

The role of Record of Rights (Khatian) in determining title or possession: An overview

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Abstract

Human beings are deeply related to land. Human beings take birth on land, live on land, die on land and mixes with land ultimately. As stated in the holy Quran: ‘We (Allah) created you (human beings) from the soil, we shall make you return to the soil and We shall call you back again from the soil’ (20:55). Human life is surrounded by soil i.e. land. So, land is a highly completed issue of human life involving economic, social, political, cultural and often religious systems. Land administration is thus a critical element and often a pre-condition for peaceful society and sustainable development. In administrating land, Khatian or record of rights plays a vital role to determine the rights and interests of the respective parties as supportive evidence. In this article, discussion is mainly made on the fact that Khatian or record of rights is not a document of title solely but it may be an evidence of title as well as possession.

Keywords Khatian, Record of rights, Land, Title, Possession

Paper type Review paper

1. Introduction

The Bengal Tenancy Act, 1885 (Act No. VIII of 1885) recognizes rights over land of landholders, tenure holders and tenants or rayats. In absence of definite records of these rights, courts of justice were in confusion as to who own what and how. There was no recorded and legally recognized code and record of rights before the Bengal Land Tenancy Act of 1885. Legally, politically, and socially such a situation was a real obstacle to good governance. To remove the confusion, the Bengal Tenancy Act, 1885 defined the rights and obligations of all interests in land and provided a survey of land in the country so as to prepare a series of permanent land records called Record of Rights for the holders of land on the one hand and government and the courts of justice on the other. The survey and settlement operations of Bengal districts began successively from 1886 with Pargana Roushanabad (part of Comilla) and Bhola (National



Encyclopedia of Bangladesh). The main objective of the survey was to prepare a plot-to-plot survey and settlement on direct identification of the holder of the plot. The document is commonly known as a Khatian or record of rights. A map was prepared for every Mouza. Such a map contained all the plots marked with individual numbers. Every Khatian has a number. All the Khatians of a Mouza are kept according to serial number in a bound volume. The present study is an attempt to focus on the value or importance of Khatian or record of rights as an essential document relating to land and to uncover the factor that it is not a document of title.

2. Definition of Khatian/ Record of Rights

Khatian is a Persian word (Ali, 2007: 14). It is also known as record of rights. It is a document for identification of land. Documents prepared through survey for the purpose of determining possession, ownership and assessing Land Development Tax is known as Khatian. All particulars of land, including name/s, father's name, address/es and due share/s of the owners/owners, description of land, and amount of revenue are described in Khatian. Every Khatian or record of rights is preserved in the Collectorate Record Room and Judge Record Room and also in the Tahsil (rent collection office) for reference. A Tahsil office, usually one in every large or two small unions, works to implement changes in land ownership due to transfer, inheritance etc. by updating records through a process called mutation. Mutation cases are heard and disposed of by a revenue officer at the Thana level now designated Assistant Commissioner, Land. The Thasilder, or head of a Tahsil office, conducts a preliminary spot inquiry to ascertain the genuineness of a mutation prayer. Apart from these, he has many other functions, for instance he has to keep a complete list of government Khas land, which includes land in excess of the ceiling on ownership and surrendered to the government. The holder of each plot has a right to get a certified copy of the khatian being a public document by payment of prescribed fee.

2.1. Contents of a Record of Rights or Khatian

A record of rights or Khatian is prepared after a plot-to-plot survey and settlement on direct identification of the holder of the plot. The land survey process is referred to as land settlement and is conducted by Land Record and Survey Department (DLRS) under the Ministry of Land. For conducting the survey, whole country is divided into Zones, comprising of two or more districts, Upazilla and Local level where respective officers perform their functions under the Directorate General of Land Records and Surveys i.e. Settlement Officer at Zonal level, Assistant Settlement Officer at Upazilla

level and Surveyor (Amin) at Local level. At headquarter there is a *diara* settlement officer who conducts surveys especially in the field of riverine areas.

