A.F.R.

Neutral Citation No. - 2025:AHC-LKO:70594

Reserved On 10.09.2025
Delivered On 10.11.2025

Court No.-13

Case :-WRIT - B No. - 42 of 2015

Petitioner :- Tarawati And Anr.
Respondent :- State Of U.P. Thru. Prin. Secy. Revenue And 4 Ors.
Counsel for Petitioner :- Jagdish Prasad Maurya,Bajrangi Lal Mishra
Counsel for Respondent :- C.S.C.,Dilip Kumar Pandey,Kunwar Ravi Prakash,Umesh Kumar Tiwari,Yogendra Nath Yadav

with

Case :-WRIT - B No. - 480 of 2005

Petitioner :- Smt. Kamla Rani
Respondent :- D.D.C. Lucknow And 4 Ors.
Counsel for Petitioner :- Nirmal Tewari,Manish Singh,Nirmal Kumar Tewari
Counsel for Respondent :- C.S.C.,Dilip Kumar Pandey,R.N. Gupta

with

Case :-WRIT - B No. - 501 of 2005

Petitioner :- Suresh Chandra
Respondent :- Deputy Director Of Consolidation Lucknow And 4 Others
Counsel for Petitioner :- Nirmal Tewari,Manish Singh
Counsel for Respondent :- C.S.C.,Dilip Kumar Pandey,R.N.Gupta

with

Case :-WRIT - B No. - 556 of 2005

Petitioner :- Pramod Kumar Misra
Respondent :- Deputy Director Of Consolidation Lucknow And 3 Others
Counsel for Petitioner :- S.Faisal A.Husain,Devi Prasad Maurya,Manish Singh,N.P.Mishra,R.N.Shukla,S.P. Singh Somvanshi
Counsel for Respondent :- C.S.C.,Dilip Kumar Pandey,R.N.Gupta

with

Case :-WRIT - B No. - 561 of 2005

Petitioner :- Radhey Lal
Respondent :- Deputy Director Of Consolidation Lucknow And 3 Others
Counsel for Petitioner :- S.Faisal A.Husain,Devi Prasad Maurya,Manish Singh,R.N.Shukla,S.P. Singh Somvanshi
Counsel for Respondent :- C.S.C.,Dilip Kumar Pandey,R.N.Gupta

with

Case :-WRIT - B No. - 562 of 2005

Petitioner :- Babu Lal
Respondent :- Deputy Director Of Consolidation Lucknow And 3 Others
Counsel for Petitioner :- S.Faisal A.Husain,Devi Prasad Maurya,Manish Singh,R.N. Shukla,S.P. Singh Somvanshi
Counsel for Respondent :- C.S.C.,Dilip Kumar Pandey,R.N.Gupta

with

Case :-WRIT - B No. - 566 of 2005

Petitioner :- Sandeep Singh
Respondent :- D.D.C. Lucknow And 6 Ors.
Counsel for Petitioner :- S. Faisal A. Husain,Devi Prasad Maurya,Manish Singh,R.N. Shukla,S.P. Singh Somvanshi
Counsel for Respondent :- C.S.C.,Dilip Kumar Pandey,R.N.Gupta

with

Case :-WRIT - B No. - 616 of 2005

Petitioner :- Ram Sagar
Respondent :- Dy.Director Of Consolidation Lucknow And 3 Others
Counsel for Petitioner :- Anwar Husain,Devi Prasad Maurya,Dileep Kumar Tripathi,Manish Singh,R.N. Shukla,S.P. Singh Somvanshi
Counsel for Respondent :- C.S.C.,Dilip Kumar Pandey,R.N.Gupta,Yogendra Nath Yadav

with

Case :-WRIT - B No. - 167 of 2007

Petitioner :- Algoo Ram Objection Filed
Respondent :- Deputy Director Of Consolidation Unnao Camp At Lucknow
Counsel for Petitioner :- Manish Singh,Devi Prasad Maurya,R.N.Shukla,S.P. Singh Somvanshi
Counsel for Respondent :- C.S.C.,Dilip Kumar Pandey,R.N.Gupta

Hon'ble Saurabh Lavania, J.

1. For the convenience of exposition, this judgment is divided into the following parts:-

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A. <u>FACTS OF THE CASE</u>-

2. Heard Shri Manish Singh, Shri Bajrangi Lal Mishra and Shri S.P. Singh Somvanshi, learned counsel appearing for the petitioners and Shri Hemant Kumar Pandey, learned State Counsel.

3. Before proceeding further in the matter, it would be apt to indicate the following facts:-

(i) In all the petitions, indicated above, the arguments were heard and judgment was reserved on 16.05.2025 and thereafter on 26.08.2025 this Court passed the following order:-

> *"At the time of dictating the judgment, which was reserved in the Court, this Court found that further submissions/arguments are required on some issues. Accordingly, let the instant case alongwith other connected matters be listed on 29.08.2025 for further submissions/arguments."*

(ii) In terms of the aforesaid order dated 16.05.2025, all the petitions were listed before this Court and thereafter the learned counsel for the parties were heard and the judgment was reserved on 10.09.2025.

4. In all the petitions, indicated above, the order dated 13.01.1994 passed by the Consolidation Officer, Malihabad, Lucknow (in short 'C.O.'), the order dated 07.06.2003 passed

by the Settlement Officer of Consolidation (in short 'S.O.C.') and the order dated 25.02.2005 passed by the Deputy Director of Consolidation, Lucknow (in short 'D.D.C.') have been challenged. Therefore, all the petitions are being decided by this order.

5. From the record as also the submissions advanced by the learned counsel for the parties, it is apparent that the case/claim of the petitioners in all the petitions, indicated above, is based upon the following facts:-

(i) In the 1359 Fasli (C.E. 1952) as also in 'Basic Year' Khatauni i.e. 1360 Fasli (C.E. 1953) the name of one Gulab Chand was recorded as 'Sirdar' in the revenue records related to Gata/Plot No. 1176Ba (Now 1209) situated at Village - Jabrauli, Pargana - Nigoha, Tehsil-Mohanlalganj, District - Lucknow.

(ii) The Gulab Chand donated the entire land of Gata/Plot No. 1176Ba (Now 1209) i.e. 109 Bigha and 09 Biswa to 'Bhoodan Yagna Samiti' (in short 'Bhoodan Samiti') constituted in terms of the U.P. Bhoodan Yagna Act, 1952 (in short "U.P. Act No. X of 1953"), which came into force on 27.02.1953.

(iii) The Bhoodan Samiti thereafter executed 'Bhoodan Lekh(s)/Gift Deed(s)' on 26.03.1958 in favour of Smt. Kamla Rani, Suresh Chandra, Pramod Kumar Mishra, Radhey Lal, Balwant Singh (father of petitioner-Sandeep Singh), Ram Sagar, Algoo Ram and Ram Sumer (predecessor in interest of petitioner-Tarawati) and Babu Lal.

(iv) For eviction from the land in issue the proceedings in terms of Rule 115-D of U.P.Z.A. & L.R. Rules, 1952 (in short 'Rules of 1952') framed under the U.P.Z.A. & L.R. Act, 1950 (in short 'Act of 1950') were initiated and thereafter, the suit(s) for declaration of rights over the land in issue were filed and these suits were abated on account of publication of notification under Section 4 of the Act of 1953. This fact is evident from the order dated 08.10.1980 passed by the S.D.O., Mohanlalganj, Lucknow.

(v) Prior to initiation of the proceedings under the U.P. Consolidation of Holdings Act, 1953, (in short 'Act of 1953'), the proceedings under the provisions of Indian Forest Act, 1927 (in short 'Act of 1927') were initiated where the cases of the petitioners or their predecessor-in-interest were considered and the Forest Settlement Officer (in short 'F.S.O.') found that concerned were in possession in terms of 'Bhoodan Lekh(s)/Gift Deed(s)' dated 26.03.1958 executed under the U.P. Act No. X of 1953 and therefore declined to interfere in their possession vide order dated 30.03.1966. In other words, the F.S.O. decided the proceedings vide order order dated 30.03.1966 in favour of persons who were in possession of the land in terms of 'Bhoodan Lekh(s)/Gift Deed(s)' dated 26.03.1958 executed by Bhoodan Samiti.

6. Vide impugned order dated 13.01.1994, the C.O. in exercise of power under Section 9-A(2) of the Act of 1953 had decided the following cases :-

(i) Case No. 814/16/512/719;

(ii) Case No.809/1/795;

(iii) Case No.810/12/796;

(iv) Case No.811/13/797;

(v) Case No.812/14/798;

(vi) Case No.813/15/799;

(vii) Case No.76/807+800/800+801;

(viii) Case No.73/808/802+803.

7. The relevant portion of the order dated 13.01.1994 passed by the C.O. is extracted herein under :-

> *"ग्राम जबरौली परगना निगोहा तहसील मोहनलालगंज की आधार पर खतौनी के खाता संख्या 831 में अंकित आराजी 1209 संगठक 70 बीघा सततरह बिसवा 11 धुर बंजर (गांव सभा) का इंद्राज यथावत अंकित रखा जाये । आराजी न० 1209/12 दो बीघा पन्द्र बिसवा से वादिनी श्रीमती कमलारानी पत्नी छविराज का कब्जा व उसकी आपत्ति खारिज हो गाटा संख्या 1209/10 एक बीघा आठ बिसवा से सुरेश चन्द्र पुत्र कुबेर का कब्जा, गाटा संख्या 1209/8 सात बीघा सत्तरह बिसवा से वादी रामकुबेर पुत्र साधव का कब्जा, गाआ संख्या 1209/16 तीन बीघा 10 बिसवा से वादी रामसागर पुत्र रामदास का कब्जा, गाटा संख्या 1209/13 दस बीघा से रामसुमेर पुत्र साधव का कब्जा, गाटा संख्या 1209/14 चौदह बिसवा से वादी बलवन्त सिंह पुत्र यदुनाथ सिंह का कब्जा, गाटा संख्या 1209/18 मिनजुमला 10 बीघा पन्द्रह बिसवा 10 विश्वासी से राधेलाल पुत्र महावीर का कब्जा एवं गाटा संख्या 1209/17 दस बीघा पन्द्रह बिसवा 10 धुर से वादी बाबूलाल पुत्र द्वारिका का कब्जा एवं सभी वादीगणों की आपत्तियां निरस्त हों यह आदेश वाद पत्रावली संख्या 809/1/795 सुरेशचन्द्र बनाम गांव सभा, वाद संख्या 810/12/796 राम कुबेर बनाम गांव सभा, 811/13/797 रामसागर बनाम गांव सभा 812/14/798 रामसुमेर बनाम गांव सभा, 813/15/799 बलवन्त सिंह व प्रमोद सिंह बनाम गांव सभा वाद संख्या 76/807+800/800+801 राधेलाल बनाम गांव सभा तथा वाद संख्या 73/808/802 + 803 बाबू लाल बनाम गांव सभा एवं प्रमोद कुमार बनाम गांव सभा पर भी लागू होगा।*
>
> *वाद अमल बरामद पत्रावली दाखिल दफतर हो"*

8. Being aggrieved by the order dated 13.01.1994 passed by the C.O., the following appeals were filed:-

> (i) Appeal No. 1690/1420/1183/1256 (Kamlarani vs. Gaonsabha)
>
> (ii) Appeal No. 1119/2037/1255 (Balwant Singh vs. Gaonsabha)

(iii) Appeal No. 1116/2036/1254 (Radheylal vs. Gaonsabha)

(iv) Appeal No. 1112/2035/1253 (Ramsagar vs. Gaonsabha)

(v) Appeal No. 1118/2034/1252 (Babulal vs. Gaonsabha)

(vi) Appeal No. 1113/2033/1251 (Ramsumer vs. Gaonsabha)

(vii) Appeal No. 1114/1691 (Suresh Chandra vs. Gaonsabha)

(viii) Appeal No. 1115/249 (Ramkuber vs. Gaonsabha)

9. The above indicated appeals were decided/dismissed by the S.O.C. vide impugned order dated 07.06.2003. The relevant portion of the order dated 07.06.2003 reads as under :-

"मैने उभय पक्षों के विद्वान अधिवक्ताओं की बहस को विस्तार पूर्वक सुना तथा अपीलांटगण तथा उत्तरवादी द्वारा अवर न्यायालय में दाखिल किये गये लिखित एंव मौखिक साक्ष्यों का भलीभांति अवलोकन एवं परीक्षण किया साथ ही अवर न्यायालय के आदेश का अवलोकन एवं परीक्षण किया। अपीलें अपीलांट की अनुपस्थिति में निरस्त कर दी गयी थी जिनके विरुद्ध अपीलांट गण द्वारा पुर्नस्थापन प्रार्थना पत्र प्रस्तुत किये गये जो स्वीकार किये गये तथा अपीलें पुर्नस्थापित की गई। बलबन्त अपीलांट की मृत्यु हो गयी है जिनके बारिस दिलीप कुमार सिंह पुर्नस्थापित किये जा चुके है।

वाद के निस्तारण हेतु 10 वादबिन्दु बनाये गये। चकबन्दी अधिकारी ने वादबिन्दु बार पूर्ण विवेचना करते हुये आदेश दिनाँक 13-1-94 पारित किया है। साथ ही अवर न्यायालय में पक्षों द्वारा प्रस्तुत किये गये लिखित एवं मौखिक साक्ष्यों की पूर्ण विवेचना अपने आदेश में की है। पत्रावली के अवलोकन से विदित है कि अपीलार्थी गण ने कागजी साक्ष्य में एफ० एफ०एस०ओ/एस०डी०ओ मोहनलाल गंज द्वारा पारित आदेश दिनाँक 30-3-66, सिंचाई की रसीदें आदि तथा भूदान समिति के संयोजक द्वारा प्रदत्त दान लेख प्रस्तुत किया है। श्रीमती कमलारानी ने कागजी साक्ष्य बाद अबेटमेन्ट का आदेश की सत्य प्रतिलिपि प्रस्तुत किया है। जिससे स्पष्ट है कि वर्तमान चकबन्दी प्रक्रियाएं प्रारम्भ होने के पूर्व आपत्तिकर्ता ने धारा 229 बी जमींदारी विनाश अधि० के अन्तर्गत घोषणात्मक वाद न्यायालय परगनाधिकारी तहसील मोहनलालगंज में दायर कर रखा था। भूदान समिति द्वारा जारी दान लेख, दिनाँक 26-3-1958 के देखने से विदित है कि आपत्ति/ अपीलकर्ता के हक में गाटा 1176 ब/2 में 5 एकड़ी भूमि का दानलेख लिखा गया था। पत्रावली पर नकल खतौनी 1362 फ० एवं 1359 फ० दाखिल की गयी है जिसमें गाटा संख्या-1176 व क्षेत्रफल 109 बीघा 9 बिस्वा गुलाबचन्द्र पुत्र लाला अयोध्यानाथ खत्री निवासी मौरांवा के नाम अंकित था। पुरानी चकबन्दी में तैयार जोत चकबन्दी आकार पत्र 23 की नकल बावत खाता संख्या-55 दाखिल की गयी है जिसमें साबिक गाटा 1176/3 रकबा 105 बीघा 17 विस्वा 11 विस्वांसी गुलाबचन्द्र के नाम से खारिज होकर गांव सभा के नाम अंकित करने का आदेश

तहसीलदार मोहनलालज, वाद संख्या-32 अंतर्गत धारा 186/187 दिनाँक 3-1-1959 पारितं किया गया था। जिसका अमलदरामद दिनाँक 1-3-59 को लेखपाल द्वारा किया गया। अवर न्यायालय की पत्रावली व च०अ०के आदेश के अवलोकन से स्पष्ट है कि वादग्रस्त भूमि गाटा संख्या-1209 जो साबिक गाटा 1176 से बना है, का दान भूदान समिति नही किया गया और न कभी भूदान समिति के नाम भूमि अंकित रही है। इस प्रकार जब वाद वादग्रस्त ग्रस्त भूमि भूदान समिति की होना सिद्ध ही नहीं है तो इस विवादित आराजी के संबंध में भूदान समिति के संयोजक द्वारा दिया गया दान लेख भी निराधार/आधारहीन हो जाता है। इस प्रकार इस दान पत्र के आधार पर अपीलांट को कोई स्वम्बि प्राप्त नही होते है। और नही उनका दावा सिद्ध होता है। पत्रावली के अवलोकन से यह भी स्पष्ट है कि विवादित भूमि 1208 रकबा 70 बीघा 17 विस्वा 11 विस्वांसी चकबन्दी बन्दोबस्त जो०च०आकार पत्र 45 के खाता संख्या-818 में श्रेणी-5 में बंजर दीगर में अंकित है। अपीलांट का यह कथन कि पुरानी चकबन्दी में तहसीलदार द्वारा धारा 186/187 के अर्न्तगत गाटा 1176 गाँव सभा के नाम अंकित करने का आदेश किया गया था जो निहित प्रक्रिया का पालन न करके पारित हुआ है। पत्रावली से स्पष्ट है कि आकार पत्र 23 की नकल जो पिछली चकबन्दी पर अंकित आदेश तहसीलदार दिनांक3-1-59 है, उससे विदित है कि तहसीलदार ने जो धारा 186/187 में आदेश पारित किया है, वह इसके सक्षम अधिकारी थे। इस प्रकार गुलाबचन्द्र पुत्र अयोध्यानाथ खत्री उक्त आदेश को नियमतः चुनौती दे सकते थे जो उन्होंने नहीं किया तहसीलदार का ओदश दिनाँक 3-1-59 अंकित हो गया और उसके आधार पर विवादित भूमि गाटा 1209 बंजर गाँव सभा के नाम अंकित हो गयी। पत्रावली के अवलोकन से यह भी विदित है कि विवादित गाटा 1209 या उसका साबिक गाटा 1176 कभी भी भूदान समिति का होना नही सिद्ध होता है। अपीलांट गण द्वारा पत्रावली में ऐसा कोई साक्ष्य प्रस्तुत नहीं किया गया है जिससे यह स्पष्ट हो कि विवादित गाटा कभी भी भूदान समिति की आराजी रही हो या साबित गाटा 1176 रकवा 109 बीघा 9 विस्वा जो 1359 फ० व 1362 फ0 में गुलाबचन्द्र पुत्र अयोध्यानाथ खत्री निवासी मौरांवा के नाम वर्ग-2 अंकित था यह भी स्पष्ट है कि गुलाबचन्द्र ने कभी कोई दानलेखा भूदान समिति के पक्ष में निष्पादित किया था। पत्रावली के अवलोकन से यह भी स्पष्ट है कि विवादित भूमि कभी भी भूदान समिति के नाम न तो रही है और न ही भूदान लेख ही नियमानुसार किया जाना सिद्ध होता है। जहाँ तक अपीलांट बाबूलाल, राधेलाल व बलवन्त की अपील का प्रश्न है। पत्रावली पर उपलब्ध अभिलेखीय साक्ष्य से स्पष्ट है कि उक्त व्यक्तियों के नाम पट्टा भूदान समिति द्वारा नहीं किया गया सिद्ध होता है। यह भी स्पष्ट है कि विवादित भूमि कभी भी भूदान समिति के नाम नहीं रही है इसलिये नियमानुसार भूदान समिति द्वारा पट्टा किये जाने का कोई औचित्य भी नहीं है। जहां तक अपीलांट कमलारानी रामसागर, रामसुमेर, सुरेश चन्द्र व रामकुबेर की अपील का प्रश्न है। पत्रावली के अवलोकन से यह विदित है कि आधार वर्ष में विवादित भूमि गुलाब चन्द्र के नाम रही। इस बात का कोई साक्ष्य नहीं है कि विवादित भूमि कभी भूदान के खाते में गयी है। इसलिये पट्टा करने का अधिकार नहीं था यदि पट्टे किये भी गये है तो वह नियमानुसार न होकर क्षेत्राधिकार के बाहर है जिनका अनुपालन किया जाना उचित नहीं है। पत्रावली के अवलोकन से यह बात भी स्पष्ट होती है कि वर्ष 1858 में गुलाबचन्द्र का नाम का खारिज करके भूमि गांव सभा में दर्ज हुई है। यदि भूदान के नाम भूमि होती तो भूदान समिति का नाम खारिज होता । इस प्रकार स्पष्ट है कि विवादित भूमि कभी भी भूदान समिति की नही रही है और न ही भूदान समिति की ओर से पट्टेदारों को पट्टे किये जाने का कोई अधिकार क्षेत्र ही था। विद्वान चकबन्दी अधिकारी ने पक्षों द्वारा दाखिल किये गये लिखित एवं मौखिक साक्ष्यों तथा पक्षों द्वारा प्रस्तुत बहस पर पूर्ण विवेचना करते हुये न्याय संगत गुण-दोष के आधार पर आदेश पारित किया है। प्रत्येक बिन्दु को स्पष्ट किया गया है। इसलिये मैं चकबन्दी अधिकारी के आदेश में किसी प्रकार के हस्तक्षेप का कोई औचित्य नहीं पाता हूँ। च०अ० का आदेश अपने स्थान पर विधिक रूप से न्यायिक प्रक्रिया के अर्न्तगत

