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WP-1170-2025

IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE

BEFORE

HON'BLE SHRI JUSTICE PRANAY VERMA

ON THE 20th OF JANUARY, 2025WRIT PETITION No. 1170 of 2025*RAHUL SHUKLA**Versus**THE STATE OF MADHYA PRADESH AND OTHERS*

Appearance:

Shri Abhinav Dhanodkar - Advocate for the petitioner.

Shri Tarun Pagare - Government Advocate for the State.

ORDER

By this petition preferred under Article 226 of the Constitution of India, the petitioner has challenged the order dated 11.10.2024 (Annexure P/1) passed by the Tehsildar, Tehsil Dr. Ambedkar Nagar (Mhow), District Indore, whereby his application under Sections 109, 110 of M.P. Land Revenue Code, 1959 has been rejected.

02. The petitioner had filed an application before the Tehsildar for being mutated over the disputed land submitting that the same was held by him and his brother Rajeev, who has since expired and now he is the only person entitled to be mutated over the land. His father, Ramakant Shukla and his mother have already expired. It was further submitted that there is no other legal representative of deceased Rajeev, as he had already divorced his wife.

03. On the application, a publication was made by the Tehsildar, but no objection was received. A report was also called for from the Halka Patwari. From the same, it did not transpire that there is any other legal representative of deceased Rajeev or any other person who may be having a claim for being mutated



over the disputed land.

04. As per Sections 109, 110 of the Code, 1959, it is the duty of the Tehsildar himself to ascertain as to whether the petitioner is entitled to be mutated. While deciding such issue, it is well within his competence to consider the entitlement of petitioner to be mutated and if the same is sought for on the basis of death of some person, then whether the petitioner is his legal representative. There is no requirement for the applicant to seek any declaration from the Civil Court that he is the legal representative of the deceased. The Tehsildar can very well consider and determine the geneology between the parties. In fact, it is his duty to do so and he cannot relegate the petitioner to the Civil Court for seeking a declaration as has been directed by the impugned order.

05. As a result of the aforesaid discussion, the impugned order dated 11.10.2024 passed by the Tehsildar cannot be sustained and is hereby quashed. The Tehsildar is directed to decide the application of the petitioner on merits by taking into consideration the material which is available on record, in view of the observations as made hereinabove and in view of provisions of Sections 109, 110 of the Code, 1959.

The petition is accordingly allowed and disposed off.

(PRANAY VERMA)
JUDGE

Shilpa