Land Record and Survey Department (DLRS) has its own press to print Khatian. After completion of the survey, Khatian is given nomenclature according to the name of the survey i.e. S.A. (State Acquisition Survey), B.S. (Bangladesh Survey) etc. During the survey, each Upazilla is divided into small areas for the purpose of conducting the survey meticulously. These areas are known as mouza. Every mouza is given a number to identify clearly, that number is known as mouza number. It is also known as Jurisdiction List Number (J.L.No.).

Mouza is divided into plots (dhag) to identify distinctly. One or more maps (Sheets) are prepared for every mouza. In such map/maps contained all the plots marked with individual number which is usually called plot number or dhag number.

So, Khatian or a record of rights includes:

- a. Khatian number;
- b. Mouza, Upazilla, District and J.L.No;
- c. Name, father's name and address of the owner or owners;
- d. Plot (dhag) number;
- e. Portion of the owner or owners;
- f. Class and nature of the land;
- g. Amount of land development tax payable;
- h. Total amount of land (dhag wise) etc.

3. Different types of Record of Rights or Khatians

Different types of record of rights or khatians are prepared under different surveys, namely:

- a. Mughli Survey or Harvey Survey.
- b. Cadastral Survey (C.S.).
- c. Revisional Survey (R.S.).
- d. Pakistan Survey (P.S.)/ State Acquisition Survey (S.A.).
- e. Bangladesh Survey (B.S.).

A brief description about these surveys is as follows:

3.1. Mughli Survey or Harvey Survey:

Mughli Survey was conducted during 1832-1848 AD (Malek, 2016: 27). At first Mr. Harvey was appointed to conduct the survey in British regime. For that reason, this survey is also called Harvey survey. Mr. Harvey conducted survey in 1832 to 1840. Unfortunately, Mr. Harvey died in 1840 and his name

was replaced by Mr. Henry's and he completed the survey in 1848. The most prominent relies; for instance, of the incursions of the Arrakanese (Mughi) in to Eastern Bengal are the use to this day to the mughi (Arrakanese). No maps were prepared in this survey. The measurements were recorded only in the Chitta. It is important to mention here that, no khatiyani of subordinate tenures or raiyati holdings was prepared and in fact the details of occupancy which are fully recorded in the Chitta were not abstracted, so that the Chitta has taken the place of the modern record of rights as far as it concerns tenancies.

Different observations of the courts have been reflected in different judgments relating to the Chitta or field book of mughi survey. Chitta is not a public document when created by the government having interest in the land (38 DLR 327). When Chittadag and cadastral survey (C.S.) record show possession of two different persons, it must be presumed that at some time between two periods the person recorded in the Chittadag lost their possession and that the person whose name appears in the C.S. khatian obtained possession, although there is no presumption regarding the exact time at which the change of affairs took place. It is not necessary to hold that Mughi Chitta is wrong.

Each record must be presumed to be correct at its date and since the position indicated by the entries in the Chittas could during the interval, well change into the position indicated by the cadastral survey and revisional survey (R.S.) records, the latter position is not shown to be impossible or invalid in law (52 CWN 72, 38 DLR 327).

3.2. Cadastral Survey (C.S.) Record of Rights

In 1877, a proposal was made for a general cadastral survey to enable the position of each plot of 1848 survey to identify with accuracy and to assess excess area encroached upon by holder of permanently settled estates. Cadastral survey was initiated in Ramu Thana of Cox's Bazar in 1888-89 and completed in Dinazpur. The survey was done entirely by the Survey Department under The Bengal Tenancy Act, 1885 and was commenced in the season 1888-90 and completed by June 1893 in Chittagong Division with the exception of following area, amounting to 489 square miles which had been exempted from detailed survey, viz, the permanent settled portion of the Moheshkhali Island and certain hills covered with jungle including the Ramgarh-Sitakunda reserved forest and extensive jungle in the Cox's Bazar subdivision. Cadastral survey of Banskhal and Satkania was commenced in the season 1889-90, Banskhal survey was finished in August 1890 but the Satkania survey was finished in 1891. In the following season 1890-91, Patiya, Anwara, Rawjan, Rangunia and Hathazari surveys commenced. In 1891-92

Fatikchari, Mirassharai, Kumira surveys commenced. By June 1892 the work was completed in the sadar sub-division with the exception of the Municipality of Chittagong and the survey as well as settlement of the remaining parts of the district namely Kutubdia Island, Chakaria Thana, Taknaf Thana and the temporarily settled position of the Moheshkhali Island was sanctioned in October 1891 and cadastral survey took place in the season 1892-93. The area surveyed cadastrally amounting to 2002.88 square miles (Malek, 1996).