सही एवं उचित पारित किया गया है। सभी अपीलें बलहीन हेने के कारण निरस्त किये जाने योग्य है।

आदेश

अतः आदेश हुआ कि उपरोक्त विवेचन के आधार पर सभी अपीलें निरस्त की जाती है। वाद अमलदरामद पत्रावलियां दाखिल दफ्तर की जाये"

10. It is to be noted that during pendency of the Appeal No. 1119/2037/1255 (Balwant Singh vs. Gaonsabha), the appellant Balwant Singh died and in his place name of his one of the legal heirs namely Dilip Kumar Singh was substituted and this aspect of the case has not been impeached and is also evident from the underlined portion of the impugned order dated 07.06.2003, quoted above.

11. At this stage, considering the fact that in place of Balwant Singh name of Dilip Kumar Singh was substituted and also that Sandeep Singh, petitioner in Writ - B No. 566 of 2005 is claiming his rights on the property/land in issue on the basis of Bhoodan Lekh/Gift deed dated 26.03.1958 executed in favour of his father Balwant Singh, following query was put to Shri Somvanshi, learned counsel for the petitioner in Writ – B Nos. 556 of 2005, 561 of 2005, 562 of 2005, 566 of 2005, 616 of 2005 and 167 of 2007.

> *"As to who had filed the revision challenging the order dated 07.06.2003 passed in Appeal No. 1119/2037/1255 (Balwant Singh vs. Gaon Sabha) preferred by Balwant Singh."*

11.1. In response to aforesaid, it is stated by Shri Somvanshi that Ram Naresh Singh S/o Balwant Singh had filed the Revision No. 268/653 challenging the order dated 07.06.2023 passed in the appeal preferred by Balwant Singh against the order of C.O. dated 13.01.1994.

11.2. Taking note of the aforesaid, this Court again put a query to Shri Somvanshi as to how a petition filed by Sandeep Singh would be maintainable in the aforesaid background of the case.

11.3. In response to aforesaid, he stated that the petition No. Writ – B No. 566 of 2005 has been filed by Sandeep Singh being legal heir of Balwant Singh.

12. Challenging the order of the S.O.C. dated 07.06.2003 the following revisions were filed before the D.D.C.:-

> *(i). Revision No. 258/658 (Sureshchandra vs. Gaonsabha and Others).*
>
> *(ii). Revision No. 257/659 (Smt. Kamla Rani vs. Gaonsabha and Others).*
>
> *(iii). Revision No. 261/654 (Babulal vs. Gaonsabha and Others).*
>
> *(iv). Revision No. 263/656 (Ram Sagar vs. Gaonsabha and Others).*
>
> *(v). Revision No. 268/653 (Ram Naresh Singh vs. Gaonsabha and Others).*
>
> *(vi). Revision No. 262/655 (Ram Sumer vs. Gaonsabha and Others).*
>
> *(vii). Revision No. 259/652 (Radheylal vs. Gaonsabha and Others).*
>
> *(viii). Revision No. 326/549 (Pramod Kumar Mishra vs. Gaonsabha and Others).”*

13. The revisions, indicated above, were dismissed by the D.D.C. vide order dated 25.02.2005. The relevant portion of the order dated 25.02.2005 is extracted herein under:-

> *"मैंने पूरे प्रकरण का गहनतापूर्वक विचार किया और पाया कि वर्तमान में विवादित भूमि बंजर दीगर के खाते में दर्ज है। पूर्व में विवादित भूमि 1359 से 1363 फसली तक गुलाबचन्द्र पुत्र लाला अमरनाथ के नाम दर्ज बतायी जाती है। निगरानीकर्तागण का दावा है कि गुलाबचन्द ने अपनी भूमि भूदान समिति को दान*

कर दिया था और भूदान समिति से निगरानीकर्तागण के पक्ष में पट्टा किया गया था और वह आज तक काबिज है। उल्लेखनीय है कि निगरानीकर्तागण को यह स्वीकार है कि तहसीलदार के आदेश दिनांक 31-01-59 से विवादित भूमि ग्राम समाज के नाम दर्ज कर दी गयी। उनका तर्क है कि यह आदेश तहसीलदार के अधिकार क्षेत्र से बाहर था। यदि थोड़ी देर के लिये यह मान भी लिया जाय तो निगरानी कर्तागण के लिए यह आवश्यक था कि इस आदेश को सक्षम न्यायालय में चुनौती देते परन्तु उनकी ओर से इस तरह की किसी कार्यवाही का किया जाना नही पाया जाता है। इसके अतिरिक्त प्रथम चक्र की चकबन्दी में भी निगरानीकर्तागण ने पट्टे के आधार पर दाखिल खारिज की कार्यवाही नही की गयी है और वह अब धारा 49 जोत चकबन्दी अधिनियम से बाधित है। जहां तक एस०डी०ओ० /फारेस्ट सेटिलमेंट आफिसर के आदेश का प्रश्न है, इस वाद में निगरानीकर्तागण का स्वत्व घोषित नहीं किया गया है। अब वर्तमान में निगरानीकर्ता को किसी प्रकार के स्वत्व प्रदान नहीं किये जा सकते। अवर न्यायालयों ने सभी साक्ष्यों की विवेचना करते हुये जो निर्णय दिया है वह विधिसम्मत प्रतीत होता है और उसमें किसी हस्तक्षेप की आवश्यकता प्रतीत नहीं होती। निगरानियों में बल नहीं है और निरस्त होने योग्य है।

आदेश

उपर्युक्त विवेचना के आधार पर सभी 8 निगरानियां निरस्त की जाती हैं। पत्रावलियां वाद अमलदरामद दाखिल दफ्तर हो।"

14. In the aforesaid factual background, the petition(s), indicated above, have been filed.

B. SUBMISSIONS OF LEARNED COUNSEL FOR THE PETITIONER(S)-

15. Shri Manish Singh, learned counsel for the petitioners in Writ – B Nos. 480 of 2005, 501 of 2005, in addition to his oral submissions has also submitted written submissions, which are extracted herein under:-

"1. That Village Jabrauli was notified U/S 4 of the Z.A.L.R. Act some time in the year 1953 i.e. 1360 Fasli. In the basic year Khatauni name of Seth Gulab Chand stood recorded as Sirdar in Khata No.196. Name of Gulab Chand continued in 1362 Fasli also and in Kahata No.374 Khasra Plot No.1176 Ba. Annexure No.3 & 4.

2. Section 2 (c) of the Bhoodan Yagya Act defines the word "owner" of the land as its Bhoomidhar or Sirdar. Thus not only Bhoomidhars but Sirdars were also made entitled to donate their land holding in Bhoodan Yagya.

3. Seth Gulab Chand being a "Sirdar" donated entire land of Khasra Plot No.1176 Ba under the Bhoodan Yagya. The Bhoodan Yagya Sub Committee of District Lucknow after following the prescribed procedure made grant to the petitioner, being a landless person, 5 acres of Land of Khasra Plot No.1176 Ba with

Sirdari rights. The petitioner is in continuous possession over the land granted to her since then and doing agriculture on it. The petitioner has regularly paid rent of the land and irrigation charges to the revenue authorities. The authorities of the Bhoodan Committee assured the petitioner that mutation of her name in the revenue records will be done by the Tehsildar. Bhoodan Deed (Bhoodan Lekh) dated 26.03.1958 is Annexure No.8.

4. It came in the knowledge of the petitioner that a notification was issued U/S 4 of the Indian Forest Act and the land in question along with other land was proposed to be declared as Reserve Forest. The petitioner filed objections before the Forest Settlement Officer/Sub.Divisional Officer, Mohanlalganj, Lucknow that she is the Sirdar/tenant of khasra plot No.1176 M which is now Khasra Plot No.1209.

5. The Convenor of the District Bhoodan Samiti Sri Suraj Pal Singh appeared before the Forest Settlement Officer and he proved the execution of the Donation Deed given to the petitioner. The Forest Settlement Officer was pleased to allow the petitioners' objections and excluded the land belonging to the petitioner from being declared as Reserved Forest. Annexure No.9.

6. During the Consolidation proceedings the Tehsildar vide order dated 03.01.1959 passed an order directing the name of Seth Gulab Chand to be expunged from the Khata No.1176/3. The said order is bad in the eyes of law because during consolidation proceedings the powers of all other courts including revenue courts ceases.

7. The petitioner filed Declaratory Suit U/S 229 B of Z.A.L.R. Act, 1950 numbered as 101/77-78. The same was ordered to have been abated due to the fact that the village had come under Consolidation Proceedings. Order dt.8/10/80 Annexure No.10.

8. After Second Consolidation proceedings objections filed before Consolidation Officer along with 12 years Khatauni pertaining to 1374 Fasli to 1385 Fasli in which the Lekhpal has made endorsement and the name of petitioner along with others were entered on the basis of Bhoodan Lekh. Annexure No. 12 & 13.

9. The Consolidation Officer did not consider the material documents available on record and dismissed the objections on 13.01.1994 and entry in favour of Gaon Sabha continued. Annexure No.14.

10. Appeal was dismissed by Assistant Settlement Officer, Consolidation, Lucknow on 07.06.2003. Annexure No.16.

11. Revision dismissed by DDC on 25.02.2005. Annexure No.18.

Grounds

12. The main ground of dismissal of petitioners objections by the Courts below is that the donor Seth Gulab Chand being a

"Sirdar" could not have donated the land to the Bhoodan Committee. The authorities misread the provisions of the Bhoodan Yagna Act, 1952 which stood prior to 1977, and which clearly defined the "Owner" means, as respects any land (i) in areas where the rights of intermediaries have vested in the State Government under Section 4 of the U.P. Zamindari Abolition and Land Reforms Act, 1950, its bhumidhar or sirdar as the case may be;"

Section 10 of Bhoodan Yagna Act, deals with "Donor competent to donate land. Notwithstanding anything contained in the U.P. Zamindari Abolition and Land Reforms Act, 1950, U.P. Tenancy Act, 1939, or any other law relating to land tenure as may be applicable an owner shall be competent for purposes of this Act to donate the land held by him as such to the Bhoodan Yagna."

Without reading the above provisions of Bhoodan Yagna Act which stood when the donation was made and the donation deed was granted, they came to the conclusion that the donor Seth Gulab Chand being a "Sirdar" could not have donated the land to the Bhoodan Committee.

13. With respect to the illegal order dated 03.01.1959 passed by the Tehsildar expunging the name of Seth Gulab Chand from Khata No.1176, the respondent authorities have claimed that since the title holder did not challenge the order dated 03.01.1959 the order attained finality. However, the same authorities in Case No.3/2011-12 U/S 166/167 Z.A.L.R. Act with respect to part of the same land have held the order dated 03.01.1959 to be bad in view of judgment passed by Supreme Court in the case of Jagdeo Versus Mihilal. It was held by the Assistant Collector, Mohanlalganj, Lucknow that the order dated 03.01.1959 passed by the Tehsildar expunging the name of Seth Gulab Chand from Khata No. 1176 was without jurisdiction and as such, it was a nullity in the eyes of law. Annexure. No.6 filed along with Supplementary Affidavit in Pramod Kumar Mishra case Writ-B No.556 of 2005.

14. The Suit filed by the petitioner U/S 229 B of the Z.A.L.R. Act after the First Consolidation proceedings were ordered to be abated as the Second Consolidation proceedings began in 1980 and as such, it cannot be said that the petitioner had not taken any steps to get her name recorded in the revenue records after the First Consolidation proceedings.

15. In the Second Counter Affidavit the respondents have stated that the paper books of the cases are weeded after lapse of a period of 12 years, the relevant records is not available. This statement cannot be believed to be true. Moreover, the Forest Settlement Officer/Sub Divisional Officer passed his order on 30.03.1966. He passed his order on the basis of Donation Deed granted to the petitioner under the Bhoodan Yagna Act. The convenor of the Bhoodan Committee appeared before the Forest Settlement Officer and proved the donation deed to be true.

The Khatauni pertaining to 1374 Fasli to 1385 Fasli in which the Lekhpal has made endorsement and the name of petitioner along

with others were entered on the basis of Bhoodan patta. This document was also available for perusal.

In case the respondents came to the conclusion that the Bhoodan Deed was wrongly given and/or the entries were wrongly made, they could have proceeded for cancellation of the Donation Deed, which was never done. Such documents could not have been weeded out which were needed in litigation by the authorities. Moreover, the registers of Bhoodan Yagna Act which records all the donations made and the Donation Deed granted cannot be said to have been weeded out.

16. The respondents have also tried to establish that the petitioners were minor when the patta was given to them. However, in the case of the petitioner the respondents have themselves admitted that Kamla Rani might have been 20 years, in view of the age mentioned by her in the affidavit filed in support of writ petition. Kamla Rani's aadhar is being placed on record for perusal of Hon'ble Court. As per her aadhar the date of birth of Kamla Rani is 1937, which makes her aged 21 years in the year 1958 when the Bhoodan Deed was granted to her."

16. Shri S.P. Singh Somvanshi, learned counsel for the petitioners in Writ - B Nos. 556 of 2005, 561 of 2005, 562 of 2005, 566 of 2005, 616 of 2005 and 167 of 2007, in addition to his oral submissions has also submitted the written submissions. The written submissions submitted are extracted here-in-under :-

"1. That Village Jabrauli was notified U/S 4 of the Z.A. L.R. Act some time in the year 1953 I.e. 1360 Fasli. In the basic year Khatauni name of Seth Gulab Chand stood recorded as Sirdar in Khata No.196. Name of Gulab Chand continued in 1362 Fasli also and in Kahata No. 374 Khasra Plot No. 1176 Ba (now Khasra No. 1209). This document annexed as Annexure No.-3 and 4 in the Writ-B No. 480/2005 (Smt. Kamla Rani Vs. DDC and others).

2. That Section 2 (c) of the Bhoodan Yagya Act defines the word "owner" of the land as its Bhoomidhar or Sirdar. Thus not only Bhoomidhars but Sirdars were also made entitled to donate their land holding in Bhoodan Yagya.

3. That Seth Gulab Chand being a "Sirdar" donated entire land of Khasra Plot No.1176 Ba (now Khasra No. 1209) under the Bhoodan Yagya. The Bhoodan Yagya Sub Committee of District Lucknow after following the prescribed procedure made grant of donation deed to the petitioner, being a landless person, 5 acres of Land of Khasra Plot No.1176 Ba (new Khasra No. 1209) with Sirdari rights. The petitioners are in continuous possession over the land granted to them since then and doing agriculture on it. The petitioners have regularly paid rent of the land and Irrigation charges to the revenue authorities. The authorities of the

Bhoodan Committee assured the petitioners that mutation of their name in the revenue records will be done by the Tehsildar. In the same petitions some Bhudan Deed annexed and all 6 Bhudan deed are being annexed in the written argument also.

4. That it came in the knowledge of the petitioners that a notification was issued U/S 4 of the Indian Forest Act and the land in question along with other land was proposed to be declared as Reserve Forest. The petitioners filed objections before the Forest Settlement Officer/Sub. Divisional Officer, Mohanlalganj, Lucknow that they are the Sirdar/tenant of khasra plot No.1176 M which is now Khasra Plot No.1209.

5. That the Convenor of the District Bhoodan Samiti Sri Suraj Pal Singh appeared before the Forest Settlement Officer and he proved the execution of the Donation Deed given to the petitioners. The Forest Settlement Officer was pleased to allow the petitioners' objections and excluded the land belonging to the petitioner from being declared as Reserved Forest annexed as Annexure No.9 in Writ-B No. 480/2005 (Smt. Kamla Rani Vs. DDC and others).

6. That during the Consolidation proceedings the Tehsildar vide order dated 03.01.1959 passed an order directing the name of Seth Gulab Chand to be expunged from the Khata No.1176/3. The said order is bad in the eyes of law because during consolidation proceedings the powers of all other courts including revenue courts cases.

7. That the petitioners filed Declaratory Suit U/S 229 B of Z.A. & L.R. Act, 1950 alongwith Smt. Kamla Rani numbered as 101 and others/77-78. The same was ordered to have been abated due to the fact that the village had come under Consolidation Proceedings and this observation already mentioned in order of Consolidation Officer, Settlement Officer of Consolidation and Deputy Director of Consolidation and also annexed the order dt. 08.10.1980 as Annexure No. 10 in Writ-B No. 480/2005 (Smt. Kamla Rani Vs. DDC and others).

