Hemraj in the

revenue records. Hemraj died on 22nd July, 1976 and after his death the said half portion of the land was inherited by Mam Chand and late Ratan Lal the second son and father of plaintiffs Charan Singh and Bhagwan Singh. In CS No. 244/11 Charan Singh and Bhagwan Singh S/o of late Rattan Lal are the plaintiffs whereas in CS No. 243/11 Mam Chand, Charan Singh and Bhagwan Singh are the plaintiffs. Rattan Lal F/o Charan Singh and Bhagwan Singh and brother of Mam Chand died on 9th January, 1987. It is alleged that M/s. Visa Agro the defendants in the suit and the petitioner herein in collusion with some property dealers got executed and registered the sale deeds dated 2nd November, 1987 with regard to properties as mentioned above. After the execution and registration of the sale deeds dated 2nd November, 1987 of the respective share of Rattan Lal and Hem Raj, the petitioner/defendant also got sanctioned the mutation in its favour in revenue records on 21st November, 1988. It is stated that the thumb impression of late Hemraj and Rattan Lal on the sale deeds were forged and fabricated as Hemraj and Rattan Lal S/o of Sohan had died on 22nd July, 1976 and 9th January, 1987 respectively. It is stated that the possession of suit property always remained with the plaintiffs or their predecessor in interest and they were not in the knowledge of the sale deeds dated 2nd November, 1987 or the mutation order dated 21st November, 1988 as no notice was served to the plaintiffs or their predecessor in interest. The sale deeds dated 2nd November, 1987 purported to be executed by late Shri Rattan Lal and Hemraj predecessor in interest of the plaintiffs was never executed as he was not alive on the date of execution of the sale deeds. The plaintiffs/respondents came to know about the wholly null and void transactions, transfer documents between January, 2010 to September, 2010, they tried their best to find out the particulars and after obtaining the certified copies of the sale deeds, mutation records etc., the suits were filed and thus it was prayed that a decree, declaring the sale deeds dated 2nd November, 1987 as null and void be passed. A decree of permanent injunction in favour of the plaintiffs and against the petitioner/defendant restraining from transferring, alienating or creating third party interest in the suit properties was also prayed for.

3. In the written statement M/s. Visa Agro submitted that there was no forgery in the sale deeds. The land holdings of khasra No. 2142(4-16) were sold by Mam Chand, Rattan Lal and Prabhu on 2nd January, 1987 to Balbir Singh who sold the same to M/s. Visa Agro on 2nd November, 1987. In CS No. 243/11 it was stated in the written statement that plaintiff No. 1/ Mam Chand was a co-executant to the other sale deeds registered in favour of M/s. Visa Agro in respect of land situated in Khasra No. 2117 (2-11), 2118 (4-16), 2119 (4-16), 2125 (4-16) and 2146 (4-16) wherein he had included Rattan Lal F/o Charan Singh and Bhagwan Singh as co-executant. All the sale deeds were executed on 2nd November, 1987 and presented for registration along with the sale deeds made in respect to Khasra No. 2126 (3-9) and Khasra No. 2126 (3-9) both drawn, executed and registered in the name of Hem Raj and Prabhu sons of Sohan. All the sale deeds were witnessed by a resident of same village Rampat S/o Girdhari Lal who also

sold his land holdings in favour of M/s. Visa Agro. On the date of execution of the sale deed i.e. 2nd November, 1987 in respect of khasra No. 2126 in the revenue records, the land holdings were entered in the name of Hemraj and Prabhu. Preliminary objections were taken with regard to the suit being barred by limitation under Section 34 of the Specific Relief Act and Section 185 of the Delhi Land Reforms Act, 1954 (in short ''the Act'').