Different views have been taken by the honorable Court relating to the cadastral survey in settling different suits. The C.S. Khatian having been prepared subsequently in point of time is more acceptable than the earlier Khatian (35 DLR 295). Presumption of the C.S. Khatian did not lose its weight because of absence of evidence as to its basis (14 DLR 725). There is a presumption of correctness of C.S. record of rights and the same is to be rebutted (30 DLR 250). Onus of proving that possession has been wrongly recorded in the khatian is on the person who alleges it (22 DLR 36). The C.S. Khatian is not a document of title but it may be considered supportive evidence of title (1990 BCR(AD) 247).

3.3. Revisional Survey (R.S.) Record of Rights

R.S. record was prepared to revise the C.S. record. A lot of complaints had been field before the Survey Department against the C.S. as to inaccuracy. For that reason, R.S. record was conducted to make the C.S. record fault free. The settlement operations undertaken on the basis of revision of cadastral maps and records (called revisional settlement) was started in Chittagong district (1923-33) with Mr. J B Kindersely, as settlement officer, followed by Bagerhat district (1940-42) with Mr. R W Bastin, as settlement officer. So R.S. Khatian was also prepared under the Bengal Tenancy Act, 1885. Sections 101-103B of the Bengal Tenancy Act, 1885 deal with the provisions relating to record of rights. Section 101 empowered the Provincial Government to make an order directing that a survey be made and a record of rights be prepared by Revenue officer, in respect of all lands in any local area, estate or tenure or part thereof. And Section 103 also empowered the Revenue officer to record particulars on application of proprietor or tenure holder. Section 103 stipulates that on the application of one or more of the proprietors or tenure-holders or of a large proportion of the raiyats of an estate or tenure, and on the applicant or applicants depositing or giving security for the required amount for expenses, a Revenue-officer may, subject to and in accordance with the rules made in this behalf by the Provincial Government, ascertain and record all or any of the particulars specified in section 102 with respect to estate or tenure or any part thereof. So R.S. was not a new survey,

it was the revisional survey over the entries made in the C.S. record to remove the confusions as to names, amount of the land etc. that were created by the C.S. record (Malek, 1996).

There are different views of the honorable courts relating to the R.S. record. R.S. Khatians are not a document of title. They are at best record of possession and not of title to the land (26 DLR 35). Mere an entry in the relevant R.S. Khatian cannot give rise to a presumption that possession as evidence thereby was adverse in character as against co-sharer concerned (PLD 1959 Dhaka 655). Documents filed as exhibits being thirty years old lead to a presumption that official acts referred to therein were regularly performed and sufficient to rebut the presumption of correctness of R.S. and subsequent record of right (43 DLR (AD)112).

3.4. Pakistan Survey (P.S.)/State Acquisition Survey (S.A.) Record of Rights
The Provincial Government of the Pakistan took decision to acquire the interest of the rent-receivers for the purpose of creating relations between tenants and the government directly under The State Acquisition and Tenancy Act, 1950. To give effect to the decision the government acquired the interest of the rent-receivers by notification in the Official Gazette under section 3 of the SAT Act in 1956. After acquiring the interest of the rent-receivers the government conducted a survey for the assessment of compensation payable to the rent-receivers under section 17 of the SAT Act, 1950 and this survey is called S.A. Survey. It was done under the State Acquisition and Tenancy Act, 1950, for this reason it is called State Acquisition Survey. It is also known as Pakistan Survey (P.S.) because it was conducted in the Pakistan Period. Actually, this is not a practical survey or this is not based on field survey. This khatian was made on the information given by the *Zamindar* or Landlord. The survey was concluded within a remarkably short time from 1956 to 1964 through province-wise state acquisition settlements. S.A. or P.S. Khatian was prepared in the names of respective tenants directly under the government and the Act provides for a process of updating khatian in the name of the persons by transfer, inheritance and settlement from government. It was prepared through speedy manner which made it faulty and confusing. There were two main objectives behind this survey namely:

- a. To prepare a revised record of rights and maps on the basis of which compensation assessment rolls could be drawn up.
- b. To provide a *manzamari* preliminary rent-roll for the government agencies entrusted with the collection of rents directly from the tenants, as all intermediate rent-receivers had been wiped out.

It is expedient to mention here that *diara* (special survey for riverine area) was also conducted in entire East Pakistan in 1964, operating centrally from its headquarter in Dhaka. At headquarter there was a diara settlement officer who supervised surveys in riverine areas and major urban centers where frequent changes of ownership took place.

There are different opinions of the honorable courts relating to the P.S. or S.A. record. S.A. Khatian can create presumption of possession but not of title (*Chan Mahmood v Hossain Ali* 3 BLC 364). Mere preparation of S.A. record and payment of rent does not create any title. It was held in *Halima Begum v Syed Ahmed* that “There is no presumption of correctness in respect of S.A. Khatian like the C.S. Khatian under the Bengal Tenancy Act, 1885 (21 DLR 854).” The presumption attaching of the record of rights prepared under the Bengal Tenancy Act, 1885 in view of section 103(5) does not attach to record prepared under the SAT Act, 1950. It is not conclusive of entries in the record of rights but only that it was duly prepared and revised (19 DLR 9). The entry in the record of rights is presumptive evidence as to the condition of things which existed at the time the record was prepared. A khatian by itself does not furnish any evidence on the question of title but it is proof of title in so far title is based on possession. (Hasan, 2015: 141)

3.5. Bangladesh Survey (B.S.) Record of Rights

Bangladesh Survey (B.S.) Khatian was prepared after independence of Bangladesh, but this survey operation started before the independence of Bangladesh. The survey operation conducted during 1970-1990 and B.S. Sheet was prepared during 1970-1985 under the supervision of Mr. M.A. Kader Meah and Others as settlement officers. B.S. record of rights was prepared in accordance with the provisions of Chapter XVII especially under section 144 of the State Acquisition and Tenancy Act, 1950. Under this scheme, the entire country was covered by a plan to take up settlement operations simultaneously with 22 original district headquarters working as operational centers within the undivided districts called zones. These were termed as zonal settlements. At the beginning, 10 such zones were selected for conducting settlement operation, namely Khulna, Barisal, Jessore, Faridpur, Noakhali, Comilla, Sylhet, Tangail, Rangpur and Bogra. But within a few years, it was felt that it was very difficult to run settlement operation in selected 10 districts simultaneously because of serious constraints of budget allocation, lack of trained manpower and other operational problems. Many zonal settlement officers lacked settlement experience and a number of field staffs were fresh recruits. Government was thus forced to reuse their original program and concentrate the operations in only five districts.

Different opinions of the Courts have been reflected in different judgments relating to the B.S. Khatian. A finally published record of rights revised under section 144A of the SAT Act, 1950 has a presumption of correctness and that presumption continues till it is otherwise rebutted by reliable evidence (50 DLR 186). Until the B.S. record of rights is finally published, no presumption of correctness arises (T. H.,2004). Once a latter record of rights is finally published there is no presumption of correctness of earlier record (AIR 1949 Cal.609). The presumption as regards the entries in the R.S. Khatian so attached under section 144 of the SAT Act is rebuttable by leading evidence from the side of the person questioning correctness of the entry made there in (56 DLR(AD)53). Similarly, it was held that in *Ahmed Meah v Abdul Majid* (1985 BLD 47) “Every entry in a record of rights prepared or revised under section 144 shall be evidence of the matter referred to in such entry and shall be presumed to be correct until it is proved by evidence to be incorrect. But such presumption is not attached to an entry in a record of rights prepared or revised under Chapter IV of the SAT Act, 1950.” Cadastral Survey (C.S.) record of rights, though is the oldest record of rights prepared under section 103 of the Bengal Tenancy Act, 1885 and B.S record of rights being a latter record of right got presumptive value as to its correctness as engaged under section 144A of the SAT Act which enjoys that every entry in a record of rights prepared or revised under section 144 shall be evidence of the matter referred to in such entry and shall be presumed to be correct until it is proved by evidence to be incorrect (58 DLR 242).