8. After Second Consolidation proceedings objections filed before Consolidation Officer along with 12 years Khatauni pertaining to 1374 Fasli to 1385 Fasli in which the Lekhpal has made endorsement and the name of petitioners alongwith others were entered on the basis of Bhoodan patta. (Annexure No.12 & 13 in Writ-B No. 480/2005 (Smt. Kamla Rani Vs. DDC and others).

9. The Consolidation Officer did not consider the material documents available on record and dismissed the objections of petitioners on 13.01.1994 and entry in favour of Gaon Sabha. After challenge the said order appeal was dismissed by the Settlement Officer of Consolidation, Lucknow on 07.06.2003 and after challenge the same by the petitioners revision also dismissed by the Deputy Director of Consolidation vide order dated 25.02.2005 and the petitioner No.-1 to 5 name alongwith case number mentioned in the order of Consolidation Officer, Settlement Consolidation Officer and in revision the Balwant Singh had died and the legal heirs of Balwant Singh Mr. Ram Naresh S/o Balwant Singh filed revision and petition filed by Mr.

Sandeep Singh son of Balwant Singh bearing Writ-B No. 566/2005 and in revisional Court order the case No.16, (forge case) dated 30.03.1966 and due to fraudulent manner recorded the entry by Arun Prakas minor son of Shanti Prakash through gaurdian Smt. Sharda Kumari (mother) name has been cancelled and recorded the name of Gaon Sabha related to 32 Bigha land in Khasra plot No. 1209 and later on the Sub Divisional Magistrate vide order dated 11.01.2012 deleted the name of Gaon Sabha and recorded the name of Arun Prakash son of Shanti Prakash and the order of Consolidation Officer, Settlement Officer of Consolidation and Deputy Director of Consolidation annexed as Annexure No.1, 2 and 3 of the writ petition.

10. That the petitioner No.-6 as writ-B No. 167/2007 (Algoo Ram Vs. DDC) was filed the separate objection before the Consolidation Officer which has been rejected on 17.05.2005 on the ground of delay later on the appeal and revision filed by the petitioner No.-6 which had also dismissed by the Settlement Officer of Consolidation dated 25.07.2005 and the Deputy Director of Consolidation, Lucknow vide order dated 15.12.2006 which has annexed as Annexure no.-2, 3 and 4 in the Writ-B No. 167/2007 (Algoo Ram Vs. D.D.C.)

GROUNDS

11. The main ground of dismissal of petitioners objections by the Courts below is that the donor Seth Gulab Chand being a "Sirdar" could not have donated the land to the Bhoodan Committee. The authorities misread the provisions of the Bhoodan Yagna Act, 1952 which stood prior to 1977, and whichclearly defined the "Owner" means, as respects any land (1) in areas where the rights of intermediaries have vested in the State Government under Section 4 of the U.P. Zamindari Abolition and Land Reforms Act, 1950, its bhumidhar or sirdar as the case may be;"

Section 10 of Bhoodan Yagna Act, deals with "Donor competent to donate land. Notwithstanding anything contained in the U.P. Zamindari Abolition and Land Reforms Act, 1950, U.P. Tenancy Act, 1939, or any other law relating to land tenure as may be applicable an owner shall be competent for purposes of this Act to donate the land held by him as such to the Bhoodan Yagna." Without reading the above provisions of Bhoodan Yagna Act which stood when the donation was made and the donation deed was granted, they came to the conclusion that the donor Seth Gulab Chand being a "Sirdar" could not have donated the land to the Bhoodan Committee.

12. With respect to the illegal order dated 03.01.1959 passed by the Tehsildar expunging the name of Seth Gulab Chand from Khata No.1176, the respondent authorities have claimed that since the title holder did not challenge the order dated 03.01.1959 the order attained finality. However, the same authorities in Case No.3/2011-12 U/S 166/167 Z.ALR. Act with respect to part of the same land have held the order dated 03.01.1959 to be bad in view of judgment passed by Supreme Court in the case of Jagdeo Versus Mihilal. It was held by the Assistant Collector, Mohanlalganj, Lucknow that the order dated

03.01.1959 passed by the Tehsildar expunging the name of Seth Gulab Chand from Khata No.1176 was without jurisdiction and as such, it was a nullity in the eyes of law.

It is further point out that 32 Bigha land in the same Khasra plot number 1209-M which had recorded in the name of Arun Prakash through guardian Smt. Sharda Kumari and Shanti Prakash which had also sold, later on the subsequent purchaser filed the revision before the Commissioner, Lucknow Mandal Lucknow, the Commissioner vide order dated 06.12.2009 set aside the exparte order on 26.06.2005 and remanded the matter to the Sub Divisional Magistrate, Mohanlalganj, Lucknow and after remanded the same the Sub Divisional Magistrate, Mohanlalganj, Lucknow passed the detail order on 11.01.2012 with finding that the Tehsildar has no power to sponge the name of Seth Gulab Chandra son of Lala Ayodhya Nath and the Arun Prakash (Minor) and Shanti Prakash was entitled for the donation deed area 32 Bigha and also observed in the same observation other things on merit which has been final neither stayed nor any person challenge the same order dated 11.01.2012 till date. The order dated 02.06.2009 and 11.01.2012 annexed as Annexure No. 4 and 6 in the supplementary affidavit filed by the petitioner No.-1 to 5 on 30.05.2023 and in regard of petitioner No.-6 on 07.04.2025.

13. The Suit filed by the petitioners U/S 229 B of the Z.A. L.R. Act after the First Consolidation proceedings were ordered to be abated as the Second Consolidation proceedings began in 1980 and as such, it cannot be sold that the petitioners had not taken any steps to get her name recorded in the revenue records after the First Consolidation proceedings.

14. In the Second Counter Affidavit the respondents have stated that the paper books of the cases are weeded after lapse of a period of 12 years, the relevant records is not available. This statement cannot be believed to be true. Moreover, the Forest Settlement Officer/Sub Divisional Officer passed his order on 30.03.1966. He passed his order on the basis of Donation Deed granted to the petitioners under the Bhoodan Yagna Act. The convenor of the Bhoodan Committee appeared before the Forest Settlement Officer and proved the donation deed to be true.

15. The respondents have also tried to establish that the some petitioner were minor when the donation deed (patta) was given to them. However, in the case of-

(i) The petitioner petitioner No.-1 the respondents have stated aged about 10 years whereas the petitioner's date of birth as on 03.07.1937 and he was major aged about 21 years according to Aadhar Card.

(ii) The petitioner No.-2 Balwant Singh son of Yadunath Singh was major (now died) and the aged calculated by the respondents of Sandeep singh son of Balwant Singh was aged about 10 years.

(iii) The petitioner No. 3 Babu Lal, respondents stated aged about 10 years whereas the petitioner's date of birth as on 1939 but as per Aadhar Card date of birth mentioned 1941.

(iv) Petitioner No.-4, Pramod Kumar Mishra, Petitioner No.-5 Radhey Lal, Petitioner No.-6 Algoo Ram, respondents stated in

the 2nd counter affidavit aged about 10 years whereas the donation deed (patta) granted by the committee through their guardian and in regard of through guardian donation deed mentioned in the documents of Writ-B No. 480/2005 (Smt. Kamla Rani Vs. D.D.C. and others) for example donation deed (Patta) also allotted to Arun Prakash through guardian Smt. Sharda Kumar (mother) of 5 Acre i.e. 8 Bigha, in regard of same Khata plot No. 1209 and order passed by the Sub Divisional Magistrate, Mohanlalganj, Lucknow which has annexed as Annexure No.-6 in the supplementary affidavit filed by the petitioners on 30.05.2023. It is further point out here that the respondents neither raised any objection in regard of same petitioner was minor at the time of donation deed in any forum.

16. That the committee under Bhudan Yagya Act scrutiny of the petitioners who were landless and after completed all the formalities under the Act as like resolution, report of committee and register, the specific mentioned the same petitioners as petitioner No.-1 to 3 major and rest granted donation deed (patta) through their guardianship but these records are bead out and not available by the respondents whereas they have custodian of such records. Thus granted the donation deed (Patta) are true and as per mentioned the aged about in the affidavit by the respondents are not genuine/true."

17. Shri Bajrangi Lal Mishra, learned counsel for the petitioner in Writ – B No. 42 of 2015 has adopted the submissions of Shri Manish Singh and Shri S.P. Singh Somvanshi.

C. <u>SUBMISSIONS OF THE LEARNED COUNSEL FOR THE STATE-</u>

18. Shri Hemant Kumar Pandey, learned counsel appearing for the State has also submitted his written submissions, which are extracted herein under :-

"1. According to the Bhoodan Yagna Act, 1952 and the Bhoodan Yagna Rules, 1953, the Bhoodan Samiti has authority to grant lease or gift lands vested in it and recorded in its name, not lands recorded with other person. Any attempt to lease or gift lands recorded in the name of other person is a flagrant abuse of power, illegal, and void ab initio.

2. Sections 8 to 15 the Bhoodan Yagna Act, 1952, and Rules 8 to 14 of the Bhoodan Yagna Rules. 1953, govern land donations to Bhoodan Samiti. A donor files in writing a declaration with the Khatauni before Tahsildar, who publishes it for objections and

conducts an inquiry. After hearing objections, the Tahsildar confirms or supersedes the declaration. If confirmed, the land rights are transferred to the Bhoodan Committee, and their name is entered in revenue records under Section 34 of the U.P. Land Revenue Act, 1901. In the present case, there is no documentary evidence that Gulab Chand ever donated the land to Bhoodan Samiti or made any declaration as per the provisions Act or Rules.

3. Rule 8 of the Bhoodan Yagna Rules, 1953 provides that (1)The Bhoodan Yagna declaration shall be in the form given in Appendix I. (2) The declaration shall be accompanied by an extract from the current year's Khatauni duly certified by the lekhpal of the, halqa in which the land sought to be distributed lies. If the Khatauni be not available, an extract from the Khatauni for the year immediately preceding shall be filed. (3)All donations of land made under the Act shall be entered in a register as shown in Appendix II by the Committee or its nominee, which shall be maintained district-wise with sub-headings for each tahsil and copy thereof shall also be sent to the Tahsildar, who shall maintain a similar register for his tahsil. (4)The Bhoodan declaration shall be filed in the Court of the Tahsildar in whose tahsil the property is situate. Such declarations shall be filed either by the donor himself or by the Committee on belhalf of the donor.

4. Section-9 of the Rules, 1953 provides Publication of and investigation upon the declaration. It states that (1) Upon receipt of the said declaration, the Tahsildar shall register it in the same manner, as a report of succession or transfer of possession under scction 34 of the U.P. Land Revenue Act, is registered in a register maintained for this purpose in the manner prescribed in sub-rule (2) below. (2)The Tahsildar shall maintain a register for making the entries provided for by sub-rule (1) above in the form shown in the Appendix II-A (3) The Tahsildar shall, on receipt of Bhoodan declaration publish in the following manner and in the form as in Appendix III- (a) A notice containing the particulars shown in the declaration shall be served, free of charge, upon all recorded tenure-holders except the person, who has filed the declaration; (b)A copy of the declaration shall be affixed on a conspicuous place in the village in which the land is situate. (4) The service of the notice shall be effected either by post or by revenue peons, or by both the means according to the discretion of the Tahsildar. (5) The Tahsildar may record statements on oath and admit documents filed.

5. Section 14 of the Bhoodan Yagna Act, 1952, deals with grant of gift of Land by Bhoodan Samiti. This section (Section 14) expressly provides that Bhoodan Samiti has the authority to grant lease or gift lands that have vested in it and are recorded in its name in the revenue records. The authority of Bhoodan Samiti is limited to lands that have been duly vested in and recorded the name of Bhoodan Samiti, and it does not extend to lands that are not recorded in the name of Bhoodan Samiti in the revenue records and never ever donated to the Bhoodan Samiti.

6. That further as per Bhoodan Act & Rules, the Bhoodan Samiti can grant gift of Bhoodan lands to only "Landless" "Landless Agricultural Labourer". This Hon'ble Court in Sayyed Abbas vs. State of U.P. and Ors. 2023 161 RD684, after considering entire provisions of the Bhoodan Yagya Act & Rules and also the Transfer of Property Act, 1882, held that under the Bhoodan Yagya Act & Rules, a minor cannot be considered "Landless" "Landless Agricultural Labourer" and any such Grant/Gift of Bhoodan land to minor is null and void-ab-initio and non-est in the eyes of law and are also against the public policy. A children aged 7, 8, 11 or 12 years lack the capacity and maturity and it is implausible that the legislature intended for minors of such tender ages to be considered "landless" "Landless Agricultural Labourer" under the Act.

7. In this case at the time of the Gift by Bhoodan to all petitioners, the land was recorded in the name of Gulab Chand. Even assuming Gulab Chand was recorded as Sirdar of the land, there is no evidence regarding proof of donation of land to Bhoodan Samiti by Recorded tenure holder Gulab Chand, following the procedure as required by Sections 8 to 15 of the Bhoodan Yagna Act, 1952, and Rules 8 to 14 of the Bhoodan Yagna Rules, 1953. Additionally, there is no evidence that Gulab Chand ever donated the land in question to Bhoodan Samiti or made any declaration in terms of the provisions of the Bhoodan Yagna Act and Rules.

8. In the case of Bhanu Pratap Singh vs. Union of India and Ors., :2019(3) ALJ 241, the Division Bench of this Hon'ble Court has held that "it is settled law that where a statute requires a particular act to be done in a particular manner, the act has to be done in that manner alone. Every word of the statute has to be given its due meaning. An opt quoted adage "one who holds the procedural sword must perish with the sword" A century ago, in Taylor V. Taylor, (1875)) 1 Ch D. 426 Jassell M.R. adopted the rule that where a power is given to do a certain thing in a certain way, the thing must be done in that way or not at all and that other methods of performance are necessarily forbidden. This rule has stood the test of time It was applied by the Privy Council, in Nazir Ahmed V. Emperor, 63 Ind App 372 : (AIR 1936 (PC 253 (2))and later the Hon'ble Apex Court in several cases viz. Shiv Bahadur Singh State of V.P., (1954) SCR 1098 AIR 1954 SC 322: 1954 Cri LJ 210): Deep Chand v. State of Rajasthan (1962) SCR 662: AIR 1961 sc 1527 1961 (2) Cri LJ 705) approved the same principle of law. A Constitution Bench of the Hon'ble Apex Court in Commissioner of Income Tax, Mumbai v. Anjum M.H. Ghaswala and others. AIR 2001 SC 3868 reaffirmed the general rule that when a statute vests certain power in an authority to be exercised in a particular manner then the said authority has to exercise it only in the manner provided in the same itself."

9. Thus, the gift certificate is a blatant forgery, crafted with malicious intent to usurp government property. Without a valid declaration or donation from Gulab Chand, the transaction is a sham, lacking any legal legitimacy. It is a brazen attempt to

deceive and grab public land, violating the provisions of the Bhoodan Yagna Act and Rules.

Gift of Bhoodan Land to minor is null and void-ab-initio as per Judgement of this Hon'ble High Court in Sayyed Abbas vs, State of U.P, and Ors. 2023 161 RD 684

1. Bhoodan land cannot be given to minor as it contradicts the aims and objects of the Bhoodan Act, 1952 and as per Bhoodan Act & Rules, the Samiti can grant gift of Bhoodan lands to only "Landless" "Landless Agricultural Labourer". This Hon'ble Court in Sayyed Abbas vs. State of U.P. and Ors. 2023 161 RD684, after meticulously examining the entirety of the law and provisions of the Bhoodan Yagya Act & Rules and also the Transfer of Property Act Act, 1882, held that under the Bhoodan Yagya Act & Rules, a minor cannot be considered "Landless" "Landless Agricultural Labourer" and any such Grant/Gift of Bhoodan land to minor is null and void-ab-initio and non-est in the eyes of law and are also against the public policy. A children aged 7, 8, 11 or 12 years lack the capacity and maturity and it is implausible that the legislature intended for minors of such tender ages to be considered "landless" "Landless Agricultural Labourer" under the Act.

2. In WritB/561/2005, Radhey Lal v. Deputy Director of Consolidation, as per his affidavit filed with the petition in the year 2005, he stated his age as 45 years at that time, petitioner was not born at the time of the grant, which was purportedly made 2 years before his birth. Subsequently, he claimed his age 11 years at that time.

In WritB/562/2005 Babu Lal v. Deputy Director of Consolidation, as per his affidavit he declared his age as 55 years in April 2005. Based on this, at the time of the gift, he would have been 08 years old.

In WritB/501/2005 Suresh Chandra v. Deputy Director of Consolidation, as per his affidavit he declared his age as 57 years in April 2005. Based on this, at the time of the gift certificate dated 26/03/1953, he would have been 10 years old.

In WritB/167/2005 Algoo Ram v. Deputy Director of Consolidation, as per his affidavit filed in 2005 with the Writ Petition, he declared his age as 60 years in 2005. Based on this, at the time of the gift of Land by Bhoodan Samiti 26/03/1958, he would have been 13 years old.

In the WritB/616/2005 Ram Sagar v. Deputy Director of Consolidation, as per his affidavit filed in 2005 with the Writ Petition, he declared his age 60 years in 2005. Based on this, at the time of the gift of Land by Bhoodan Samiti 26/03/1958, he would have been 13 years old

Thus, in the light of landmark judgment of this Court in Sayyed Abbas vs. State of U.P. and Ors. 2023 161 RD684, a minor cannot be considered "Landless" "Landless Agricultural Labourer" and any such Grant/Gift of Bhoodan land to minor is null and

void-ab-initio and non-est in the eyes of law and are also against the public policy.

Fathers or Guardians cannot accept a Gift of Bhoodan Land on behalf of Minors

1 . So far as the novel argument of the petitioners - that gifts to minors were accepted through their fathers/guardians-is categorically refuted by the gift certificates themselves. These certificates merely list the donee's name and father's name, without specifying acceptance by the father on behalf of minors. The gift certificates simply mention the name and father's name, such as "Suresh Chandra son of Ram Kuber," without specifying acceptarice by the father on behalf of minors. The certificate itself does not indicate that a guardian or father could accept on behalf of minors, which categorically refutes the petitioner's argument that the gift was accepted through his father.

2. No provision of Bhoodan Act, 1952 or Rules of 1953 allows gift acceptance through a father or guardian. A minor cannot be deemed a landless labourer.

3. The fundamental principle is clear, what is in writing must be proven in writing. Oral evidence is impermissible for adding or subtracting from written documents (Sections 91 & 92 of Indian Evidence Act). Written documents stand on their own merit, and their words cannot be varied by oral evidence. Mere possession of a one-page gift certificate confers no right without proper proof, renders forged and non-est in the eyes of law.