4. In the applications under Order VII Rule 11 CPC, M/s. Visa Agro, inter alia, took the pleas that the suit seeking declaration and permanent injunction to the extent of half shares in the suit properties was null and void. The suits have been filed after a lapse of 24 years from the date of execution of the sale deeds i.e. 2nd November, 1987. M/s. Visa Agro was in peaceful, physical and vacant possession of the land in question and was the reported owner of the land since 1988. The suits are thus patently barred by limitation. Further the subject matter of the suits are agricultural land, therefore cognizance of the suits cannot be taken by the Civil Court as the same is barred under Section 185 of the Act. Thus, the suits are liable to be rejected on this ground itself. As M/s. Visa Agro was the recorded bhumidar in the revenue records and the challenge to the bhumidari rights was solely governed by the provisions of the Act the suits were not maintainable. The suits were grossly undervalued. Ad-valorem Court fees has also not been paid. The pecuniary jurisdiction of the Trial Court to entertain the suits was also challenged. Vide the impugned orders these applications were dismissed and hence the present petitions.

5. Learned counsel for petitioner M/s. Visa Agro contends that the sale deeds are one composite documents executed by two vendors in Civil Suit No. 243/11 namely Hemraj and Prabhu and in Civil Suit No. 244/11 the joint sale deed is by three vendors namely Mam Chand, Prabhu and Rattan Lal. Civil Suit No. 244/11 has been filed only by Charan Singh and Bhagwan Singh, both sons and legal heirs of Rattan Lal. There is no challenge to the sale deed by Prabhu who was admittedly owner of one-half undivided share of the land and Mam Chand who owned one-fourth undivided share. In Civil Suit No. 243/11 the suit has been filed by Mam Chand S/o Hemraj and Charan Singh and Bhagwan Singh, both sons of Rattan Lal all legal heirs of Hemraj. There is no challenge to the sale deed by Prabhu who is admittedly the owner of one-half undivided share in the land. It is thus pleaded that the contract being one single, challenge by one or two parties to the execution is invalid. The sale deed is one contract and is indefeasible in character. Admittedly the sale deeds are registered documents, hence it is presumed that the registration was done after complying with the provisions of Registration Act, 1908. The suits were banned under Section 34 of the Specific Relief Act. The condition precedent for registration of a sale deed qua agricultural land i.e. a No Objection Certificate under the Delhi Land (Restriction on Transfer) Act, 1972 was jointly obtained by two/three vendors. Post registration mutation was also carried out in the revenue records as per the procedure and was affected on 9th September, 1988. Reliance is placed on Vedakannu Nadar and Others Vs. Nanguneri Taluk Singikulam Annadana Chatram

through its huktdars Medai Dalavoi Ranganatha Mudaliar and Others, AIR 1938 Mad 982 : (1938) 48 LW 829 : (1938) 2 MLJ 663 and Shri Mahadeo Jew and Another Vs. Balkrishna Vyas and Another, AIR 1952 Cal 763 : (1954) 2 ILR (Cal) 41 . Referring to Section 114 of the Evidence Act it is stated that the presumption in law is that every official act has been validly performed and as per Section 35(2) of the Registration Act the registering officer in order to satisfy himself as to the identity of the person appearing before him is empowered to examine any one present in his office. While registering a document provisions of Sections 34 and 35 of the Registration Act are complied with and all vendors who thus appeared before the registering officer were identified and thereafter the sale deeds were registered. There is no challenge to the NOC granted under the Delhi Land (Restriction on Transfer) Act, 1972 and thus the sale deeds in question cannot be subject matter of challenge as the NOC and endorsement of the Sub-Registrar form composite part of these sale deeds. In the recital of the sale deeds actual, physical, vacant possession of the suit properties having been delivered by the vendors to the vendee on the spot has been mentioned. There being no reference to a Civil Court after framing a specific question by the revenue Court in terms of Section 186 of the Act, the suits were not maintainable. The suit were barred under Section 83 of the Delhi Land Revenue Act as the Civil Court has no jurisdiction in relation to disputes relating to records or preparation or signing or attestation of any document with reference to annual register. Reference is also placed on Phoolwati Vs. Ram Dei CS(OS) 1462 of 2006; Gaon Sabha of Lado Sarai Vs. Jage Ram 173 1 ILR 984 ; Utkal Contractors and Joinery Pvt. Ltd. and Others Vs. State of Orissa and Others, AIR 1987 SC 1454 : (1987) 2 JT 466 : (1987) 1 SCALE 1162 : (1987) 3 SCC 279 : (1987) 3 SCR 317 ; Jagarnath Shukla Vs. Sita Ram Pandey & Ors. 1969 ALJ 768 ; Gorakh Nath Dube Vs. Hari Narain Singh and Others, AIR 1973 SC 2451 : (1973) 2 SCC 535 : (1974) 1 SCR 339 ; Kacheru Vs. Risal Singh 1970 (2) ILR 29; Hatti Vs. Sunder Singh, AIR 1971 SC 2320 : (1970) 2 SCC 841 : (1971) 2 SCR 163 ; Shri Ram and Another Vs. Ist Addl. District Judge and Others, AIR 2001 SC 1250 : (2001) 2 JT 573 : (2001) 2 SCALE 45 : (2001) 1 SCR 984 : (2001) AIRSCW 801 : (2001) 1 Supreme 706 and Mansa Ram Vs. Tilak & Anr. RFA (OS) 12/2012.