4. Evidentiary value of Record of Rights

It is generally said that every entry in the record of rights shall be presumed to be correct until it is proved to be incorrect by other evidences e.g. Kabala, rent receipts etc. A settlement entry recording a person as an occupancy tenant creates a presumption in his favor. When the presumption is in favor of a party, it is not necessary for him to establish the correctness of the entry by clear evidence (AIR1929 Pat.748).

Absence of evidence in support of an entry is no ground for passing it over and it is extremely fault of a judicial officer to do so. The entry can only be regarded as presumptive evidence. Every entry in a record of rights finally published shall be evidence of the matter referred to in such entry and it shall be presumed to be correct until it is proved to be incorrect (30 DLR(SC) 81). The presumption of correctness as available of the strength of section 103 B (5) of the Bengal Tenancy Act, 1885 has got to be rebutted by the person who alleges it (33 DLR 126). It has been held that if there is no basis of the

entry in the record of rights, the court is entitled to hold that the entry in the record of rights is wrong (1981 BCR 393). Entry in the record of rights is not a starting point for the computation of the limitation in order to deny the right, title and interest of the plaintiffs, because such an entry in the record of rights is nothing but a mere presumption of correctness of the state of affairs at the relevant time. Every entry in a record of rights prepared or revised under section 144 shall be evidence of the matter referred to in such entry and shall be presumed to be correct until it is proved by evidence to be incorrect (Kabir, 2018: 288). Record of rights is evidence of present possession and registered document or kabala is evidence of title (32 DLR 252). Presumption of record of rights is a very important piece of evidence and is conclusive until it is rebutted by evidence (AIR 1927 Cal. 933). Presumption of record of rights may be rebutted by adducing evidence external to settlement proceeding of evidence of matters on the face of those proceedings. Presumption of record of rights is rebutted by admission of the party in whose favor it stands to the contrary (AIR 1956 Cal. 669). Entries in record of rights and other revenue records are not conclusive and it only raises rebuttable presumption. A settlement entry recording a person as an occupancy tenant creates a presumption in his favor (33 CWN 1193). When the presumption is in favor of a person, it is not necessary to establish the correctness of the entry by clear evidence. Presumption in the entry of record of rights as to its correctness is rebuttable by documentary evidence (Islam, 2004).

4.1. Conflict regarding different dates

If any conflict arises due to entries of different dates, the latter one ought to have preference, as being evidence of recent events. Latter record of rights will prevail over the earlier one (35 DLR 295). In case of discrepancy of conflict between two entries of different dates, the latter one ought to have preference (Howes, 2003). Where the revised record of rights is in conflict with the original record, the presumption is that at some time between the two dates of final publication the persons recorded in the original record lost their possession and the persons whose names appear in the revised record obtained possession. There is however no presumption regarding the exact time at which the change in the state of affairs took place (AIR 1930 Cal. 933). If there are two records of rights of different dates, each will be presumed to speak only about its own time; if two discrepant entries are made in different proceeding at different times, both may be presumed to be correct and it will not be correct to say that the subsequent record is rebutted by earlier one. In the event of conflict between old record of rights and

recent record of rights, recent record of rights would prevail in as much as presumption of record of rights loses its weight with the passage of time and entry in the subsequent Khatian (Khan, 2013: 361).

