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L&B - IBBI/RV/02/2018/10353

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Revenue record is not a title document

1. In the year 2022, I was assigned revaluation of a property by a Public Sector Bank. Following is a brief background regarding the property and the circumstances which led to the revaluation:-

(a) Subject Property is one of many properties that were mortgaged for the purpose of enjoying Cash Credit Limit. It was mortgaged about 7 years ago.

(b) The borrower now wanted to reduce the number of mortgaged properties and cited rise in the property rates as the reason to allow the same.

(c) As per documents available, the property was initially an agricultural land having an area of 13660 sq. m

located in the state of U.P.

(d) The property was purchased by the present owners vide two separate deeds. The first deed was in the name of Mrs. A and Mr. B whereas, the second deed was in the name of Mrs. C and Mr. B.

(e) After a few years Mr. B transferred the land to Mrs. A and Mrs. C, who are also the present directors of the company.

(f) The said property was eventually converted into non- agricultural land under section 143 of U.P. Zamindari abolition act 1950.

(g) While calculating the area as per the documents made available, it was found that an area of 0.2572 hectares still has not been transferred. It is noteworthy that, both the court order declaring the land non- agricultural and revenue record showed the names of the owners as Mrs. A & Mrs. C

2. During the site visit, at the very onset I started identification of property and demarcating its boundaries. Following observations were made during the site visit;

(i) The land was almost vacant except for a small farm house like structure.

(ii) The built-up structure was enclosed by a boundary wall whereas rest of the land remained un enclosed.

(iii) The wall flanking gate of the Farm house displayed the names of the owners as Mrs. A, Mr. B & Mrs. C.

3. The valuation report was issued in due course along with the photographs of the site and a close up of the wall with the names of the owners painted boldly on it.

4. The concerned officer at the

bank after perusing the valuation report, informed me that I had committed an error while filling the ownership column.

He contended that Mr. B had already transferred his share to Mrs. A & Mrs. C and court order and revenue record are evidences of that. It was pointed to him that names of the owners are painted outside the property, but he was dismissive. According to him it could have been a mistake and the borrowers could be instructed to rectify that.

5. The officer asked me to talk to the legal advisor of the bank who had recently submitted the legal report to clarify the confusion.

6. The legal advisor kept stressing that the court order and revenue record were evidence of ownership of Subject Property. To further my point, I enquired whether the court order could be challenged. In his response, he informed me that such court orders can be challenged but within a stipulated window of three (3) year, which in instant case has already passed. According to him, the ownership of title was set in stone and the same could not be challenged by Mr. B at any time in future.

6. Upon further enquiry from other legal professionals, I discovered that a window of three (3) years does exist for challenging the court order but it is only after coming to the knowledge of the affected party.

7. Upon further research, I came across a judgment of the Hon'ble Supreme Court in case titled "Prabhigya Van Adhikari Awadh V a n Prabhag v. Arun Kumar Bhardwaj (Dead) Thr Lrs" reported at (2021) SCC OnLine SC 868. The bench comprising Hemant Gupta and V. Ramasubramanian JJ. re-affirmed the judgment in Prahlad Pradhan and Ors. v. Sonu Kumhar and Ors. (2019) 10 SCC 259 which held that "the entries in revenue records do not confer title to a property".

"26. This Court in a judgment reported as Prahlad Pradhan and Ors. v. Sonu Kumhar and Ors. (2019) 10 SCC 259 negated argument of ownership based upon entries in the revenue records. It was held that the revenue record does not confer title to the property nor do they have any presumptive value on the title. The Court held as under:

"5. The contention raised by the

appellants is that since Mangal Kumhar was the recorded tenant in the suit property as per the Survey Settlement of 1964, the suit property was his self-acquired property.

The said contention is legally misconceived since entries in the revenue records do not confer title to a property, nor do they have any presumptive value on the title. They only enable the person in whose favour mutation is recorded, to pay the land revenue in respect of the land in question. As a consequence, merely because Mangal Kumhar's name was recorded in the Survey Settlement of 1964 as a recorded tenant in the suit property, it would not make him the sole and exclusive owner of the suit property."

8. The above findings were conveyed to the bank who eventually conceded that the correct position of law is that the revenue records do not confer title upon person. They further informed me that the prior mortgage documents will soon be rectified by taking consent to mortgage from Mr. B as well.