6. Learned counsel for the respondent on the other hand reiterates the contentions raised in the suits. Relying on Krishna Gupta and Another Vs. M/s. Rajinder Nath and Co. HUF and Others, (2013) 5 AD 537 : (2013) 198 DLT 85 : (2013) 134 DRJ 683 : (2013) 134 DRJ 246 ; Shri Rohit Shekhar Vs. Shri Narayan Dutt Tiwari and Another, (2011) 121 DRJ 563 ; T.H. Annes Ahamed Vs. Union Bank of India 2014 (5) RCR (civil) 47 and M.R. Krishnamurthi Vs. Chandan Ramamurthi and Others, (2008) 151 DLT 463 : (2008) 104 DRJ 487 : (2008) 152 PLR 49 it is contended that an application under Order VII Rule 11 CPC has to be decided on the basis of averments in the plaint and the defence cannot be looked into. Relying on Daya Singh and Another Vs. Gurdev Singh (Dead) by L.Rs. and Others, AIR 2010 SC 3240 : (2010) 109 CLT 383 : (2010) 1 JT 54 : (2010) 1 SCALE 127 : (2010) 2 SCC 194 : (2010) 1 SCR 194 : (2010) 1 UJ 271 :

(2010) AIRSCW 689 : (2010) 1 Supreme 14 it is stated that mere adverse entries in the revenue records do not give rise to the cause of action and the right to sue accrues when there is a clear and unequivocal threat to infringe a right. In relation to the objection that the suit was barred by Section 34 of the Specific Relief Act, relying upon Mohinder Kumar Vs. Shri Bhim Sain and Others, (1999) 6 AD 676 : (1999) 82 DLT 800 it is contended that so long as Will subsists and is not declared null and void, no declaration could be sought by the plaintiff seeking possession in respect of the suit property. Rebutting contention of learned counsel for the Petitioner that the suits were barred under the provisions of Section 185 and 186 of the Act, it is stated that only those matters that are referred in Schedule 1 of the Act are barred. Since the respondents/ plaintiffs seek declaration of the sale deeds as null and void, being manipulated and forged documents, the scope of enquiry being beyond the jurisdiction of revenue Court only Civil suits were maintainable. Referring to Suraj Bhan and Others Vs. Financial Commissioner and Others, (2007) 6 JT 152 : (2007) 5 SCALE 712 : (2007) 6 SCC 186 : (2007) 6 SCR 155 : (2007) AIRSCW 3517 it is stated that the validity and genuineness of the Sale Deeds can only be decided by a competent Civil Court. Reference is also made to Vinod Kumar Sharma Vs. Smt. Seema Sethi CS(OS) 185/2008 decided on 14th January, 2009 and Mrs. Kamla Devi Vs. Mrs. Kusum & Anr. CRP No. 82/2008 decided on 14th July, 2008.