4. Moreover, the issue of acceptance of gift through a father or guardian, is no more res integra and this Hon'ble Court in Sayyed Abbas vs. State of UP. and Ors. 2023 161 RD684 it was held that there is no provision for acceptance of a gift by anyone other than the donee themselves, and since the donee was a minor, and general law of the Transfer of Property Act, 1882 is not applicable. The relevant paragraph is as under-

"In regard to submissions of learned counsel for the petitioner, based upon the judgment passed in the case of K. Balakrishnan (Supra) and Section 122, 123, 126 and 127 of the Transfer of Property Act, 1882 (in short "Act of 1882"), which are to the effect that the Grant(s) under the U P. Act No. 10 of 1953 are akin to gift and gift can be granted to a minor are concerned, this Court is of the view that the same have force as the U.P. Act No. 10 of 1953 is a special law and Transfer of Property Act, 1882 is general law and there is maxim " Generalia Specialibus non Derogant" and the law in this regard is also settled that special law would prevail over general law, more particularly, when the U.P. Act No. 10 of 1953 was framed with specific aims and objects, according to which, the Grant under the U.P. Act No. 10 of 1957 can be provided to 'landless agricultural labourers/Bhoomihin Kisan/Tiller'.

50. Moreover, a copy of Deed (Annexure No. 4 to the petition) does not indicate that who had accepted the Gift/Grant on behalf of petitioner, who, admittedly was minor at relevant time.

51. It is established law that the transfer of Gift cannot be deemed complete till not accepted by the donee and in the instant case, the donee (petitioner) was minor at relevant point of time and as such, in the deed the fact that the guardian accepted the Gift on behalf of donee ought to have been mentioned and it is apparent from the copy of the deed (Annexure No. 4 to the petition) that at relevant time the father of the petitioner was alive, however, on the same there is no indication of acceptance of gift on behalf of donee (petitioner, who was minor at relevant time).

52. Thus, also for the reasons aforesaid, the submissions of learned counsel for the petitioner based upon the provisions of the Act of 1882, to the view of this Court, have no force."

Completely new theory in WRIT Petition is impermissible in Law

1. In Writ B/42/2005, Tarawati v. Deputy Director of Consolidation, the petitioner has brazenly shifted his stance, abandoning previous claims and propounding a new theory before this Hon'ble Court, predicated on adverse possession. This blatant about-face bespeaks a desperate attempt to salvage a meritless case, exemplifying a propensity for litigious opportunism.

2. The Hon'ble Supreme Court in the case of Deepak Tandon vs Rajesh Kumar Gupta, AIR 2019 SC 924 held that at the stage of the WRIT PETITION, it is impermissible to introduce a completely new plea, bereft of any factual foundation or prior adjudication, as it would amount to an abuse of the judicial process, warranting outright rejection. Such an attempt to raise a new plea at this belated stage is a blatant endeavour to circumvent established procedures and undermine the integrity of the legal process. The relevant portion of the Judgment of Apex Court are as quoted below-

"Fourth, it is a settled law that if the plea is not taken in the pleadings by the parties and no issue on such plea was, therefore, framed and no finding was recorded either way by the Trial Court or the First Appellate Court, such plea cannot be allowed to be raised by the party for the first time in third Court whether in appeal, revision or writ, as the case may be, for want of any factual foundation and finding."

Nemo Dat Quod Non Habet- No Person Can transfer a better title than what he Possesses in The Property so transferred

1. The gift claim appears forged and fabricated, lacking evidence of valid donation from recorded tenure holder Gulab Chand to Bhoodan Samiti, as required by the Bhoodan Yagna Act and Rules. Without proof of transfer or donation to Bhoodan Samiti, the Samiti had no authority to gift the land to petitioners/minors.

2. Thus, the transaction is a sham, lacking legal legitimacy, and a brazen attempt to deceive and grab public land and also against the fundamental principle "nemo dat quod non habet" i.e., "no one can give what they do not have". Mere possession

of a one-page gift certificate granting land saying that land was granted to minors confers no right without proper proof, renders forged and non-est in the eyes of law. Gift Certificate specified Gata No. 1176 ख/3, this Gata number land did not exist at that time, neither in the name of Gulab Chand nor anyone else. As per Basic Year Khatauni Gulab Chand was recorded over 1176/3.

This Hon'ble Court in the case of Ram Keval vs. Deputy Director of Consolidation, Bahraich and Ors. 2024 162 RD526, held-

"It would also be apt to indicate the principle "nemo dat quod non habet" which means "no one can give what they do not have" in other words "no man convey a title than what he has" When a man in possession a property has created an interest in favour of someone, he can not later deviate from it and create another interest without being free from previous transfer. If there are successive transfers of the same property, the later transfer is subject to the prior transfer."

Direct entry of the name of Gulab Chand only in khatauni of 1359 fasli as new Gata no. 1176B is forged and fabricated entry and not consistent with previous Gata numbers, therefore, does not carry any weight and rendering it meaningless and worthless

1. In the 1333 Fasli (year 1925) Khasra, the entire land comprising Gata numbers 1176 A, 1176 B, and 1176 J, measuring 112 Bighas and 11 Biswas, was recorded as Talab (Pond), Usar, and Banjar and as per report annexed as CA-1, in the 1356 Fasli (year 1949-1950), the above land came down in three separate Khatas-402/3, 404/1, and 406/4. Khata number 402/3 as Gata numbers 1176/1 measuring area 02 Bighas 02 Biswas 10 Biswanshi Banjar Land and 1176/3 measuring area 84 Bighas 06 Biswas 05 Biswansi, Khata number 404/1 as Gata numbers 406/4 measuring area 11 Biswas as Talab (Pond) and Khata number 404/1 as Gata numbers 1176/3 measuring area 23 Bighas 11 Biswa and 15 Biswanshi as Usar Khata Land. It establishes unequivocally recorded as Talab (Pond), Usar, and Deegar, reinforcing the prior classification of 1333 Fasli Khasra.

2. Shockingly, in the 1359 Fasli, all of a sudden without any semblance of legal justification or without any order or amaldaramad over 1356 or 1359 (1949-50 or 1951-52) faslis khataunies, flagrantly contradicting prior entries and unexplained, the name of Gulab Chand was brazenly and arbitrarily inducted as a hereditary tenant. The complete lack of evidence indicating to whom Gulab Chand was a tenant stinks of blatant forgery and fabrication. This entry is a shameless and audacious arttmpt to unlawfully grab government land. The Muddat Kast of merely 2 years under Category 4(C) of para 124-A of the Land Record Manual further exposes the dubious nature of this entry, revealing a brazen attempt to subvert the law and manipulate records for personal gain. In reality, these lands were held by the State of Uttar Pradesh with absolute ownership.

3. There is no order or amaldaramad in the 1356 or 1359 (1949-50 or 1951-52) faslis khataunies Indicating how Gulab Chand became a tenant over Banjar and Usar lands within two years, a

glaring anomaly, and and more strikingly, and also there is a complete lack of evidence on record which could remotely suggest as to whom Gulab Chand was a tenant. This is a forged and fabricated entry. This is outrageously egregious since the lands were to vest in the State of Uttar Pradesh on July 1, 1952, per Sections 4 and 6 of the U.P. Abolition of Zamindari Act, 1950. The 1359 Fasli year was used as a base year for claiming tenancy rights, numerous blatant and fraudulent entries made in the Khatauni through shameless collusion with revenue officials, underscoring the patently dubious nature of these claims. The land in question is held by State of Uttar Pradesh with absolute ownership.

4. It is equally shocking that in the 1359 Fasli Khatauni, all Gata Numbers were suddenly changed without any justification, resulting in a new Gata 1176 B with a drastically enhanced area of 109 bighas and 9 biswas. This is starkly inconsistent with prior records, where in the 1333 Fasli, Gata 1176 B had an area of only 11 biswas, classified as Talab Land. This was totally impermissible in law. No chakbandi or settlement was made during 1356 Fasli to 1359 Fasli; then, it is beyond imagination how a Gata number could be changed. Typically, only the Khata number could be changed, not the Gata number, without proper procedures and justification.

5. The Annual Register (Khatauni) of 1359 FASLI was manipulated, with the incorporation of Gulab Chand's name without proper authorization or legal justification. The lack of prior entries 1356 Fasli and order of any Court constitutes fraud regarding this sudden appearance in 1359 Fasli, as observed in the Bhagwati Deen V. Sheetladeen and others reported in 2022 (7) ADJ 165 (LB).

6. Section 33 of the U.P. Land Revenue Act, 1901 also mandates that changes or transactions in land records require an order from the Collector, Tahsildar, or Kanungo. No recording of changes shall be made without such an order, emphasizing the importance of due process. In this case, there is no evidence that any such order was passed by any authority.

7. More recently, in a landmark judgment delivered on July 16, 2024, the Allahabad High Court in the case of Mahesh Chandra Saxena and Others vs State of UP. through Collector, Kheri 2024 165 RD163 held that the entries in the documents relied upon by the petitioners were not genuine Specifically, the Khatauni of 1359 Fasli was found in be "bogus, forged, fictitious, and fabricated and had been made surreptitiously. This Landmark judgment highlights the importance of verifying the authenticity of documents, particularly in land disputes. The Hon'ble High Court's observations revealed that the claim of petitioner was based on fabricated documents, underscoring the need for thorough verification to prevent fraudulent claims. This decision is a significant precedent in cases involving land disputes and document verification. The Hon'ble High Court's observation demonstrate its commitment to upholding the integrity of legal proceedings and preventing the misuse of forged documents. The Hon'ble Court extensively examined laws related to the

importance and value of entries in the 1356 Fasli Khatauni and its preceding records, as well as the direct changes made in the 1359 Fasli Khatauni and also the aspect of fraud, the Hon'ble Court delivered a comprehensive judgment, highlighting the significance of authentic records and the consequences of tampering with or fabricating documents. The ruling underscores the need for transparency and accuracy in land record-keeping. Concluding Para 53 is as under-

"Upon due consideration, this Court is of the view that the petitioners are not entitled to benefit of Section 20(b) of the Act of 1950. It is for the following facts and reasons:-

(a) Entries indicated in the documents (Questionnaire and Khatauni of 1359 Fasli), relied upon by the petitioners, are not genuine. The same, to the view of this Court, are bogus, forged fictitious and fabricated and have been made surreptitiously. It is in view of the following reasons:-

i. In the 1356 Fasli (1949 A.D.), the land in dispute was recorded as "Imarati Lakdi Ka Jungle" (Timber Trees), as indicated in entry (8) (iii)(a)(1) in Para 124 A of U.P. Land Records Manual and in this year the total area was 431.61 acres and in the Khatauni of 1356 Fasli (1949 A.D.) the land in dispute was not recorded in the name of Raja Brijraj Bahadur Singh, (the basis of claim of predecessor-in-interest of petitioner and the petitioners).

ii. From the certified photocopy of the Khatauni of 1359 Fasli (1952 A.D.), (annexed as Annexure No. 4 to the writ petition), it is evident that area of Gata/Plot No. 21 i.e. 431.46 acres mentioned in Khatauni of 1356 Fasli (1949 A.D.) was reduced by making correction/cutting to 393.91 acres and this correction/cutting was made without any order of the competent Revenue Official and it bears signature of someone, whose designation has not been disclosed.

iii. After reducing the original area i.e. 431.46 acres to 393.91 acres different Gata(s)/Plot(s) were carved out as Gata No(s) 21, 21/2, 21/3, 21/4,21/5, 21/6 & 21/7 in the names of Daal Singh S/o Mom Raj Singh, Gopal Singh S/o Sagar, Buddha S/o Kamma, Surta S/o Buddha Param Singh S/o Mom Raj Singh and Amru S/o Ram Ram, (the basis of claim of predecessor-in-interest of petitioner and the petitioners), respectively, showing Barley (jow) crop against Gata No(s). 21/1 to 21/7, respectively, under Ziman 5-A entry, which finds place in Para A-124 of U.P. Land Records Manual, and the same says that "Occupiers of lands without title when there is no one already recorded in column 5 of the khasra" and this was also carried out without any order in this regard.

iv. Entry i.e. 8(iii)(a)(1) in Para 124-A of U.P. Land Records Manual and the note appended to the same itself indicate that the same was under the control of Forest Department meaning thereby under the control of State Government.

v. The alleged entry of 1356 Fasli (1949 A.D.) in favour of Raja Brijraj Bahadur Singh, as indicated in questionnaire, is forged one

and the fact that questionnaire itself is forged/fabricated and bogus document is evident from the fact that in the year 1999 the age of trees was found to be between 80-100 year and accordingly in the 1356 Fasli (1949 A.D.) or 1359 Fasli (1952 A.D.) the age of the trees must be between 40-60 year and to impeach/controvert the same and also the findings related to existence of trees over the land in issue, which in fact was admitted by Mahesh Chandra Saxena and Nanhey Lal Sharma (Petitioner No. 4) during their examination and the same is evident from the impugned order dated 10.04.2023, nothing has been placed on record.

vi. The benefit of Section 20(b) of the Act of 1950 would be available if the entry was/is genuine and in this case, the entry of 1359 Fasli (1952 A.D.) itself was/is bogus and fraudulent and as such, no right would be available to the petitioners based upon the sale deed as their basis itself is not a valid document in the eye of law. Reference in this regard can be made to the maxim(s) 'Sublato Fundamento Cadit Opus', which means 'foundation being removed, the structure falls', 'Nemo dat quod non habet' which means 'no one can give what they do not have."

8. Further, this Hon'ble High Court in Shanti Devi vs. District Judge Gonda and Ors., 2024 164 RD707, it was held-

"....Any entry on the basis of a transaction effected after commencement of the Fasli year could only be made in furtherance of a mutation order passed by a competent authority, the particulars whereof should be mentioned in the remarks column of Khatauni, whereas no such particulars are mentioned in the Khatauni in the Present case. This establishes that the entry of the petitioner's name in the main column of Khatauni of 1359 Fasli has been made contrary to the established procedure of law and it appears to be fictitious."

9. The other authority, Bhagwati Deen vs. Sheetladin and Ors., 2022 156 RD602, in the identical facts, this Hon'ble High Court held-

"35. Now, even if the contention of the petitioner is considered in terms of the plea that his name was recorded in 1359 Fasli muddatkasht two years and therefore he was in possession that also does not impresses the Court for the reason that in the Khatauni of 1356, the name of the private respondents is recorded. In part-ii there is no entry of either the petitioner or any other person shown as Shikmi. It is only in the khatauni of 1359 fasli that the name of the private respondents is recorded in the first part whereas the name of the petitioner Bhagwati Deen is recorded as Shikmi and so also in the Khatauni of 1362 fasli Part-ii however, there is nothing on record to indicate that the name of the private respondents were ever deleted or expunged.

The possession of the petitioner has not been established in 1356 fasli and merely an indirect attempt is being made to relate to the possession to 1356 fasli by referring to the entry contained in 1359 fasli with muddat kasht of two years.

36. On the other hand, the name of the private respondents has continuously been recorded in 1356, 1359 and 1362 fasli and even in the Khasra of 12 years from 1366 to 1377 as well as Khataunis of 1364 to 1369 fasli which clearly establishes the clean chain of right and possession of the respondents."

10. The above pronouncements of law make it abundantly clear that the mere entry of a person's name in the Annual Register of 1359 FASLI does not confer any rights unless came down from 1356 Fasli Khatauni or earlier revenue records and must be supported with documentary evidence with adherence to the procedure outlined in Section 33 of the U.P. Land Revenue Act, 1901, and relevant paras of the Land Records Manual. In the present case, the entry in the name of Gulab Chand as a hereditary tenant with a muddat kast of 2 years appears to be tainted by fraud. A thorough examination of the records reveals that Gulab Chand's name was not recorded in the 1356 FASLI khatauni or any preceding years' khatauni chain. The sudden and unexplained appearance of his name in the 1359 FASLI khatauni, raises serious fraud about the legitimacy of this entry. Furthermore, there is no basis or order from the Court of Tehsildar that could justify the conferment of hereditary tenancy rights to Gulab Chand. The lack of any prior entry in the revenue records or legal order further strengthens the argument that this entry was made with the collusion of revenue officials and fraudulently with intention to grab the Government Land. "Fraud vitiates every solemn act" emphasizes that fraudulent actions can invalidate even the most solemn act.

11. The Hon'ble Supreme Court in Vikram Singh Junior High School vs. The District Magistrate (Fin and Rev) and Ors., (2002)9 SCC509 it was held that the entry in the revenue record must have a legal basis and if there is no basis of entry then in that eventuality fraudulent entry must go. Similarly, in the case of Bachan and Ors. vs. Kankar and Ors. [1973]1 SCR727, it was held that Entries which are not genuine shall not confer any rights upon parties. In Wali Mohd. Vs. Ram Surat (1989) 4 SCC 574, the entry is fictitious or is bound to have been made surreptitiously then it can have no legal effect as it can be regarded as no entry in law. A fabricated entry is obviously a fictitious entry. The basic principles that fraudulent or malafide actions have no legal sanction.

Claim of Petitioners is Barred by Section 49 of Consolidation & Holdings Act, 1953

1. Bar of Section 49 of Consolidation & Holdings Act, 1953 would operate in Full Force to raise Claim by the petitioners which once it has been finalised and decided in First Round Consolidation Operation.

2. In the present case, the village underwent First Round Consolidation operations in the year 1955 and on 03/01/1959, an Amaldaramad (mutation) was made by the chakbandilekhpal upon Basic Year Khatauni & CH-23, based on an order of Tehsildar passed under Section 186/187 case no. 32 of the UP. Zamindari

Abolition & Land Reforms Act, 1950 deletion of name of Gulab Chand and the entering the name of Gaon Sabha over the land in question. Further, no appeal or revision was filed against the order of Tehsildar and it became final.

3. By following the sequential process, the authority ensured transparency, clarity, and consistency in the records, thereby maintaining the record. Following the procedure, the Consolidation officials prepared the final records CH-41 & CH-45 in the name of, Banjar, Usar & Talab, having absolute ownership vested in the State of Uttar Pradesh. Thus, in the First round consolidation proceedings, the final records CH-41 & CH-45 was prepared, with the ownership of the State Government over the land in question.

4. Once the matter was finalized in the First Round of Consolidation, and the final records CH-41 & CH-45 were prepared, no further dispute or claim could be raised in the Second Round of Consolidation. This was clearly barred by Section 49 of the Act, 1953.

5. The petitioners raised their claim for the first time in the Second round of Consolidation, which was started on 16/08/1980. However, their claim was rejected by all three Courts. Apart from other merit findings, the courts held that the claim was barred by Section 49 of the Consolidation of Holdings Act, as the petitioners did not raise any claim during the first round of consolidation.