4.2. Effect of an entry in the Record of Rights

Entries in the record of rights assist the civil court to take proper decision on the disputed land. The Court has to take decision on scrutinizing the entries made in the record of rights not on the speeches delivered before the Court by the parties. The Court will be bound to proceed on the entries made in the record of rights unless it is shown that it is incorrect. It has been seen that when the matters that led to the making of an entry are investigated and scrutinized by the civil court and the parties adduce evidence on the point in controversy, the entry loses its weight if the evidence discloses no foundation for it. If there is no basis of the entry in the record of rights, in that case the court is entitled to say that the entry in the record of rights is wrong (1981 BCR 393). The record of rights is presumed to indicate the correct state of affairs at the date of the final publication of the said record (9 DLR 467). If the question arises as to whether the entry in the record of rights was correct at the time when it was made, evidence of facts of a date prior to the publication of the record must be admissible, although the evidence of facts subsequent to the publication may also throw an important light upon the solution of the problem (*Birendra v. Kailas* (1914) 29 C.L.J. 140 at 142.). The Supreme Court of Pakistan said that while deciding a leading case, “we are not competent to accept oral evidence or admit extraneous evidence to change property mentioned in the registered deed only on the basis of record of rights” (PLD 1986 Rev.43).

5. Record of Rights creates ‘No Title’

Different Courts have given different judgments relating to record of rights to the effect that it is not a document of title but it is a document of possession. Material question in deciding a case for rectification of record of rights under section 143 of the State Acquisition and Tenancy Act, 1950 is possession and not title. In a case where the plaintiff relies upon the entry made in the record of rights for the basis of his title, it is not enough for him to show the basis of his title by the entry made in the record of rights (33 DLR 126). Record of rights is evidence of present possession; it is not a document of title (32 DLR 252). Survey papers may not be documents of title but they may be evidence of title (4 DLR 48). Record of rights is not a document of title; by itself it is not an evidence of title (28 DLR (AD) 61). Record of rights is not a document of title (36 CWN 783). Record of rights may be an evidence of title (62 CLJ 10). A record of rights is only a

rebuttable piece of evidence. An entry in such records neither creates nor extinguishes any right (*Keshab v. Madan* (1935) 40 C.W.N 22 at 26). When a record of rights is prepared on the basis of possession, it remains as a piece of evidence with a presumption of correctness attached to it. In other words, record of rights is a good evidence of possession (AIR 1965 Cal.669). The entry made in the record of rights does not create title, nor takes away any right as it is made on the basis of possession (61 CLJ 519). Record of rights is not a document of title; at most it may be relevant as some evidence of title and may raise a presumption of title (AIR 1955 Punj.37). At the utmost it is proof of title only in so far as title is based on possession (62CLJ 10). A record of rights by itself does not furnish any evidence on the question of title but it is proof of title in so far as title is based on possession (*Duncan v. Radha* (1935) 62 C.L.J. 10 at 16). However, the entry in the record of rights is prima facie baseless; no reliance can be placed upon it (*Shaik Ahmed v. Sultan Ahmed* (1939). 71 C.L.J 100 at 102).

6. Correction of Record of Rights or Khatian

It is often said that land without suit is impossible. Suit and land are interrelated with each other. So, where there is a land there may be directly or indirectly a suit. Sections 145A-145F of the State Acquisition and Tenancy Act, 1950 prescribe a procedure to file a suit relating to a Khatian or record of rights. Every suit arising out of the final publication of the last revised record of rights prepared under section 144 of the SAT Act shall lie to the Land Survey Tribunal not to the civil court. In case of future necessity, the provisions regarding preparation or revision of prepared record of rights are inserted in section 144 of the Act (Debnath, 2009: 21). Chapter-XVIIA newly inserted by the amendment in 2004 provides for the establishment of Land Survey Tribunal and Land Survey Appellate Tribunal in this regard. Section 145F imposes a restriction or a bar to jurisdiction of civil courts to entertain a suit relating to section 144. It is expressly mentioned that, “no suit arising out of the final publication of the last revised record of rights prepared under section 144 shall lie in any civil court within the territorial limits of the jurisdiction for which a Land Survey Tribunal is established under section 145A.” The jurisdiction of the civil court is barred only in respect of matter in section 144. The bar of jurisdiction created by section 144B is not related to question of title and possession of any land (56 DLR (AD) 53). It is to be noted that Revenue Officer has no power to correct the Khatian which affects the question of title or possession of land (38 DLR (HCD) 272). Revenue officer cannot decide the question of title (20 DLR 627). Revenue officer is not a court (26 DLR (HCD) 157). He cannot declare