7. Heard learned counsel for the parties. It is trite law that while dealing with applications under Order VII Rule 11 CPC the averments in the plaint have to be seen by way of demurer and the defence cannot be looked into. Plaintiffs claim to be in possession of the suit properties. In the plaints the plaintiffs have sought declaration of the sale deeds dated 2nd November, 1987 as null and void, permanent injunction against the petitioners/defendants from transferring, alienating or creating third party interest in the suit properties on the plea that executants of the sale deeds Hemraj and Rattan Lal had expired when the sale deeds were executed. Hence the same are forged and fabricated.

8. The debate between the parties requires this Court to note the relevant statutory provisions, which concededly would be Section 185 and Section 186 of the Delhi Land Reforms Act, 1954, which reads as under:

"185. Cognizance of suits, etc, under this Act.- (1) Except as provided by or under this Act no court other than a court mentioned in column 7 of Schedule I shall, notwithstanding anything contained in the Code of Civil Procedure, 1908, take cognizance of any suit, application, or proceedings mentioned in column 3 thereof.

(2) Except as hereinafter provided no appeal shall lie form an order passed under any of the proceedings mentioned in column 3 of the Schedule aforesaid.

(3) An appeal shall lie from the final order passed by a court mentioned in column 3 to the court or authority mentioned in column 8 thereof.

(4) A second appeal shall lie from the final order passed in an appeal under sub

section (3) to the authority, if any, mentioned against it in column 9 of the Schedule aforesaid.

186. Procedure when question of title is raised.- (1) Notwithstanding anything contained in section 185, if in any suit or proceeding mentioned in column 3 of Scheduled I, question is raised regarding the title of any party to the land which is the subject matter of the suit or proceeding and such question is directly and substantially in issue the Court shall, unless the question has already been decided by a competent civil court for the decision of that issue only.

Explanation:-A plea regarding the title to the land which is clearly untenable and intended solely to oust the jurisdiction of the revenue court shall not be deemed to raise a question regarding the title to the land within the meaning of this section.

(2) The civil court, after reframing the issue, if necessary, shall decide such issue only and return the record together with its finding thereon to the revenue court which submitted it.

(3) The revenue court shall then proceed to decide the suit or, accepting the finding of the civil court on the issue referred to it.

(4) An appeal from a decree of a revenue court in a suit or proceeding in which an issue regarding title has been decided by a civil court under sub-section (2) shall lie to the civil court which having regard to the valuation of the suit has jurisdiction to hear appeal from the Court to which the issue of title has been referred."

9. From a perusal of sub-Section 1 of Section 185 of the Delhi Land Reforms Act, 1954 it is clear that it bars the jurisdiction of a Court, other than a Court mentioned in Column 7 of Schedule 1 of the Act to take cognizance of such suits which are mentioned in Column 3 thereof. A perusal of sub-Section 1 of Section 186 of the Act, which starts with a non obstante clause ''notwithstanding anything contained in Section 185'' would reveal that it acts as an exception to the bar created by sub-Section 1 of Section 185 of the Act. Highlighting that if a question arises which impinges upon the title of any party to a land which is the subject matter of a suit envisaged by Schedule 1 of the Act, the Revenue Court cannot adjudicate the same and is obliged to refer the matter to a Civil Court of Competent Jurisdiction. Thus, the issue has to be decided in two steps. In step one it needs to be seen whether the suit before the Civil Court is of a kind which is cognizable by a Revenue Court and for which Column 3 of Schedule I has to be looked into. Column 3 of the Schedule is captioned : ''Description of suit/ application and other proceedings''. Thus, if the description of the suit before the learned Civil Court is not of the kind as mentioned under Column 3 of Schedule I, the suit is not barred because of sub-Section 1 of Section 185 of the Act. If as a result of the inquiry in step one it is found that the suit falls under any of the entries under Column 3 of Schedule I the next step has to be to see whether the suit relates to a title. If the suit relates to a title, it would be for the Civil Court

alone to decide the issue for the reason even if the issue of title arises before a Revenue Court, the Revenue Court would be obliged to refer the dispute to a Civil Court. In the instant case learned counsel for the petitioner could show no entry under Column 3 of Schedule I which makes cognizable before any Revenue Court a suit laying a challenge to a sale deed concerning agricultural land and in particular when the plea is one of fraud.