6. This Hon'ble Court in the case of Abhairaj and Others Vs. Gaon Sabha/Gram Panchayat, LAMC and Another reported in 2017 (136) R.D603, while interpreting Section 49 of the 1953 Act, has held that if no claim has been raised during consolidation operation, claim after close of consolidation operations would be clearly barred by Section 49 of U.P.C.H. Act. Paragraph No. 18 of the judgment is very relevant. Similar pronouncement was made in the case of Matashiromani vs. State of U.P. and Ors., 2022 157 RD 495.

7. More Recently in WRIT-B No. 13075 of 2012 Rajkumar Dubey v. Board of Revenue And Others, decided on 24.4.2025, this Hon'ble High Court, while considering entire laws on Section 49 of the CH ACT, 1953 held that non-obstante clause in Section 49 of the U.P.C.H. Act imposes an absolute bar on civil and revenue courts from entertaining proceedings related to rights arising from consolidation operations. The final record of rights prepared under the Act is conclusive, and courts lack jurisdiction to reopen such adjudications post-denotification under Section 52. The Court held

"11. Non-obstante clause used at the commencement of the Section 49 of U.P.C.H. Act coupled with the latter part of the Section, to wit, "proceedings could or ought to have been taken under this Act", imposes an absolute bar on civil or revenue courts from entertaining any proceedings in respect of the declaration and adjudication of right of a tenure holder or adjudication of any other rights arising out of consolidation

operations, for which person concerned ought to have or could have taken proceedings at the time when the village was brought under the consolidation operations by promulgation of notification under Section 4(2) of the U.P.C.H. Act. Meaning thereby, final record of rights prepared under the provisions of the U.P.C.H. Act attaches finality concerning the declaration and adjudication of right of tenure holders, therefore, after denotification under Section 52 of the U.P.C.H. Act, civil or revenue courts have got no jurisdiction to reopen such adjudication or declaration of rights.....

.....While enforcing the bar under Section 49 of the U.P.C.H. Act, legislation is intended to cut short the multiple litigations and do not encourage the litigants to indulge in unended litigation process to get their right, title and interest adjudicate upon qua property in question. The phrase employed under Section 49 of the U.P.C.H. Act in the last part of the Section i.e. "for which a proceeding could or ought to have been taken under this Act" is quite meaningful and significant to preclude the jurisdiction of Civil Courts and Revenue Courts from entertaining any such litigation to adjudicate and declare the right, title and interest of the parties with respect to land which has already passed through consolidation operation and record of rights are finalized with respect thereto after de-notification under section 52 of the U.P.C.H. Act. Any tenure holder who ought to have vigilant and could have raised his voice by way of filing an appropriate objections under the U.P.C.H. Act during consolidation operation, if so reluctant and not filed an appropriate objection, would be stopped from raising such objection at subsequent stage before any civil or revenue court."

In view of the above submissions, this is humbly submitted to your Lordship that all three subordinate courts concurrently and correctly appreciated the entire evidence and rightly dismissed the claim of petitioners and upheld the claim of State of Uttar Pradesh. This Hon'ble may please to dismissed all the Writ Petitions with costs."

19. Considered the aforesaid and perused the record.

20. It is relevant to indicate at this stage that the proceedings under the Act of 1953 were initiated against the concerned on the basis of facts borne out from the revenue records available, according to which the Gata/Plot No. 1176Ba (Now 1209) was recorded in the revenue records as *'Usar, Banjar and Taalab'* in 1356 Fasli (C.E. 1949) as also in the first settlement i.e. 1333 Fasli (C.E. 1926) and also that name of

Gulab Chand was recorded in the Khatauni of 1359 Fasli (C.E. 1952) as *'Hereditary Tenant'.*

D. <u>POINT(S)/ISSUE(S) FOR DETERMINATION-</u>

21. Upon due consideration of aforesaid, this Court finds that following point(s)/issue(s) are to be considered and decided.

(i) Whether the petitioners could get any benefit of the order dated 30.03.1966 passed by the F.S.O.

(ii) Whether the entry in revenue records of land in issue i.e. Gata/Plot No. 1176Ba (Now 1209) of 1359 Fasli (C.E. 1952), according to which the Gulab Chand was 'Sirdar' of this land, is genuine.

(iii) Whether the petitioners are entitled to any relief based upon the 'Bhoodan Lekh(s)/Gift Deed(s)' dated 26.03.1958.

E. <u>DECISION ON POINT/ISSUE NO.1</u>-

22. Decision on the Point/Issue No. 1, which is as under:-

> *"Whether the petitioners could get any benefit of the order dated 30.03.1966 passed by the F.S.O."*

22.1. Answer of the Point/Issue No.1, quoted above, is 'No'. That is to say that petitioners could not get any benefit on the basis of order dated 30.03.1966 passed by F.S.O. It is for the following reason(s):-

(a) From a bare perusal of the order dated 30.03.1966 passed by F.S.O. it is apparent/evident that the same is based

upon the possession and the F.S.O. has not recorded any finding either on the genuineness of entry in revenue records of 1359 Fasli (C.E. 1952) favourable to Gulab Chand or with regard to genuineness of 'Bhoodan Lekh(s)/Gift Deed(s)' dated 26.03.1958. The order dated 30.03.1966 passed by F.S.O. is extracted herein under for ready reference:-

> *"Issue No. 1*
>
> *The petitioner has filed the following documents-*
>
> *a. Khatauni 1359 F. of village Jabrauli, which shows that Seth Gulab Chandra was here distary tenent of plot No. 1176 B area 109-9-0 with an annual rental of Rs. 240/-.*
>
> *b. Lease dated 26.3.1958 executed by Bhudan Samiti in favour of the petition in respect of 5 acres of land of plot No. 1176/2.*
>
> *c. Khatauni 1362, showing the same entries of Seth GuLab Chand.*
>
> *4. Revenue receipt and irrigation slips.*
>
> *On behalf of the forest department, 3 documents were filed.*
>
> *a. Attested copy of Gaz. Notification dated 11.10.52 under section 117 of U.P. Z.A. & L.R. Act. This notification exclues an are 5.600 of village Jabrauli from being vested in the Gram Sabha.*
>
> *b. An attested copy of notification under section 4 of Indian Forest Act dated 23.11.1955.*
>
> *c. Fard Charge.*
>
> *The petitioner also examined tow witnesses P.1 Suraj Pal Singh and P.W. 2 Ram Kubair P.W. 1 has proved the lease which has been executed in favour of the petitioner and has been marked Ka, 1, He has further deposed that the land in dispute was the property of Bhudan Samiti who let out the same to the petitioner and also delivered possession to her. Since then the petitioner is cultivating the land and is in possession of the same. His statement has been corroborated by P.W.-2 Ram Kubair, who is near relative of the petitioner He has also proved letting with possession to the pettioner, I have gone through the entire evidence and do not see any reason to disbelive the petitioner and her objection, more particularly when the letting is evidence by duly executed lease. e.x. Ka.1. There is no evidence in rebultal to negative the possess ion of the petitioner. I, therefore, hold that the petitioner is caltivator and in possession of the plot in dispute. hence it has to be excluded. The statement of P.W.1*

is of no help in deciding this issue. The issue is decided accordingly.

Issue No. 2: *Since the notification has been issued under section 4 of the Indian Forest Act and it has been decided to constitute the alleged land as reserve forest, noting has been shown to me how this notification can be challenged and this court can enter into this question. The notification is in accordance with the Act, specifying the situation, limits of the land proposed to constitute a reserve forst and all the ingredients are present in this notification. Hence I am of the opinion that this court has no jurisdiction to enter into the validity or invalidety of the notification and this issue is decided accordingly,*

Issue No. 2: *It has been held in issue No. 1 that the petitioner is cultivator and in possition of the land hence there is no question of any compensation. The land will remain in her cultivation as tenure holder. This issue is decided accordingly.*

Issue No. 4: *It has been brought on record as to when the proclamation was issued and on what date it was proclaimed in the village. In the absence of any such material the objection can not be held time barred.*

Issue No. 5:- *In view of my findings in issue No. 1 the land in question can not vest in gram samaj. There is no question of suit being barred under section 27 and 49 of consolidation of holding act.*

Order:

The petition is allowed, the petitioner's land is excluded from being declared as reserve forest. In the circumstances of the case, the parties will bear this own costs."

(b) The order dated 30.03.1966 has no binding effect as from a bare perusal of the same it is evident that necessary parties i.e. Gaon Sabha, State and Bhoodan Samiti were not heard. In this regard, it would be useful to refer para 28 of the judgment passed by the Hon'ble Apex Court in the case of ESI Corpn. v. KEY DEE Cold Storage (P) Ltd., (2022) 17 SCC 379, which reads as under:-

"28. In any case, non-joinder of a necessary party goes to the root of the matter and could also be fatal to a legal proceeding. For this we can usefully read the opinion of this Court in Khetrabasi Biswal v. Ajaya Kumar Baral [Khetrabasi Biswal v. Ajaya Kumar Baral, (2004) 1 SCC 317 : 2004 SCC (L&S) 182] wherein it was held as follows : (SCC p. 319, para 6)

"6. The procedural law as well as the substantive law both mandates that in the absence of a necessary party, the order passed is a nullity and does not have a binding effect.""

F. <u>DECISION ON POINT/ISSUE NO.2</u>-

23. Decision on Point/Issue No. 2, which is as under:-

"Whether the entry in revenue records of land in issue i.e. Gata/Plot No. 1176Ba (Now 1209) of 1359 Fasli (C.E. 1952), according to which the Gulab Chand was 'Sirdar' of this land, is genuine."

23.1. For coming to the conclusion on Point / Issue No. 2, this Court finds it appropriate to refer some pronouncements/judgments, wherein the relevant provisions of Act of 1950 have been considered. The same are as under:-

(a) The Hon'ble Apex Court in the case of Bachan v. Kankar, (1972) 2 SCC 555; observed as under:-

"15. This Court in Sonawati v. Sri. Ram [AIR 1968 SC 466 (1968) 1 SCR 617 :] said that Section 20 of the U.P. Zamindari Abolition and Land Reforms Act, 1951 conferred certain rights upon persons whose names were recorded in the revenue records in respect of agricultural land. In Sonawati case this Court found that there was strong evidence which was relied on by the Revenue Court that the name of Pritam Singh predecessor-in-interest of the appellants was surreptitiously entered in the Khasra. The first appellate court there did not at all consider that evidence. The surreptitious entry in Sonawati case was held by this Court to disentitle the appellants to any adhivasi right under Section 20 of the U.P. Zamindari Abolition and Land Reforms Act.

16. This Court recently in Ram Das v. Deputy Director of Consolidation, Ballia, [(1971) 1 SCC 460 : AIR 1971 SC 673] dealt with the contention of the appellants on the one hand who were recorded as Sir Khudkasht-holders of the plots in dispute and the contention of the respondents on the other who were entered as sub-tenants in respect of those plots in the year 1356 Fasli. Suits were filed between the parties. A compromise was entered into the suits. It was admitted by the respondents that the appellants were Bhoomidars and that the respondents had no interest. The further admission in the compromise was that the entry in the revenue records in favour of the respondents was fictitious. The respondents subsequently applied for setting aside the compromise decrees on the ground that they had been obtained fraudulently. During the pendency of the suits consolidation proceedings under

the U.P. Consolidation of Holdings Act, 1953 commenced. The Consolidation Authorities held that the suits were not maintainable because on the date on which the suits were filed the respondents had become sirdars. The appellants filed a writ petition under Article 226 challenging the order of the Consolidation Authorities. The High Court held in that case relying on the earlier decisions of that Court that even if the entry was fictitious the respondents who were recorded as occupants would, under Section 20(b) of the U.P. Zamindari Abolition and Land Reforms Act, 1951 become adhivasi of the disputed land. This Court relying on the earlier d ecision in Sonawati case held that there was evidence to show that the entry was fictitious and the person whose name was entered on the record on the material date could not claim the right of an adhivasi.

17. The rulings of this Court establish that the decision of the learned Single Judge as well as that of the Division Bench of the Allahabad High Court is erroneous. Section 20 of the U.P. Zamindari Abolition and Land Reforms Act, 1950 speaks of a person recorded as occupant to become adhivasi of the land and will be entitled to take or retain possession as mentioned in the section. One of the principal matters mentioned in the section is that the Khasra or Khatauni of 1356 Fasli is to be prepared under Sections 28 and 33 of the U.P. Land Revenue Act, 1901. The U.P. Land Records Manual in Chapter A-V in para A-55 to A-67 lays down the manner in which the Khasra or the field book showing possession is to be prepared by the Patwari in the areas to which Zamindari Abolition and Land Reforms Act, 1950 applies. There are detailed instructions about the manner in which the enquiry should be carried out about actual possession and change in possession and corrections in the map and field book, the form in which the khasra is to be prepared. The form of khasra is given in para A-80. The form shows that the Lekhpal has to prepare a consolidated list of entries after partial or proper investigation. Again, para A-70 to A-73 to the U.P. Zamindari Abolition and Land Reforms Act show how entries have to be made in khataunis every year showing the nature of tenure of each holder. The khatauni is meant to be a record of tenure-holders. The manner of changes to be made there is laid down in para A-82 to A-83. Entries are to be checked. Extract has to be sent to the Chairman, Land Management Committee as contemplated in paragraph A-82 (iii). In this context Section 20(b)(i) of the U.P. Zamindari Abolition and Land Reforms Act which speaks of the record "as occupant" in the khasra or khatauni of 1355 Fasli refers to the khasra or khatauni being prepared in accordance with the provisions of the Land Revenue Act, 1961. Khasra is the field book provided for by Section 28 of the Land Revenue Act. Khatauni is an annual register prepared under Section 32 of the Land Revenue Act, 1951. It has to be emphasised that the entry under Section 20 (b)(i) of the U.P. Zamindari Abolition and Land Reforms Act, 1950 in order to enable a person to obtain adhivasi rights must be an entry under the provisions of law.

18. This Court has held that entries which are not genuine cannot confirm adhivasi rights. The High Court wrongly held that though the entry was incorrect it could not be said to be

fictitious. It is too obvious to be stressed that an entry which is incorrectly introduced into the records by reason of ill-will or hostility is not only shorn of authenticity but also becomes utterly useless without any lawful basis.

19. The learned Single Judge of the Allahabad High Court held that the Deputy Director of Consolidation did not have the jurisdiction while dismissing the revision application in the consolidation proceedings to hold that the entry was fictitious. The Deputy Director of Consolidation pointed out that the entry was held to be fictitious by a civil court also. The Settlement Officer was the final Court of fact. The order of the Settlement Officer found that the entries relied on by the respondents were mala fide, contrary to rules and false. The view of the learned Single Judge confirmed by the Division Bench is antithetic to the basic principles that fraudulent or mala fide actions have no legal sanction.

20. T he High Court erred in quashing the order of the Deputy Director of Consolidation and the order of the Settlement Officer. The High Court overlooked the evidence. The High Court relied on surreptitious entry as lawful entry. A fabricated entry is obviously a fictitious entry. In the present case, the entry was introduced by the Patwari by devious methods. Such entry is mendacious."

(b) In the case of Mohd. Ramzan Khan v. D.D.C., Allahabad, 2009 SCC OnLine All 1111, this Court observed as under:-

"Entry of occupant in 1356 Fasli confers a right upon that person under Section 20(b) of the Act. Original petitioner and respondent No. 35 were not recorded in 1356 Fasli. Even in respect of that provision, the Supreme Court has held that an entry in 1356 Fasli may confer right upon the recorded person even if the entry is wrong, however if the entry is fraudulent or made without any basis it will not confer any right vide W ali Mohd. v. Ram Surat, (1989) 4 SCC 574 : AIR 1989 SC 2296 and "Chandrika Prasad v. Pullo" (2000) 4 SCC 227 : AIR 2000 SC 1785. Paras No. 4 & 5 of the earlier authority, which were quoted in Para-21 of the later authority also, are quoted below:

"4. The said section deals with the question as to who is entitled to take or retain possession of the land in question. The plain language of the aforesaid Cl. (i) of sub-sec. (b) of S. 20 of the said Act suggests that this question has to be determined on the basis of the entry in the Khasra or Khatauni of 1356 Fasli Year prepared under Ss. 28 and 33 respectively of the U.P. Land Revenue Act, 1901. An analysis of the said section shows that under sub-sec. (b) of S. 20 the entry in the Khasra or Khatauni of the Fasli Year 1356 shall determine the question as to the person who is entitled to take or retain possession of the land. It is, of course, true that if the entry is fictitious or is found to have been made surreptitiously then it can have no legal effect as it can be regarded as no entry in law but merely because an entry is made incorrectly that would not lead to the conclusion that it ceases to

be an entry. It is possible that the said entry may be set aside in appropriate proceedings but once the entry is in existence in the Khasra or Khatauni of Fasli Year 1356, that would govern the question as to who is entitled to take or retain possession of the land to which the entry relates.

5. It was submitted by learned counsel for the appellants that if the entry was not correct it could not be regarded as an entry made according to law at all and the right to take or retain possession of the land could not be determined on the basis of an incorrect entry. He placed reliance on the decision of this Court in Bechan v. Kankar, (1972) 2 SCC 555 : (1973) 1 SCR 727 : (AIR 1972 SC 2157). In that judgment the nature of the entries in Khasra or Khatauni is discussed and it is also discussed as to how this entry should be made. This Court held that entries which are not genuine cannot confer Adhivasi rights. It has been observed that an entry under S. 20(b) of the said Act, in order to enable a person to obtain Adhivasi rights must be an entry under the provisions of law and entries which are not genuine cannot confer Adhivasi rights. In that judgment it has been stated that the High Court was wrong when it held that though the entry was incorrect, it could not be said to be fictitious. That observation, however, has to be understood in the context of what follows namely, that an entry which is incorrectly introduced into the records by reason of ill-will or hostility is not only shorn of authenticity but also becomes utterly useless without Any lawful basis. This judgment, in our view, does not lay down that all incorrect entries are fictitious but only lays down that a wrong entry or incorrect entry which has been made by reason of ill-will or hostility cannot confer any right under S. 20(b) of the said Act. This decision is clarified by a subsequent judgment of this Court in Vishwa Vijai Bharti v. Fakhrul Hasan, (1976) 3 SCC 642 : 1976 Supp SCR 519 : (AIR 1976 SC 1485) where it has been held as follows (at p. 1488 of AIR):

"It is true that the entries in the revenue record ought generally, to be accepted at their face value and courts should not embark upon an appellate inquiry into their correctness. But the presumption of correctness can apply only to genuine not forged or fraudulent, entries. The distinction may be fine but it is real. The distinction is that one cannot challenge the correctness of what the entry in the revenue record states but the entry is open to the attack that it was made fraudulently or surreptitiously. Fraud and forgery rob a document of all its legal effect and cannot found a claim to possessory title."

