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The journal invites contributions from law students, researchers, academicians, legal practitioners, and policy scholars. By facilitating engagement between emerging scholars and experienced legal professionals, *White Black Legal* seeks to bridge theoretical legal research with practical, institutional, and societal perspectives.

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Through its publications, *White Black Legal – The Law Journal* seeks to foster critical legal thinking and contribute to the development of law as an instrument of justice, governance, and social progress, while expressly disclaiming responsibility for the application or misuse of published content.

CASE ANALYSIS - RAJINDER SINGH V. STATE OF J & K

AUTHORED BY - PRINCESS CHOPRA

CITATION	(2008) 9 SCC 368
DATE	11 July 2008
COURT NAME	SUPREME COURT OF INDIA
PLAINTIFF/APPELLANT/PETITIONER	RAJINDER SINGH (APPELLANT)
DEFENDANT/RESPONDENT.	STATE OF JAMMU & KASHMIR AND ORS. (RESPONDENT)
JUDGES	JUSTICE LOKESHWAR SINGH PANTA JUSTICE C.K. THAKKER

INTRODUCTION

This case pertains to the Jammu and Kashmir Hindu Succession Act, 1956, which provides the legal mechanism for inheritance for Hindus in Jammu and Kashmir. This case arose due to the exclusion of the daughters from the property of their father because of the regional laws of Jammu and Kashmir. The judgement was delivered on 11 July 2008 by Division Bench of the Supreme Court comprising of Justice Lokeshwar Singh Panta and Justice C.K. Thakker. This case revolves around a family from Jammu and Kashmir, where after the death of the father, the local Tehsildar only included the two sons in the inheritance, excluding the daughter, citing local inheritance laws. The court examined whether the Revenue Department has the authority to determine the legal owner of a land.

FACTS OF THE CASE

1. This case involves the appellant Rajinder Singh who was one of the two sons of the landholder and the beneficiary of the order of the Tehsildar, and the respondent was the State of Jammu and Kashmir
2. Makhan Singh was a resident of present-day Pakistan prior to the independence of the nation. After independence, he travelled from Pakistan and settled in the Indian state of Jammu and Kashmir.
3. In 1954, the state government of Jammu and Kashmir took a decision to provide

agricultural land to displaced families who were forced to flee from their homes in Pakistan during Partition.

4. In 1965, Makhan Singh got the ownership rights of the land and was included in the land records of the state.
5. After the death of Makhan Singh in 1981, his sons, Rajinder Singh and Daljit Singh, and daughters, Balbir Kaur and Kuldip Kaur, were entitled to his property.
6. In 1985, the Tehsildar updated the revenue records and only mentioned the two sons, Rajinder Singh and Daljit Singh, as the official inheritors.
7. The daughters of Makhan Singh challenged this new entry, arguing that they had equal rights in their father's property.
8. The Revenue Department responded that under the local inheritance laws for Hindus, married daughters had no share in the property of their father.
9. Following this, the daughters approached the High Court, where a single judge bench of the High Court dismissed their petition as it did not consider the writ petition an appropriate instrument for settling private property disputes.
10. Later, a division bench of the High Court reversed the decision of the Single Judge Bench by applying the Hindu Succession Act, 1956, recognizing equal rights of the daughters in property.
11. Following this decision, the sons made an appeal to the Supreme Court, bringing us to this present case.

ISSUES OF THE CASE

The petition raised the following critical questions of law:-

1. Whether the Revenue Department has the authority to decide inheritance while updating the records?
2. Whether the Central Law like Hindu Succession Act, 1956, or Regional Law like J&K Hindu Succession Act should be applied in such matters?
3. Whether Inheritance matters should be resolved through civil proceeding instead of writ petitions?

JUDGEMENT

1. The Court held that the Revenue Department has no authority to decide ownership of land as revenue records are only for fiscal purposes. These records identify tax and

- revenue payers. Such records cannot be used to determine, transfer, or create any legal ownership.
2. The Court also defined the scope of duties of a Tehsildar. The work of a Tehsildar is purely of an administrative nature. No authority has been conferred upon him to decide questions of succession, inheritance, or ownership of land.
 3. The Supreme Court ruled that ownership or succession disputes should be decided by a competent civil court through civil proceedings. It was also held that a writ petition cannot be filed for private property disputes.
 4. The Supreme Court set aside the judgement of the Division bench of the High Court, where the inheritance rights were provided to the daughters by application of Hindu Succession Act, 1956. The apex court stated that the High Court exceeded its jurisdiction as it should not have decided private property ownership in a writ proceedings.
 5. The Court held that the inheritance in the region should be governed by regional laws like Jammu and Kashmir Hindu Succession Act, 1956, rather than central law Hindu Succession Act, 1956.
 6. The Court allowed the appeal of the son Rajinder Singh and granted both the parties the liberty to file a formal civil suit in a competent civil court to decide the inheritance dispute.

REASONING

1. The Court applied the legal principle established in the case of Suraj Bhan v. Financial Commissioner (2007) 6 SCC 186, where it was held that the revenue records are for fiscal purposes rather than for deciding ownership of lands. Mutation entries do not confer any title on a property. Instead, they are for updating the records of the government.
2. The Supreme Court examined the power exercised by the Tehsildar and the Division Bench of the High Court. The Court held that both went ultra vires by deciding issues beyond their authority.
3. The Court referred to the Section 9 of the Civil Procedure Code, where the Civil Courts have been conferred with the responsibility of deciding the rights, interests and ownership of a private property. Even if someone has been excluded from the mutation records, the only remedy available to them is filing a Declaratory Suit in the Civil Court

under the Special Relief Act. The High Court went ultra vires by deciding such disputes under a writ proceeding under Article 226.

4. The Supreme Court applied the legal principle of Lex Loci (law of the place) by pointing out that the local laws of succession should be applied over the central laws.

CONCLUSION

In conclusion, this judgement by the Supreme Court turned out to be a landmark in Indian Property Law. This case properly defined that errors in mutation records would not result in loss of ownership of property. This judgement also helped in separating the duties of administrative and revenue officers from judicial offices. This case would serve as a significant precedent to prevent parties from claiming ownership of a property based on the mutations record. It also helped in prioritizing local laws over central laws in property related matters. In short, mutation does not create a title, it only records a taxpayer.

REFERENCES

1. Rajinder Singh v. State of Jammu & Kashmir & Ors., Civil Appeal No. 5269 of 2003 (S.C. Jul. 11, 2008), available at <https://indiankanoon.org/doc/1066566/>
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