10. The issue whether such a suit will fall within the ambit of Section 185 DRC Act came up for consideration before this Court in Shri Vinod Kumar Sharma Vs. Smt. Seema Sethi and Others wherein this Court held that the Revenue Court under the Delhi Land Reform Act has not been empowered to grant the relief of declaration of a sale deed as null and void with respect to agriculture land also or to grant the relief of injunction.

11. The decision in Kamla Prasad and Others Vs. Sri Krishna Kant Pathak and Others, (2007) 3 JT 282 : (2007) 2 SCALE 607 : (2007) 4 SCC 213 : (2007) 2 SCR 395 relied upon by learned counsel for M/s. Visa Agro has no application to the facts of the present case as the Apex Court was not dealing with a case wherein it was alleged that the sale deed was a forged and fabricated document. The Apex Court clearly distinguished the case before it from that in Shri Ram and Another Vs. Ist Addl. District Judge and Others, AIR 2001 SC 1250 : (2001) 2 JT 573 : (2001) 2 SCALE 45 : (2001) 1 SCR 984 : (2001) AIRSCW 801 : (2001) 1 Supreme 706 and held:

"14. In this connection, the learned counsel for the appellant rightly relied upon a decision of this Court in Shri Ram and Another Vs. Ist Addl. District Judge and Others, AIR 2001 SC 1250 : (2001) 2 JT 573 : (2001) 2 SCALE 45 : (2001) 1 SCR 984 : (2001) AIRSCW 801 : (2001) 1 Supreme 706 . In Shri Ram A, the original owner of the land sold it to B by a registered sale deed and also delivered possession and the name of the purchaser was entered into revenue records after mutation. According to the plaintiff, sale deed was forged and was liable to be cancelled. In the light of the above fact, this Court held that it was only a civil court which could entertain, try and decide such suit. The Court, after considering relevant case-law on the point, held that where a recorded tenure-holder having a title and in possession of property files a suit in civil court for cancellation of sale deed obtained by fraud or impersonation could not be directed to institute such suit for declaration in Revenue Court, the reason being that in such a case, prima facie, the title of the recorded tenure-holder is not under cloud. He does not require declaration of his title to the land."

12. In Gaon Sabha of Lado Sarai (supra) relied upon by learned counsel for the Petitioner this Court was dealing with the jurisdiction of the Civil Court to try a suit wherein the plaintiff''s substantive claim was with regard to bhoomidari rights in land under the Delhi Land Reforms Act.

13. As noted above in the present case the respondents seek declaration of the sale deeds as null and void for the reason that the executants were dead on the

date when the sale deeds have been purportedly executed.

14. Learned counsel for the petitioner M/s. Visa Agro''s contention that even if the Civil Court has jurisdiction to entertain the same, the same would be maintainable only on a reference under Section 186 of the Act, is also misconceived. As discussed above, under Section 185 of the Act the revenue Court is not competent to adjudicate the validity of a sale deed which is challenged on the ground of fraud and thus there is no application of Section 186 of the Act to the facts of the present case. A reading of Section 186 of the Act also indicates that the question of title cannot be gone into by the Revenue Court and only a Civil Court is competent to decide the same.

15. The contention of learned counsel for Visa Agro that the sale deeds are one contract and indivisible in character and thus part relief cannot be granted inasmuch as all the executants have not challenged the said sale deeds to be null and void also deserves to be rejected. In Kedar Prasad Vs. Ganga Prasad and Others, AIR 1980 All 85 the High Court while dealing with a case where Hira Lal had only 1/5th share in the shop while remaining 4/5th shares belonged to the defendants No. 2 to 11 who were members of the joint Hindu family and no separation had taken place, held that the sale deed executed by defendant No. 12 was void and illegal to the extent of 1/5th share of Hira Lal and was thus liable to be cancelled to the said extent.