Accordingly, I do not find least error in the impugned orders. Original petitioner and respondent No. 35 could not justify the entries of their names in the revenue records of 1358 & 1359 Fasli."

(c) In the case of Gujj Lal v. Dy. Director of Consolidation, Firozabad, 2015 SCC OnLine All 8063, this Court

in relation to the entry in the revenue record observed as under:-

> *"8. I have considered the arguments of the Counsel for the parties and examined the record. Section 57 of U.??? Land Revenue Act, 1901, attaches presumption of correctness of settlement year khatauni. Khatauni of 1356-F and 1359-F are settlement year khatauni. The respondent filed khatauni 1348-F and 1349-F and proved that joint family property has been partitioned between Vovid and descendants of Shyama, who were brothers by decree of Sub-Divisional Officer dated 6.12.1941, passed in partition Suit No. 42/5, which was incorporated in khata 47 of 1348-F. According to partition decree, 2.73 acre land came in share of Indrapal, 2.73 acre land came in share of Ninnu, Sarnam and Mihilal jointly and 5.45 acre land came in share of Vovid. It has also been noted in khatauni 1348-F that Charani and Shripat being daughter's sons of Vovid were his heirs. According to the partition decree, khatauni 1349-F was prepared, in which, the names of Charani and Shripat sons of Rate were recorded in khata 21, consisting eight plots of an area of 5.45, which had come in the share of Vovid in partition suit. Same plots with same area were recorded in khata 11 of 1356-F khatauni, in which along with Charani and Shripat, names of Ninnu, Sarnam and Mihilal sons of Summer were also recorded and this entry continued later on. Thus the respondent has proved that land which was came in exclusive share of Vovid was inherited by him but names of Ninnu, Sarnam and Mihilal were wrongly recorded over it along with their names in 1356-F khatauni without any basis. Thus presumption of correctness stood rebutted from the evidence of the respondent. Now burden of proof shifted upon the petitioners to prove that their names were correctly recorded.*
>
> *9. The petitioners took plea that Charani and Shripat were unable to pay rent of the land in dispute to zamindars as such they co-opted Ninnu, Sarnam and Mihilal as co-sharers of ½ share in the land in dispute with the consent of zamindar. Section 33 of U.P. Tenancy Act, 1939, which was applicable at the relevant time provides as follows—*
>
> *Section 33. Interest of other tenants.—(1) The interest of a tenant holding on special terms in Oudh, of an ex-proprietary tenant, of an occupancy tenant, of a hereditary tenant, and of a non-occupancy tenant is heritable, but is not transferable otherwise than in accordance with the provisions of this Act.*
>
> *(2) Notwithstanding in forgoing provisions of this section shall render illegal—*
>
> *(a) a sub-lease of a holding as hereinafter provided.*
>
> *(b) a sale of the interest of a tenant under the provisions of section 251.*
>
> *(c) a release or transfer of an interest in favour of a co-tenants:*

Provided that no person shall be deemed to be a co-tenant notwithstanding that he may have shared in the cultivation of the holding, unless he was a co-tenant from the commencement of the tenancy, or has become such by succession or has been specifically recognized as such in writing by the land holder.

10. Thus under law, a written consent of zamindar was necessary for co-option. No such written consent of zamindar was produced by the petitioners. Theory of the petitioners that they had been through out paying rent of their half shares has also not been proved by them as the petitioners have filed 4 rent receipts, out of which one of the year 1358-F, one of the year 1359-F and two were of the year 1397-F. Apart from it, there are noting in khatauni 1356-F and 1359-F that original khataunis were in torn condition, which itself create a doubt regarding its correctness. Thus the findings that the petitioners could not prove that they were co-opted as co-tenant or paying rents of half share or were in possession of the land in dispute, do not suffer from any illegality. An illegal and unauthorized entry in khatauni cannot become a legal entry only on the ground that it has been perpetuated for a long time due to negligence of revenue authority or right owner as such on its basis no right can accrue to any one.

11. Supreme Court in Vishwa Vijay Bharati v. Fakhru Hassan, [1976 RD 237 (SC).] held that it is true that the entries in the revenue record ought, generally, to be accepted at their face value and Courts should not embark upon an appellate inquiry into their correctness. But the presumption of correctness can apply only to genuine, not forged or fraudulent, entries. The distinction may be fine but it is real. The distinction is that one cannot challenge the correctness of what the entry in the revenue record states but the entry is open to the attack that it was made fraudulently or surreptitiously. Fraud and forgery rob a document of all its legal effect and cannot found a claim to possessory title. This judgment has been followed in Wali Mohhd. v. Ram Surat, [1989 RD 403 (SC).] Again in Vikram Singh Junior High School v. District Magistrate (Fin. & Rev.), [(2002) 93 RD 278 (SC).] it has been held that the entry in the revenue record must have a legal basis. Further there was no adjudication of dispute as regards continuance of the wrong entry. The appellant could not have claimed any title over the land in dispute merely on the basis of wrong entry which continued in its favour through negligence or failure of the Revenue Officer or the Consolidation Officer to correct the record, in pursuance of the order of the Board of Revenue which had attained finality. In the consolidation proceedings, the Collector is also the District Deputy Director of Consolidation under the U.P. Consolidation of Holdings Act and is authorized to correct any wrong entry continued in the consolidation record in that capacity in the exercise of power under section 48. of the U.P. Con-solidation of Holdings Act.

12. A Special Bench of 5 Hon'ble, Judges in Basdeo v. Board of Revenue, U.P., [1974 RD 188 (DB).] and Supreme Court in Bechan v. Kankar, [1972 RD 219 (SC).] and Ram Harakh v. H amid Ahmad Khan, [(1998) 7 SCC 484.] held that in order to get right under section 20 of U.P. Act No. 1 of 1951 on basis of

entry of "recorded occupant" in 1356-F and 1359 F, entry must have been made according to the provisions of Land Records Manual and genuine. In present case, it has been found that the entry of the names of the petitioners was not a genuine entry as such under law no right accrued to them on the basis of unauthorized entry.

13. There is difference between "fraud" and "fabricated entry". Supreme Court in Reliance Salt Ltd. v. Cosmos Enterprises, [(2007) 66 ALR 653 (SC) : (2007) 50 AIC 82.] held that "Fraud" means and includes any of the following acts committed by a party to a contract, or with his connivance, or by his agent, with intent to deceive another party thereto or his agent, or to induce him to enter into the contract —

"(1) the suggestion, as a fact, of that which is not true, by one who does not believe it to be true;

(2) the active concealment of a fact by one having knowledge or belief of the fact;

(3) a promise made without any intention of performing it;

(4)any other act fitted to deceive;

(5) any such act or omission as the law specially declares to be fraudulent.

Explanation.—Mere silence as to facts likely to affect the willingness of a person to enter into a contract is not fraud, unless the circumstances of the case are such that, regard being had to them, it is the duty of the person keeping silence to speak, or unless his silence is, in itself, equivalent to speech."

14. Supreme Court in Bachan v. Kankar, [1972 RD 219 (SC).] held that fabricated entry is an entry which is incorrectly introduced into the records by reason of ill-will or hostility is not only shorn of authenticity but also becomes utterly useless without any lawful basis.

15. Thus case law relied upon by the petitioners, on the proposition of "fraud" has no application in this case. Only this much was required to be examined that entry in favour of the petitioners was genuine or fabricated and unauthorized. It has been found that entry of the names of the petitioners in khata in dispute was unauthorized. There is no illegality in the order of Deputy Director of Consolidation. In view of aforesaid discussions, the writ petition has merit and is dismissed.

16. Petition Dismissed."

(d) In the case of Bhagwati Deen vs. Sheetladin and Ors., 2022 156 RD 602, this Court observed as under:-

"36. Now, even if the contention of the petitioner is considered in terms of the plea that his name was recorded in 1359 Fasli muddatkasht two years and therefore he was in possession that also does not impresses the Court for the reason that in the

Khatauni of 1356, the name of the private respondents is recorded. In part-II there is no entry of either the petitioner or any other person shown as Shikmi. It is only in the khatauni of 1359 fasli that the name of the private respondents is recorded in the first part whereas the name of the petitioner Bhagwati Deen is recorded as Shikmi and so also in the Khatauni of 1362 fasli Part-II, however, there is nothing on record to indicate that the name of the private respondents were ever deleted or expunged. The possession of the petitioner has not been established in 1356 fasli and merely an indirect attempt is being made to relate to the possession to 1356 fasli by referring to the entry contained in 1359 fasli with muddat kasht of two years.

37. On the other hand, the name of the private respondents has continuously been recorded in 1356, 1359 and 1362 fasli and even in the Khasra of 12 years from 1366 to 1377 as well as Khataunis of 1364 to 1369 fasli which clearly establishes the clean chain of right and possession of the respondents."

23.2. The facts borne out from the affidavits filed by the State, which in fact have not been refuted, are also relevant for coming to the conclusion on Point/Issue No.2. The same, in brief, are as under:-

(a) In the 1333 Fasli (C.E. 1926), the entire land comprising Gata Nos. 1176A, 1176B, and 1176J, measuring 112 Bighas and 11 Biswas, was recorded as Talab (Pond), Usar, and Banjar.

(b) In the 1356 Fasli (C.E. 1949), the land in issue was recorded in three separate Khatas- 402/3, 404/1, and 406/4.

(c) In the revenue record, the land of Khata No. 402/3 (Gata Nos. 1176/1) measuring area 02 Bighas 02 Biswas 10 Biswanshi, was recorded as Banjar Land.

(d) Land of Gata No. 1176/3, measuring area 84 Bighas 06 Biswas 05 Biswansi and Khata No. 404/1 (Gata Nos. 406/4) measuring area 11 Biswas was recorded as Talab (Pond).

(e) Land of Khata No. 404/1 (Gata Nos. 1176/3) measuring area 23 Bighas 11 Biswa and 15 Biswanshi was recorded as Usar Land.

23.3 Upon due consideration of aforesaid, this Court is of the view that the entry in revenue records of the land in issue i.e. Gata/Plot No. 1176Ba (Now 1209) situated at Village - Jabrauli, Pargana - Nigoha, Tehsil-Mohanlalganj, District – Lucknow, according to which Gulab Chand was the 'Sirdar' of this land, is not genuine. In other words, the entry in the revenue records of 1359 Fasli (C.E. 1952) in favour of Gulab Chand is bogus, forged, fictitious, fabricated and has been made surreptitiously to usurp/grab the State land. It is for the following reasons:-

(a) No document (Khasra/Khatauni) has been placed on record to establish that in 1356 Fasli (C.E. 1949) or in previous years the name of Gulab Chand was recorded in the revenue records related to Gata/Plot No. 1176Ba (Now 1209).

(b) It is only in the Khasra of 1959 (C.E. 1952) of Gata/Plot No. 1176Ba (Now 1209), the name of Gulab Chand finds place.

(c) According to Section 20(b) of the Act of 1950 as also the judgment(s), referred above, the entry in the revenue records of 1356 Fasli (C.E. 1949) is relevant.

(d) The petitioners have failed to establish by way of pleadings and evidence in support thereof the fact that the

name of Gulab Chand was recorded after following the procedure prescribed under the law, which ought to be in view of the judgment(s), referred above.

23.4. Thus, no right could be claimed or sustained on the basis of the entry of 1359 Fasli (C.E. 1952) favourable to Gulab Chand, who according to the petitioners donated the land i.e. Gata/Plot No. 1176Ba (Now 1209) to Bhoodan Samiti.

G. <u>DECISION ON POINT/ISSUE NO.3</u>-

24. Decision on Point/Issue No.3, which is as under:-

> *"Whether the petitioners are entitled to any relief based upon the 'Bhoodan Lekh(s)/Gift Deed(s)' dated 26.03.1958."*

24.1. For coming to the conclusion on the Point/Issue No.3, quoted above, it would be appropriate to take note of aims and objects of the U.P. Act No. X of 1953, some relevant statutory provisions and pronouncements/judgments.

(a) The aims and object of the U.P. Act No. X of 1953, reads as under:-

> *"Aim and object for enacting the Act 1952 are as under:—*
>
> *"In the last cold weather Acharya Vinoba Bhave started the Bhoodan Yagna movement with a view to obtain land so that it could be distributed among the landless person of the State. The response of the people of the State very encouraging. The Zamindars as well as the tenants donated their land to Acharyaji. There were, however, certain legal difficulties. The donations made by the Zimindars were defective according to the provisions of Section 28 of the U.P. Zamindari Abolition and Land Reforms Act, 1950. The tenants did not possess any right to transfer their land by gift. The Bill is intended to remove these and certain other legal difficulties and to ensure the achievement of the object of this movement. Both in regard to the donations of land to the Bhoodan Yagna and its distribution to the landless person."*

Thus, the intention of the legislature in framing the U.P. Bhoodan Yagna Act, 1952 is to grant land to landless person who are bedded to the soil or who have attachment with the soil in any form and who have knowledge about the sou. Philosophy that the land must go to the tiller has been implemented in so many countries and reasonably in India to implement preamble of the Constitution i.e. to achieve social justice and to secure distributive justice under Article 38 of the Constitution of India."

(b) Relevant Section(s)/provision(s) of the U.P. Act No. X of 1953, from the copy of the Act provided, are extracted here-in-under:-

"2. In this Act unless there is anything repugnant in the subject or context-

(a) "Bhoodan Yagna" means the movement initiated by Sri Acharaya Vinoba Bhave for acquisition of land through voluntary gifts with a view to distribute it to landless persons;*

(b) "holding" shall have the same meaning assigned to it in the U. P. Tenancy Act, 1939;

(c) "owner" means, as respects any land-

(i) in areas where the rights of intermediaries have vested in the State Government under section 4 of the U. P Zamindari Abolition and Land Reforms Act, 1950, its [bhumidhar or Government Lessee) as the case may be;

(ii) in areas where the U. P. Tenancy Act, 1939, is in force for the time being, its landlord and also includes a rent-free grantee, a grantee at a favourable rate of rent, a grove-holder and a tenant mentioned in clauses (a) to (f) of section 21 of the said Act;

(iii) in other areas, its proprietors and also includes a tenant having a heritable and transferable interest in land;

(d) "prescribed" means prescribed by rules made under this Act;

(e) "State Government" means the Government of Uttar Pradesh;

(f) "words and expressions" not defined in this Act shall have the meaning assigned to them-

(i) in areas referred to in sub-clause (i) of clause (c) in the U. P. Zamindari Abolition and Land Reforms Act, 1950;

(ii) in areas referred to in sub-clause (ii) of the said clause in the U. P. Tenancy Act, 1939;

(iii) in other areas, in the law relating to land tenure applicable to the land."

Landless Means-

(1) Who has no land, (2) Who has no other means of livelihood except working on land as a lbaourer, (3) Who has ability to work on land and, (4) Who is ready to work himself on land.

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Donation of land to Bhoodan Yagna.

8. (1) Notwithstanding anything contained in any law for the time being in force, any person, being the owner of land, may donate and grant such land to the "Bhoodan Yagna" by a declaration in writing in that behalf (hereinafter called the Bhoodan declaration) in the manner prescribed.

(2) The Bhoodan declaration shall be filed with the Tahsildar as soon as it is made.

Publication of and Investigation upon the declaration.

9. Upon receipt of the Bhoodan declaration the Tahsildar shall-

(a) publish the same for objections, and

(b) make a summary inquiry as to the right, title, and interest of the donor in such land.

Donor competent to donate land

10. Notwithstanding anything contained in the U. P. Zamindari Abolition and Land Reforms Act, 1950, U. P. Tenancy Act, 1939, or any other law relating to land tenure as may be applicable, an owner shall be competent for purposes of this Act to donate the land held by him as such to the Bhoodan Yagna.

Filing, hearing and disposal of objections.

11. (1) Any person whose interest are affected by the Bhoodan declaration made under section 8 may, within thirty days of the publication of the declaration, file objections on the same before the Tahsildar.

(2) The Tahsildar shall register every such objection and shall fix a date of hearing, of which notice shall be given to the declarant, the objector and the Gaon Panchayat concerned.

(3) On the date of the hearing or any other date to which it may be postponed, the Tahsildar shall proceed to investigate and dispose of the objection and shall subject to the provisions of section 12-

(a) either confirm the Bhoodan declaration, or

(b) supersede the same.

(4) If the Tahsildar confirms the Bhoodan declaration then, notwithstanding anything contained in any law for the time being in force, all the rights, title and interest of the owner in such land shall stand transferred to and vest in the Bhoodan Committee for purposes of the Bhoodan Yagna:

Provided that no Land revenue shall be payable in respect of the land for a period of three years commencing from the first day of July next following the date of confirmation where such land was partikadeem or banjar on the date of donation.

(5) Where the Bhoodan declaration is superseded by the Tahsildar under sub-section (3), the donation shall stand cancelled and the owner shall be deemed to continue to have all his right, interests and title in such donation was made.

Lands which can not be donated.

12. Notwithstanding anything contained in any law an owner shall not, for purposes of this Act, be entitled to donate the land falling in any of the following classes, namely-

(a) lands which on the date of donation are recorded or by usage treated as common pasture land, cremation or burial grounds, tank, path-way or threshing floor; and

(b) land in which the interest of the owner is limited to the lifetime;

(c) Such other land as the State Government may by notification in the Gazette specify.

Lands donated prior to the commencement of this Act.

13. (1) Where any land has been donated to the Bhoodan Yagna prior to the commencement of this Act, the Collector shall prepare a list of all such lands other than lands to which the provisions of section 12 apply showing therein-

(a) the area and other particulars of the land;

(b) the name and address of the donor;

(c) date of donation;

(d) the nature of interest of the donor in the land;

(e) if the land has already been granted to any person in pursuance of the Bhoodan Yagna, the name and address of the person to whom the land has been granted (herein after called the grantee);

(f) the date of the grant under sub-clause (e); and

(g) such other particulars as may be prescribed.

(2) The list so prepare shall be published in the manner prescribed.

(3) Upon the publication of the list under sub-section (2) and notwithstanding anything in any law to the contrary-

(a) the right, title and interest of the donor in such land shall with effect from the date of donation be deemed to stand transferred to and vest in the Bhoodan Yagna Committee as if a Bhoodan Yagna declaration had been duly made and confirmed in respect thereto under and in accordance with section 8 und sub-section (3) of section 11;

(b) where such land has in pursuance of Bhoodan Yagna been granted to any person it shall with effect from the date of grant be deemed further to have been granted to the grantee under and in accordance with the provisions of section 14.

Grant of land to landless persons.