a document to be void (18 DLR 666). Revenue officer does not possess to decide the title of the property (55 DLR (HCD) 125). A suit for declaration that record of rights is incorrect and for its correction a suit is maintainable under section 42 of The Specific Relief Act, 1877 (AIR 1937Cal.745). Section 42 of The Specific Relief Act empowers every person to file a suit for declaration before a competent civil court against any person denying or interested to deny the legal character or any right as to any property. It is explicitly mentioned that, “any person entitled to any legal character, or to any right as to any property, may institute a suit against any person denying, or interested to deny, his title to such character or right and the court may in its discretion make therein a declaration that he is so entitled”. According to this section, anyone can get his record of rights or Khatian corrected by filing declaratory suit with a competent civil court which decides the question of title or possession of the land.

However, notwithstanding of section 144B of The SAT Act, it is clear that civil court still retains jurisdiction to decide title or possession of the tenant or raiyat, as the preparation of record of rights or mutation is an executive order which cannot confer title (19 DLR 1019). The section 144B is a bar only in respect of matters which are subject-matters of investigation and there is no bar to file a suit for declaration of title and recovery of possession in the competent court (Quayum, 2004). A civil suit lies to correct an entry in the record of rights prepared by the revenue authority (42 DLR 434). Revenue authorities are bound to give effect or to respect to such changed entries and decrees in accordance with rights of parties as determined by the civil courts (PLD 1988 Rev.24). Revenue authorities are under obligation to sanction mutation on the basis of decree passed by the civil court and they cannot refuse mutation on the ground that decree had not been put into effect within the period of limitation. Decree-holder is entitled to get entries in revenue record mutated on the basis of decree in his favor. Entries in revenue record could not be altered or reversed on mere allegation that fraud had been practiced in civil court and decree had been obtained by fraud or misrepresentation.

7. Conclusion

In the concluding stage, we can easily understand the fact that, Khatian or record of rights is very important to settle the land related issues but it cannot be a document of title. It is reflected in different judgments of the honorable courts that Khatian or record of rights itself is not a document of title but it may be good document of possession. No one can claim any property only on the basis of Khatian or record of rights because it does not

create nor extinguishes any right. It is only a rebuttable piece of evidence not conclusive evidence. When a record of rights is prepared on the basis of possession, it remains as a piece of evidence with a presumption of correctness attached to it, that means it may be good evidence of present possession, not of title. This is well established principle of law that a registered kabala is an evidence of title which will prevail over the record of rights or Khatian and presumption of Khatian does not prevail over the recital of kabala. At last, it may be said that only proper knowledge about Khatian or record of rights can save the mass people from continuous harassment in land disputes.

Notes

1. Rayat means a person who holds, occupies or possesses land or property rented from a landlord.
2. Mouza is the lowest revenue collection unit. During the Mughal period, the term was extensively used in the sense of the revenue collection unit in a pargana or revenue district. A group of mouzas made a pargana.
3. Tahsil is an entity of local government, the Tahsil office (panchayatsamiti) exercises certain fiscal and administrative power over the villages and municipalities within its jurisdiction. It is the ultimate executive agency for land records and related administrative matters.
4. Thana was a sub district in the administrative geography of Bangladesh. The word thana is now used to refer police station. Generally, there is one police station for each upazila; but larger administrative units may have more than one police station covering different regions.
5. Khas land means government owned fallow land, where nobody has property rights. It is land which is deemed to be owned by government and available for allocation according to government priorities.
6. Diara survey means survey of the shore line of a river is made by running a theodolite and tape traverse on a shore at a convenient distance from the edge of the water.
7. Kabala means a sale deed, also known as conveyance deed. It is a legal document and evidence that the sale of a property has been made in favor of the buyer from the seller. It is also a proof that the buyer is the absolute owner of the said property.

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