16. The decisions in Vedakannu Nadar (supra) and Mahadeo Jew (Supra) relied upon by the learned counsel for the Petitioner have no application to the facts of the present case. In Vedakannu Nadar (supra) the Madras High Court was dealing with a trust created for charitable endowment and it was held that since there was one contract for a single consideration and each part of the contract was an inducement to every other part thus there was no warrant for dissecting the bargain into two distinct parts. Thus the reason why the contract was not severed was that the parts of the contract were reciprocal to each other. In Mahadeo Jew (supra) again the Court was dealing with a trust and thus it was held that the terms of settlement are not separable and if they are illegal the whole settlement must be set aside. The two decisions do not lay down a universally applicable rule that in no case, the contract cannot be severed. Whether a contract can be severed would depend on the terms of the contract.

17. Learned counsel for Visa Agro has strenuously argued that since both the sale deeds were registered and there being presumption under Section 114 of the Evidence Act that every official Act has been validly performed, the sale deeds cannot be now challenged. Presumption under Section 114 Evidence Act is a rebuttable presumption and parties can lead evidence to rebut the same. Present is the stage in the suits where the impugned orders have been rendered on the applications under Order VII Rule 11 CPC and thus the stage of leading evidence, appreciating the same and raising presumption has not arrived as yet. Thus there is no merit in this contention as well.

18. The contention of learned counsel for M/s. Visa Agro that since there is no challenge to the NOC granted under the Delhi Land (Restriction on Transfer) Act, 1972 and endorsement from the Sub-Registrar forms composite part of these sale deeds is not a ground on which the plaint can be rejected. The respondents have sought the cancellation of sale deeds as null and void and what other consequences would follow from the same is not the scope of consideration at this stage.

19. Learned counsel for M/s. Visa Agro contends that since the sale deeds itself recite that the vendees have been delivered the physical vacant possession of the suit properties in view of the consequential relief of possession having not been claimed, the suits were liable to be dismissed under Section 34 of the Specific Relief Act. As noted above while deciding an application under Order VII Rule 11 CPC the averments in the plaint have to be considered by way of demurer and the respondents/plaintiffs have urged in the plaint that they continue to be in possession of the suit properties and the sale deeds being all forged and fabricated, the recital therein do not amount to admission of the respondents. Hence the plaints are not liable to be rejected on this count as well.

20. Learned counsel for M/s. Visa Agro further contends that the suits are barred under Section 83 of the Delhi Land Revenue Act which provides that the Civil Court has no jurisdiction in relation to disputes pertaining to the records or preparation or signing or attestation of any document with reference to annual register. As noted above in the suits the plaintiffs/respondents have sought cancellation of the sale deeds as null and void and a declaration thereof, what procedure has to be followed thereafter is not the scope of consideration at this stage and the suits cannot be dismissed for being barred by Section 85 of the Delhi Land Revenue Act at this stage.

21. In Om Prakash and Others Vs. Govt. of NCT of Delhi and Others the Division Bench of this Court held:

"16. Per contra, the Reforms Act, as aforesaid, deals with rights in the land succession of such rights for resolution of disputes as, to title, the same forum as under the Revenue Act is provided i.e. the Court of the Revenue Assistant. However vide Section 186, the Revenue Assistant is not deemed to be competent to decide question of title of party to any land which is the subject matter of proceedings before the Revenue Assistant and the Revenue Assistant is required to frame an issue on the question of title and submit the record to the competent Civil Court for decision on that issue. What we have wondered is when the same Revenue Assistant under the Reforms Act is not deemed competent to adjudicate the question of title, can he/she be deemed competent to adjudicate such question of title under the Revenue Act. Competency is vis-A -vis the jurisdiction to be exercised and once if a forum is not competent under one Statute, to read it as competent under another Statute would be travesty of justice. The only logical and sensible interpretation thus, can be that the Revenue Assistant is competent to decide a dispute in a mutation proceeding, relating to possession only and not a dispute even if arising in mutation proceeding, relating to title. Reference at this stage may be made to Suraj Bhan and Others Vs. Financial Commissioner and Others, (2007) 6 JT 152 : (2007) 5 SCALE 712 : (2007) 6 SCC 186 : (2007) 6 SCR 155 : (2007) AIRSCW 3517 and Suman Verma Vs. Union of India (UOI) and Others, (2004) 8 JT 19 : (2004) 8 SCALE 153 : (2004) 12 SCC 58 : (2005) 1 SLJ 380 reiterating that mutation of name in revenue records does not confer title on person. In fact Suraj Bhan supra was a Delhi case only and mutation therein, on the basis of Will carried out by the Tehsildar was held to be not conferring title and it was reiterated that as far as title to the property is concerned, it can only be decided by the competent Civil Court."