14. [(1)] The Committee or such other authority or person as the Committee may, with the approval of the State Government, specify either generally or in respect of any area, may, in the manner prescribed, grant lands which have vested in it to the landless, persons, and the grantee of the land shall-*

(i) where the land is situate in any situate which has vested in the State Government under and in accordance with section 4 of the U. P. Zamindari Abolition and Land Reforms Act, 1950, acquire in such land the rights and the liabilities of a Sirdar, and

(ii) where it is situate in any other area, acquire therein such rights and liabilities and subject to such conditions, restrictions and limitations as may be prescribed and the same shall have effect, ary law to the contrary notwithstanding."

(c) Relevant provision of U.P. Bhoodan Yagan Rules, 1953 (in short 'Rules of 1953'), from the copy of the Rules provided, are extracted here-in-under:-

"8. Donation of land to Bhoodan Yagna.-

(1) The Bhoodan Yagna declaration shall be in the form given in Appendix I.

(2) The declaration shall be accompanied by an extract from the current year's Khatauni duly certified by the lekhpal of the, halqa in which the land sought to be distributed lies. If the Khatauni be not available, an extract from the Khatauni for the year immediately preceding shall be filed.

(3) All donations of land made under the Act shall be entered in a register as shown in Appendix II by the Committee or its nominee, which shall be maintained district-wise with sub-headings for each tahsil and copy thereof shall also be sent to the Tahsildar, who shall maintain a similar register for his tahsil.

(4) The Bhoodan declaration shall be filed in the Court of the Tahsildar in whose tahsil the property is situate. Such

declarations shall be filed either by the donar himself or by the Committee on behalf of the donor.

9. Publication of and investigation upon the declaration.-

(1) Upon receipt of the said declaration, the Tahsildar shall register it in the same manner, as a report of succession or transfer of possession under section 34 of the U.P. Land Revenue Act, is registered in a register maintained for this purpose in the manner prescribed in sub-rule (2) below.

(2) The Tahsildar shall maintain a register for making the entries provided for by sub-rule (1) above in the form shown in the Appendix II-A. The entries in this register shall be with reference to the following classes of land for which separate sets of pages with sufficient number of blank pages to admit fresh entries, shall be allotted:

(1) Cultivable land,

(2) Banjar or parti land,

(3) Agricultural waste-land, and

(4) Forest land.

(3) The Tahsildar shall, on receipt of Bhoodan declaration published in the following manner and in the form as in Appendix III.

(a) A notice containing the particulars shown in the declaration shall be served, free of charge, upon all recorded tenure-holders except the person, who has filed the declaration;

(b) A copy of the declaration shall be affixed on a conspicuous place in the village in which the land is situate.

(4) The service of the notice shall be effected either by post or by revenue peons, or by both the means according to the discretion of the Tahsildar.

(5) The Tahsildar may record statements on oath and admit documents filed.

10. Filing, hearing and disposal of objections.-

(1) In making the summary inquiry provided for under Section 11, the Tahsildar shall ascertain whether,-

(a) the donor filing the declaration has prima facie a right, title or interest in the land specified in the declaration;

(b) the donor is legally competent to make the donation; and

(c) the land is vacant:

Provided that in those cases where the land donated is subject to a subordinate tenure or in the occupation of any other person, it shall be deemed to be vacant, if the subordinate tenure-holder or the person in occupation agrees in writing to the donation of this land and is prepared to vacate it in favour of the grantee or the Committee.

(2) The Tahsildar shall, before hearing the objections filed under Section 11, give notice to the declarant, the objector and the Gaon Panchayat concerned free of charge in the form shown in Appendix V in which grants of parti qadim and having made such enquiry as he deems fit, record his findings.

(3) The objections under sub-section (1) of Section 11 shall be in writing and follow the law of pleading.

11. The Tahsildar shall maintain a register in the form shown in Appendix V in which grants of parti qadim and Banjar lands granted revenue free for three years shall be entered.

12. The Committee shall maintain a register in the form shown in Appendix VI in which the grant made by it shall be entered.

13. Particulars of the list prepared under section 13 and the publication thereof.-

(1) The list mentioned in Section 13 shall, in addition to the particulars stated in that section, contain the following particulars:

(a) The nature of the land showing if it is cultivated barren, forest, etc.

(b) A certificate that the land does not belong to any of the classes mentioned in Section 1.

(c) The land revenue or rent to which the land was assessed on the date immediately preceding the date of donation.

(2) A copy of the said list shall be posted at the Tahsil Notice Board, another shall be fixed at a conspicuous place in the village in which the land donated is situate.

14. Rights and liabilities of persons to whom land is granted.-

(1) The Bhoodan Yagna Committee shall execute a donation deed which may be in the form as in Appendix VII.

(2) The grantee of land in the areas to which the U.P. Zamindari Abolition and Land Reforms Act, 1950, does not apply shall acquire such right and liabilities as the Committee may confer under the law. The grantee shall be subject to the following conditions, restrictions, and limitations:

(a) the grantee shall pay the rent to the Committee in such instalments and on such dates as the Committee may specify;

(b) the grantee shall not be entitled to sublet or transfer the land; and

(c) the grantee shall not be entitled to use the land for any purpose other than for which it was granted."

(d) Relevant pronouncement(s)/judgment(s) on the Point/Issue No. 3, aforesaid, are as under:-

(i) In the case of U.P. Bhoodan Yagna Samiti, U.P. v. Braj Kishore, (1988) 4 SCC 274, the Hon'ble Apex Court observed as under:-

"3. Before the High Court two questions were raised. First was about the jurisdiction of the Additional Collector as under the Act the duties were cast on the Collector to enquire into these matters and therefore on that ground it was contended before the High Court that Additional Collector has no jurisdiction. The other ground which was raised before the High Court was that the view taken by the Additional Collector is not in accordance with law. So far as the first ground is concerned, even the High Court held against the respondents and before us learned Counsel for parties conceded that to that part of the High Court judgment there is no challenge and this now is not in dispute that the Additional Collector has jurisdiction to enquire into the matter and therefore on that ground it is not necessary for us to dilate any more.

4. We are therefore mainly concerned with as to whether the settlement made by the Bhoodan Yagna Samiti in favour of the respondents was in accordance with law or which was not in accordance with law and therefore Additional Collector was right in setting aside those allotments.

5. As regards the second question, the facts in this case are not in dispute. The respondents are businessmen residing in Kanpur. It is not disputed that they have their trade in Kanpur and have properties also and are income tax-payers. It is also not in dispute that they are not agriculturists and they had at the time of allotment nothing to do with agriculture. Apart from it their source of livelihood was not agriculture at all but trade and business. It is also not in dispute that they did not fall into any of the categories of persons depending on agriculture who did not have land in their name. On this ground, it was contended before the Additional Collector that in fact the allotment was obtained by the respondents by misrepresenting that they are landless persons and on the basis of this the allotments were made which could not be justified.

6. Before the High Court it was contended that Section 14 of the U.P. Bhoodan Yagna Act which provides for allotment of land only talks of landless persons. Section 14 as it stood in the year 1968 enabled the Samiti to settle the land vested in it with landless persons. Section neither specifies that such landless persons should also be agricultural labourers nor it provided that

they have to be residents of a place in which the concerned lands were located. It was also not provided that the persons must be such whose source of livelihood is agriculture. The High Court on the basis of its earlier decision felt that Section 14 as it stood in 1968 did not provide any one of these qualifying clauses and therefore the respondents who admittedly had no land in that village and the district, they were covered by the definition of landless persons, in spite of the fact that they may be traders and paying income tax, may have properties in the city of Kanpur, still the learned Judges of the High Court felt that they well within the ambit of the definition of landless persons as it stood in 1968 and therefore settlement made in their favour was justified. High Court relied on Section 14 as it stood in 1968. It reads:

"14. Grant of land to landless persons.—The Committee or such other authority or person, as the Committee may, with the approval of the State Government, specify either generally or in respect of any area, may, in the manner prescribed, grant lands which have vested in it to the landless persons, and the grantee of the land shall—

(i) where the land is situate in any estate which has vested in the State Government under and in accordance with Section 4 of the U.P. Zamindari Abolition and Land Reforms Act, 1950, acquire in such land the rights and the liabilities of a sirdar, and

(ii) where it is situate in any other area, acquire therein such rights and liabilities and subject to such conditions, restrictions and limitations as may be prescribed and the same shall have effect, any law to the contrary notwithstanding."

It is not disputed that these allotments were made in accordance with Section 14 but had not been approved by the Government and it was even before that the Additional Collector took notice of the complaint and issued notice to the respondents and on the basis of his enquiry he cancelled the allotments made in their favour by the order in 1976 which has been quashed by the High Court.

7. It was contended by learned Counsel appearing for the petitioner (Bhoodan Yagna Samiti) that although Section 14 quoted above does not clearly indicate what the law meant by landless persons but in view of the scheme of Bhoodan Yagna the movement which Acharya Vinoba Bhave and later Jaya Prakash Narain carried out and the purpose of the movement clearly indicated that when in Section 14 allotment was contemplated in favour of landless persons it only meant those landless persons whose main source of livelihood was agriculture and who were agriculturists residing in the village where the land is situated and who had no land in their name at that time. It never meant that all those rich persons who are residing in the cities and have properties in their possession but who are technically landless persons as they did not have any agricultural land in their name in the tehsil or the village where the land was situated or acquired by the Bhoodan Samiti that it could be allotted in their favour. This was not the purpose or the philosophy of Bhoodan Yagna and therefore it was contended that such a view which has been taken by the learned Judges of the High Court is

contrary to law and the interpretation put by the High Court on the language of Section 14 could not be justified. It was contended that landless person has to be interpreted in the background of the law which was enacted and the movement and the philosophy behind the movement which was the basis of the enactment of this law and it is only in that background that these words "landless persons" could be properly interpreted.

8. It was also contended that if there was any doubt left, Section 15 makes the things still clearer. Section 15 reads:

"Grants to be made in accordance with Bhoodan Yagna Scheme. —All grants shall be made as far as may be in accordance with the scheme of Bhoodan Yagna."

Section 15 provides that all grants shall be made so far as may be in accordance with the scheme of the Bhoodan Yagna, and it could not be disputed that Bhoodan Yagna scheme only contemplated allotment of lands in favour of those landless agricultural labourers who were residing in the villages concerned and whose source of livelihood was agriculture and who were landless and in that context only the landless person could be understood as contemplated under Section 14. It appears that in 1975 by an amendment in place of "landless persons" in Section 14 "landless agricultural labourers" was substituted and the objects and reasons when this Amendment Bill was moved, clearly go to show that it was because of such errors committed that it became necessary to make this amendment. The Objects and Reasons of the Uttar Pradesh Bhoodan Yagna (Amendment) Act, 1975 reads:

"Prefatory Note.—Statement of Objects and Reasons.—The Uttar Pradesh Bhoodan Yagna Act, 1952 provides for distribution of Bhoodan land to the landless persons by the Uttar Pradesh Bhoodan Samiti. It has come to the notice of Government that in certain cases persons other than landless persons have also received by fraud the land donated under the said Act. It has also come to the notice of Government that in many cases, for various reasons, the land vested in the Committee is not actually distributed. It has, therefore, been considered necessary to empower the Collector to cancel the grants received by misrepresentation or fraud, and further, where the Committee does not grant the land within a period of three years, to authorise him to distribute the land according to the provisions of the Act."

By this Amendment Act in Section 14 in place of landless person "landless agricultural labourers" was substituted, and this clearly shows that it became necessary only because such errors were committed in understanding the meaning of words "landless persons".

9. The rule of interpretation which had been generally accepted in later part of 19th century and the first half of 20th century was that the word should be given its plain ordinary dictionary meaning and it is clear that learned Judges of the High Court in the impugned Judgment interpreted the words "landless persons" on that basis and in so doing they followed their earlier judgment. But if the scheme of Bhoodan Yagna which has to be looked into because of Section 15 has been looked into or the

purpose of the movement of Bhoodan Yagna which was started by late Acharya Vinoba Bhave and followed by Shri Jaya Prakash Narain was understood, this interpretation would not have been possible.

10. In India we have yet another problem. The movement and the problems which are debated at all levels is not in the language in which ultimately the law to meet those situations was enacted. The Bhoodan Yagna movement used generally a term "Bhoomihin Kissan" and it is this term which gained momentum and virtually was understood to mean those agricultural labourers whose main source of livelihood is agriculture but who have no lands of their own or who have no lands (agricultural) recorded in their names in the revenue record and it is this problem of "Bhoomihin Kissan" that this movement went on to settle and this Act was enacted to remedy that problem but our draftsman while drafting the law borrowed the phrase "landless person" in place of "Bhoomihin Kissan" and this unfortunately led to the present interpretation put by the High Court in the impugned judgment as the High Court followed the rule of interpretation which in my opinion has become obsolete.

11. At the time when Acharya Vinoba Bhave started his movement of Bhoodan Yagna our rural society had a peculiar diversity. There were some who owned or had leasehold rights in vast tracks of agricultural lands whereas on the other hand there were those who were working on agriculture as labourers in the fields and depending on what little they got from their masters. Sometimes they were even bound down to their masters and therefore had to lead miserable life. It was this problem in rural India which attracted the attention of Acharya Vinoba Bhave followed by Shri Jaya Prakash Narain and they secured large donations of land from big land holders and the scheme of the Bhoodan Yagna movement was to distribute this land to those "Bhoomihin Kissan" who were living on agriculture but had no land of their own and it was to make this effective and statutory that this law was enacted and in this context it is clear that if one had noticed even the slogan of Acharya Vinoba Bhave's movement or its basis and the purpose it would have clearly indicated the problem which was to be remedied by this enactment and if this was looked into for the purpose of interpretation of the term "landless persons" no court could have come to the conclusion which has been arrived at in the impugned judgment.

12. In this country we have a heritage of rich literature, it is interesting to note that literature of interpretation also is very well known. The principles of interpretation have been enunciated in various shlokas which have been known for hundreds of years. One such shloka (verse) which describes these principles with great precision is:

Upkramop Sunharo Abhyaso Uppurwatta Falam Arthwadoppatti Ch Lingam Tatparya Nirnaye

13. This in short means that when you have to draw the conclusion from a writing you have to read it from beginning till end. As without doing it, it is difficult to understand the purpose,

if there is any repetition or emphasis its meaning must be understood. If there is any curiosity or a curious problem tackled it should be noticed and the result thereof must be understood. If there is any new innovation (uppurwatta) or something new it should be taken note of. Then one must notice the result of such innovation. Then it is necessary to find what the author intends to convey and in what context.

14. This principle of interpretation was not enunciated only for interpretation of law but it was enunciated for interpreting any piece of literature and it meant that when you have to give meaning to anything in writing then you must understand the real meaning. You can only understand the real meaning by understanding the reference, context, the circumstances in which it was stated and the problems or the situations which were intended to be met by what was said and it is only when you take into consideration all this background, circumstances and the problems which have to be tackled that you could really understand the real meaning of the words. This exactly is the principle which deserves to be considered.

15. When we are dealing with the phrase "landless persons" these words are from English language and therefore I am reminded of what Lord Denning said about it. Lord Denning in "The Discipline of Law" at p. 12 observed as under:

"Whenever a statute comes up for consideration it must be remembered that it is not within human powers to foresee the manifold sets of facts which may arise, and, even if it were, it is not possible to provide for them in terms free from all ambiguity. The English language is not an instrument of mathematical precision. Our literature would be much the poorer if it were. This is where the draftsmen of Acts of Parliament have often been unfairly criticised. A Judge, believing himself to be fettered by the supposed rule that he must look to the language and nothing else, laments that the draftsmen have not provided for this, or that, or have been guilty of some or other ambiguity. It would certainly save the Judges trouble if Acts of Parliament were drafted with divine prescience and perfect clarity. In the absence of it, when a defect appears a Judge cannot simply fold his hands and blame the draftsman. He must set to work on the constructive task of finding the intention of Parliament …"

16. And it is clear that when one has to look to the intention of the legislature, one has to look to the circumstances under which the law was enacted. The preamble of the law, the mischief which was intended to be remedied by the enactment of the statute and in this context, Lord Denning, in the same book at p. 10, observed as under:

"At one time the Judges used to limit themselves to the bare reading of the statute itself — to go simply by the words, giving them their grammatical meaning, and that was all. That view was prevalent in the 19th century and still has some supporters today. But it is wrong in principle. The meaning for which we should seek is the meaning of the statute as it appears to those who have to obey it — and to those who have to advise them what to do about it; in short, to lawyers like yourselves. Now the statute does not come to such folk as if they were eccentrics cut

off from all that is happening around them. The statute comes to them as men of affairs — who have their own feeling for the meaning of the words and know the reason why the Act was passed — just as if it had been fully set out in a preamble. So it has been held very rightly that you can inquire into the mischief which gave rise to the statute — to see what was the evil which it was sought to remedy."

It is now well-settled that in order to interpret a law one must understand the background and the purpose for which the law was enacted. And in this context as indicated earlier if one has bothered to understand the common phrase used in the Bhoodan Movement as "Bhoomihin Kissan" which has been translated into English to mean "landless persons" there would have been no difficulty but apart from it even as contended by learned Counsel that it was clearly indicated by Section 15 that the allotments could only be made in accordance with the scheme of Bhoodan Yagna. In order to understand the scheme of Bhoodan and the movement of Shri Vinoba Bhave, it would be worthwhile to quote from "Vinoba And His Mission" by Suresh Ram printed with an introduction by Shri Jaya Prakash Narain and foreword by Dr S. Radhakrishnan. In this work, statement of annual Sarvodaya Conference at Sevapuri has been quoted as under:

"The fundamental principle of the Bhoodan Yagna movement is that all children of the soil have an equal right over the Mother Earth, in the same way as those born of a mother have over her. It is, therefore, essential that the entire land of the country should be equitably redistributed anew, providing roughly at least five acres of dry land or one acre of wet land to every family. The Sarvodaya Samaj, by appealing to the good sense of the people, should prepare their minds for this equitable distribution and acquire within the next two years at least 25 lakhs of acres of land from about five lakhs of our villages on the rough basis of five acres per village. This land will be distributed to those landless labourers who are versed in agriculture, want to take to it, and have no other means of subsistence."

(Underlining for emphasis by us)

This would clearly indicate the purpose of the scheme of Bhoodan Yagna and it is clear that Section 15 provided that all allotments in accordance with Section 14 could only be done under the scheme of the Bhoodan Yagna."

(ii) In the case of B.R. Nangia v. State of U.P., 2011 SCC OnLine All 1013; this Court, after considering the aims and objects as also the relevant provision of U.P. Act No. X of 1953, observed as under:-

"7. Before coming to the question of non-observance of principle of natural justice, the pure legal question with respect to application of section 131-B of Act, 1950 in respect to land governed by 1952 Act, I find it appropriate to deal with this

issue first since it is a pure question of law and needs to be clarified by this Court.