22. Learned counsel for Visa Agro has also raised an issue with regard to Section 74(2) of the Indian Evidence Act which provides that public record kept are public documents and thus deemed to be in the knowledge. On the strength of this argument it is stated that the suits are barred by limitation and hence the same be dismissed. A perusal of the plaints would reveal that the plaintiffs/ respondents have asserted that the possession of suit property always remained with the plaintiffs or their predecessor in interest and they were not in the knowledge of sale deeds dated 2nd November, 1987 or the mutation order dated 9th September, 1988 as no notice was served on the plaintiffs/respondents or their predecessor in interest. The plaintiffs came to know only in January, 2010 about the null and void transfer documents and thus after obtaining the certified copies of the sale deeds and the mutation orders filed the suits within the period of limitation. The issue thus raised is a mixed question of fact and law and on the basis of averments in the plaint it cannot be held that the suits are barred by limitation.

23. In Mansa Ram Vs. Tilak & Anr (supra) the Division Bench of this Court while dealing with an application under Order VII Rule 11 CPC seeking rejection of the plaint on the ground that the suit filed by the appellant therein was barred under the provision of Delhi Land Reforms Act, 1952 and the other revenue law held that a suit seeking cancellation of general power of attorney having been obtained by fraud and misrepresentation and in consequence to that the sale deed having been registered by playing a fraud was maintainable and the revenue Courts had no jurisdiction to decide the issue. It was categorically laid down that the issue of fraud and cancellation of document can only be decided by the Civil Court. It was noted that no declaration of bhoomidari rights was sought which would be a subject matter under Section 185 Delhi Land Reforms Act.

24. Supreme Court in Horil Vs. Keshav and Another, AIR 2012 SC 1262 : (2012) 114 CLT 748 : (2012) 1 CTC 550 : (2012) 167 PLR 114 : (2012) 1 SCALE 525 : (2012) 5 SCC 525 : (2012) AIRSCW 1307 : (2012) AIRSCW 4092 : (2012) 5 Supreme 13 : (2012) 1 Supreme 258 held that though the provisions of CPC have been made applicable to the proceedings under the U.P. Zamindari Abolition and Land Reforms Act but that would not make the authorities specified under

Schedule II as "Court" under the Code and those authorities shall continue to be Courts of limited and restricted jurisdiction. The revenue Courts are neither equipped nor competent to affectively adjudicate upon allegations of fraud that have overtones of criminality and the Courts really skilled and experienced to try such issues are the Courts constituted under the CPC. It is well-settled that under Section 9 of the CPC, the Civil Court has inherent jurisdiction to try all types of civil disputes unless its jurisdiction is barred expressly or by necessary implication, by any statutory provision and conferred on any other Tribunal or authority. It was further held that nothing in Order XXIII Rule 3A CPC bars the institution of a suit before the Civil Court even in regard to decrees or orders passed in suits and/or proceedings under different Statutes before a Court, Tribunal or authority of limited and restricted jurisdiction.

25. In view of the authoritative pronouncement of Supreme Court in Horil Vs. Keshav followed by the Division Bench of this Court in Mansa Ram the plea of the petitioner that the suits are barred under the provision of Section 185 Delhi Land Reforms Act and are thus liable to be rejected cannot be sustained and no illegality can be imputed to the impugned orders not rejecting the plaints.

26. Consequently, I find no infirmity in the impugned orders dismissing the applications of M/s. Visa Agro under Order VII Rule 11 CPC. Petitions are accordingly dismissed.