8. Act, 1952 was enacted to facilitate donation of land in connection with the Bhoodan Yagna initiated by Acharya Vinoba Bhave and to provide for settling of such land on the landless persons. The statute was enacted realizing certain difficulties faced in respect to donation of land by the persons having agricultural land in view of certain provisions of Act, 1950 and to overcome such difficulties. The statement of objects and reasons published with Act, 1952 in U.P. Gazette, Extraordinary, dated 21.11.1952 reads as under:

"In the last cold weather Acharya Vinoba Bhave started the Bhoodan Yagna movement with a view to obtain land so that it could be distributed among the landless persons of the State. The response of the people of the State was very encouraging. The Zamindars as well as the tenants donated their land to Acharyaji. There were, however, certain legal difficulties. The donations made by the zamindars were defective according to the provisions of section 28 of U.P. Zamindari Abolition and Land Reforms Act, 1950. The tenants did not possess any right to transfer their lands by gift. The Bill is intended to remove these and certain other legal difficulties and to ensure the achievements of the object of this movement. Both in regard to the donations of land to the Bhoodan Yagna and its distribution to the landless persons".

9. The Act contemplates establishment and incorporation of a Committee, namely, Bhoodan Yagna Committee under State of U.P. (hereinafter referred to as "Bhoodan Committee") having perpetual succession, a body corporate, vested with the capacity to sue and being sued in its corporate names acquiring, holding, administering and transferring property, both movable and immovable and entering into contracts. The constitution of Bhoodan Committee and other details are contained in sections 4, 5 and 6 of 1952 Act. The duties of the Committee are contained in section 7, which reads as under:

"7. Duties of the Committee.—(1) It shall be the duty of the Committee to administer all lands vested in it for the benefit of the Bhoodan Yagna.

(2) The Committee shall for the purpose of Bhoodan Yagna perform such other functions and possess such other powers as may be necessary in respect of such land."

10. The land which is donated and is governed by Act, 1952 after such donation is completely vest in "Bhoodan Committee" by virtue of sections 11(4) and 13(3)(a) of Act, 1952. When Bhoodan Committee or Collector, as the case may be, grant land to landless persons, rights conferred upon such person are provided in sections 14 and 15 of 1952 Act which read as under:

"14. Grant of land to landless persons.—(1) The Committee or such other authority or person as the Committee with the approval of the State Government, specify either generally or in respect of any area, may, in the manner prescribed, grant lands which have vested in it to the landless agricultural labourers and the grantee of the land shall:

(i) where the land is situate in any state which has vested in State Government under and in accordance with section 4 of the U.P. Zamindari Abolition and

Land Reforms Act, 1950, acquire in such land the right and the liabilities of a bhumidhar with nontransferable rights and the grantee of the land shall;

(ii) where it is situate in any other area, acquire therein such rights and liabilities and subject to such conditions, restrictions and limitations as may be prescribed and shall have effect, any law to the contrary notwithstanding.

(2) Where the Committee or other authority or person as aforesaid fails to grant any land in accordance with sub-section (1) within a period of three years from the date of vesting of such land in the Committee or from the date of commencement of the Uttar Pradesh Bhoodan Yagna (Amendment) Act, 1975, whichever is later, the Collector may himself grant such land to the landless agricultural labourers in the manner prescribed, and thereupon the grantee shall acquire the rights and liabilities mentioned in sub-section (1) as if the grant were made by the Committee himself.

(3) Omitted

(4) In making grant of land under this section, the committee or other authority or persona as aforesaid or the Collector, as the case may be, shall observe the following principles:

(a) At least fifty per cent of the land available for grant shall be granted to persons belonging to the Scheduled Castes, Scheduled Tribes and persons belonging to the Kol, Pathari, Khairwar, Baiga, Dharikar, Panika and Gond Tribes and such other tribes as the State Government on the recommendations of the Committee may notify in this behalf;

(b) The land situate in one village shall, as far as possible, be granted to persons residing in that very village.

Explanation.—For the purpose of this section, the expression "landless agricultures labourer" means a person whose main source of livelihood is agriculture labour or cultivation and who at the relevant time either holds no land or holds lands not exceeding 0.40468564 hectares (one acre) in Uttar Pradesh as a bhumidhar, asami or Government lessee.

15. Grants to be made in accordance with Bhoodan Yagna Scheme.—All grants shall be made as far as may be in accordance with the scheme of Bhoodan Yagna.

11. A grant made under Act, 1952 can be cancelled in certain contingencies as provided in section 15-A, which reads as under:

15-A. Cancellation of certain grants.—(1) The Collector may of his own motion and shall on the report of the Committee or on the application of any person aggrieved by the grant of any land made under section 14, whether before or after the commencement of the Uttar Pradesh Bhoodan Yagna (Amendment) Act, 1975, inquire into such grant, and if he is

satisfied that the grant was irregular or was obtained by the grantee by misrepresentation or fraud, he may:

(i) cancel the grant, and on such cancellation, notwithstanding anything contained in section 14 or in any other law for the time being in force, the rights, title and interest of the grantee or any person claiming through him in such land shall cease, and the land shall revert to the Committee; and

(ii) direct delivery of possession of such land to the Committee after ejectment of every person holding or retaining possession thereof, and may for that purpose use or cause to be used such force as may be necessary.

(2) Notice of every proceeding under sub-section (1) shall be given to the committee, and any representation made by the Committee in relation thereto shall be taken into consideration by the Collector.

(3) No order shall be passed under sub-section (1) except after giving an opportunity of being heard to the grantee or any person known to the Collector to be claiming under him.

(4) The order of the Collector passed under sub-section (1) shall be final and conclusive.

12. Act, 1950, in essence, has not been made applicable to Act, 1952 in its entirety to the land governed by Act, 1950. Therefore, all the provisions of Act, 1950 cannot be applied to the grant of land governed by Act, 1952 ipso facto.

13. Further, section 17 of Act, 1952 confers power upon the State Government to make Rules for the purpose of carrying into effect the provisions of the Act. Sub-section 2(k) says specifically that Rules may provide for the matters relating to the land in pursuance of section 14.

14. In purported exercise of power under section 17 of Act, 1952, U.P. Bhoodan Yagna Rules, 1953 (hereinafter referred to as "Rules, 1953") has been framed.

15. Rule 3 provides that after grant of land by the Bhoodan Committee to a grantee, the grantee as also the land which is subject of the grant shall, subject to the provisions of the Act, be governed by the prevailing law relating to land-tenure.

16. This makes it clear that Act, 1950 would apply to the land governed by Act, 1952 but subject to Act, 1952. Rule 14(2) provides two aspects, firstly in respect to the land to which Act, 1950 does not apply. It says that the grantee shall acquire such rights and liabilities as the Bhoodan Committee may confer under the law. In general, for all grantees it says that the grantee shall be subject to the following conditions, restrictions and limitations:

(i) the grantee shall pay the rent to the Committee in such instalments and on such dates as the Committee may specify;

(ii) the grantee shall not be entitled to sublet or transfer the land; and

(iii) the grantee shall not be entitled to use the land for any purpose other than for which it was granted.

17. Therefore, it is very much clear under the Rules also that grantee shall not be entitled to sublet or transfer the land and cannot use it for the purpose other than it was granted.

18. In the circumstances, in absence of anything to show that Act, 1950 had overriding effect over the Act, 1952, it cannot be said that land once granted by means of grant by Committee would be governed by the provisions of Act, 1950 in all respect including section 131-B ignoring the provisions of Act, 1952."

(iii) In the case of Sayeed Abbas vs. State of U.P. and Others; 2023 SCC OnLine All 3938, with regard to the lease granted to a minor under the U.P. Act No. X of 1953, this Court observed as under:-

"40. From the aforesaid, it can be deduced that taking note of fundamental principle of 'Bhoodan Yagan Movement' the U.P. Act No. 10 of 1953 was enacted with the intention "to grant land to landless person who are bedded to the soil or who have attachment with the soil in any form and who have knowledge about the soil".

41. The Hon'ble Apex Court in the judgment passed in the case of U.P. Bhoodan Yagna Samiti, U.P. (Supra), considered the expression 'landless person' as also expressions 'landless agricultural labourers' which was substituted in place of 'landless person' vide U.P. Act No. 10 of 1975 and also the purpose of enactment, which was enacted to provide land to 'Bhoomihin Kissan' and thereafter upheld the order of Additional Collector cancelling the Grant(s) provided to the private respondents before the Hon'ble Apex Court.

42. Taking note of aforesaid as also Section 14(1) of the U.P. Act No. 10 of 1953 wherein the expression 'landless agricultural labourers' was inserted vide U.P. Act No. 10 of 1975, this Court is of the firm view that under the U.P. Act No. 10 of 1953 the land was to be provided or could have been provided to 'landless agricultural labourers/Bhoomihin Kissan'.

43. In the instant case, admittedly, the land was provided to a minor by virtue of Grant(s) dated 19.06.1982 and 02.09.1985, respectively, in terms of Section 16 of the U.P. Act No. 10 of 1953. To the view of this Court, in the light of aims and objects of the enactment, a 'minor' can not be placed within the expression "landless agricultural labourers/Bhoomihin Kissan/Tiller' and a minor can also not be considered as a person bedded to the soil or having attachment with the soil or having

knowledge about the soil, as it is natural presumption that the 'minor' would be in the guardianship of parents and in case the parents are not alive then in the guardianship of any other elderly person of the family and it can not be presumed that a 'minor' would do agricultural work independently. Thus, the Grant(s) dated 19.06.1982 and 02.09.1985, respectively, were not made in the spirit of Bhoodan Yagan Movement as also in the light of the provision of the U.P. Act No. 10 of 1953, according to which, the Grant shall be made in accordance with the scheme of Bhoodan Yagan Samiti. Thus, the Grant(s), in issue, to the view of this Court, itself were in violation of law and being so, were Void Ab Initio.

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49. *In regard to submissions of learned counsel for the petitioner, based upon the judgment passed in the case of* ***K. Balakrishnan*** *(Supra) and Section 122, 123, 126 and 127 of the Transfer of Property Act, 1882 (in short "Act of 1882"), which are to the effect that the Grant(s) under the U.P. Act No. 10 of 1953 are akin to gift and gift can be granted to a minor are concerned, this Court is of the view that the same have force as the U.P. Act No. 10 of 1953 is a special law and Transfer of Property Act, 1882 is general law and there is maxim "Generalia Specialibus Non Derogant" and the law in this regard is also settled that special law would prevail over general law, more particularly, when the U.P. Act No. 10 of 1953 was framed with specific aims and objects, according to which, the Grant under the U.P. Act No. 10 of 1957 can be provided to 'landless agricultural labourers/Bhoomihin Kissan/Tiller'.*

50. *Moreover, a copy of Deed (Annexure No. 4 to the petition) does not indicate that who had accepted the Gift/Grant on behalf of petitioner, who, admittedly was minor at relevant time.*

51. *It is established law that the transfer of Gift cannot be deemed complete till not accepted by the donee and in the instant case, the donee (petitioner) was minor at relevant point of time and as such, in the deed the fact that the guardian accepted the Gift on behalf of donee ought to have been mentioned and it is apparent from the copy of the deed (Annexure No. 4 to the petition) that at relevant time the father of the petitioner was alive, however, on the same there is no indication of acceptance of gift on behalf of donee (petitioner, who was minor at relevant time).*

52. *Thus, also for the reasons aforesaid, the submissions of learned counsel for the petitioner based upon the provisions of the Act of 1882, to the view of this Court, have no force."*

24.2. From the aforesaid, it can be deduced that taking note of fundamental principle of 'Bhoodan Yagan Movement' the U.P. Act No. X of 1953 was enacted with the intention "to grant land to landless person who are bedded to the soil or

who have attachment with the soil in any form and who have knowledge about the soil".

24.3. In other words the U.P. Act No. X of 1953 was enacted with intention to provide land to a person (1) Who has no land, (2) Who has no other means of livelihood except working on land as a labourer, (3) Who has ability to work on land and, (4) Who is ready to work himself on land.

24.4. The Hon'ble Apex Court in the judgment passed in the case of U.P. Bhoodan Yagna Samiti, U.P. (Supra), considered the expression 'landless person' as also expressions 'landless agricultural labourers' which was substituted in place of 'landless person' vide U.P. Act No. X of 1975 and also the purpose of enactment, which was enacted to provide land to 'Bhoomihin Kissan' and thereafter upheld the order of Additional Collector cancelling the Grant(s) provided to the private respondents before the Hon'ble Apex Court.

24.5. Taking note of aforesaid this Court is of the firm view that under the U.P. Act No. X of 1953 the land was to be provided or could have been provided to 'landless agricultural labourers/Bhoomihin Kissan'. In other words, the land under the U.P. Act No. X of 1953 could be provided to the person (1) who has no land, (2) who has no other means of livelihood except working on the land as labourer, (3) who has ability to work on land and, (4) who is ready to work himself on land.

24.6. Upon due consideration of above referred statutory provision(s) and judgment(s) as also the facts brought to the

notice to this Court, this Court finds that the petitioners are not entitled to any relief based upon the 'Bhoodan Lekh(s)/Gift Deed(s)' executed on 26.03.1958. It is for the following reasons:-

(a) In the instant case, admittedly, the land was provided to the minor(s) or not even born through Bhoodan Lekh(s)/Gift deed(s) dated 26.03.1958 namely Radhey Lal, Babu Lal, Suresh Chandra, Algoo Ram and Ram Sagar, which is evident from the following facts:-

(i) According to the affidavit filed in support of the writ petition i.e. Writ B No. 561 of 2005, the petitioner Radhey Lal was aged about 45 years in the year 2005. Thus, on the date of execution of Bhoodan Lekh/Gift Deed i.e. on 26.03.1958, the Radhey Lal was not born.

(ii) According to the affidavit filed in support of the writ petition i.e. Writ B No. 562 of 2005, the petitioner Babu Lal was aged about 55 years in the year 2005. Thus, on the date of execution of Bhoodan Lekh/Gift Deed i.e. on 26.03.1958, the Babu Lal was aged about 8 years.

(iii) According to the affidavit filed in support of the writ petition i.e. Writ B No. 501 of 2005, the petitioner Suresh Chandra was aged about 57 years in the year 2005. Thus, on the date of execution of Bhoodan Lekh/Gift Deed i.e. on 26.03.1958, the Suresh Chandra was aged about 10 years.

(iv) According to the affidavit filed in support of the writ petition i.e. Writ B No. 167 of 2007, the petitioner Algoo Ram was aged about 60 years in the year 2007. Thus, on the date of execution of Bhoodan Lekh/Gift Deed i.e. on 26.03.1958, the Algoo Ram was aged about 11 years.

(v) According to the affidavit filed in support of the writ petition i.e. Writ B No. 616 of 2005, the petitioner Ram Sagar was aged about 60 years in the year 2005. Thus, on the date of execution of Bhoodan Lekh/Gift Deed i.e. on 26.03.1958, the Ram Sagar was aged about 13 years.

(b) To the view of this Court, in the light of aims and objects of the enactment, a 'minor' can not be placed within the expression 'landless agricultural labourers/Bhoomihin Kissan/Tiller' and a minor can also not be considered as a person bedded to the soil or having attachment with the soil or having knowledge about the soil, as it is natural presumption that the 'minor' would be in the guardianship of parents and in case the parents are not alive then in the guardianship of any other elderly person of the family and it can not be presumed that a 'minor' would do agricultural work independently.

(c) Thus, the aforesaid Bhoodan Lekh(s)/Gift deed(s) dated 26.03.1958 executed in favour of Radhey Lal, Babulal, Suresh Chandra, Algoo and Ram Sagar were not in the spirit of Bhoodan Yagan Movement and in the light of the provision of the U.P. Act No. X of 1953, according to which the Grant shall

be made in accordance with the scheme of Bhoodan Yagan Samiti, as explained here-in-above. Thus, the Grant(s) aforesaid, to the view of this Court, itself were in violation of law and being so, were Void-Ab-Initio.

(d) Sandeep Singh the petitioner in Writ - B No. 566 of 2005 is claiming his rights on the basis of Bhoodan Lekh/Gift Deed dated 26.03.1958 executed in favour of his father namely Balwant Singh. According to the affidavit filed in support of this writ petition, Sandeep Singh was aged about 45 years in the year 2005. In this view of the matter, if it is presumed that Balwant Singh was an adult on 26.03.1958, the date on which the Bhoodan Lekh/Gift Deed was executed in his favour, even in that eventuality, no relief can be provided to Sandeep Singh. It is for the following reasons:-

(i) Sandeep Singh was not substituted in place of Balwant Singh during pendency of appeal.

(ii) After the death of Balwant Singh during pendency of appeal, the name of Dilip Kumar, real brother of Sandeep Singh was substituted and he alone contested the appeal.

(iii) Dilip Kumar Singh has not impeached the impugned orders by way of filing the writ petition.

(iv) The order of the S.O.C. dated 07.06.2003 was challenged by Ram Naresh Singh S/o Balwant Singh by means of Revision No. 268/653 and Ram Naresh Singh has also not filed the writ petition challenging the order(s) in issue.

(v) In view of aforesaid, to the view of this Court, the petition filed by Sandeep Singh challenging the order(s) passed by the Consolidation authorities is not maintainable.

(e) The petitioner(s) Tarawati W/o Surendra Kumar and Banwari Lal S/o Shiv Lal Maurya have filed the Writ – B No. 42 of 2015. The petitioner-Tarawati has claimed her rights over the land in issue situated at Village-Jabrauli, Tehsil-Mohanlalganj, District-Lucknow, through a registered 'Will' executed by Ram Sumer on 30.3.2007, who expired on 24.3.2010 and in whose favour the Bhoodan Lekh/Gift Deed was executed on 26.3.1958 and who contested the case before the authorities concerned based on the Bhoodan Lekh/Gift Deed dated 26.3.1958. The petitioner-Banwari Lal son of Shivlal Maurya has claimed his rights on the basis of plea of adverse possession against the original tenure holder Gulab Chand son of Khatri as per the averments made in para 16 of the writ petition which is as under:-

> *"That since the petitioners are claiming right over the property on the basis of adverse possession from original tenure holder Seth Gulab Chandra son of Lala Ayodhya Nath Khatri, therefore revenue authorities ought to have recorded the name of petitioners in the revenue records, rather to continue fake entries in favour of Goan Sabha."*

(f) According to the affidavit filed in support of the writ petition i.e. Writ - B No. 480 of 2005, the petitioner Smt. Kamla Rani was aged about 67 years in the year 2005. Thus, on the date of execution of Bhoodan Lekh/Gift Deed i.e. on 26.03.1958, the Smt. Kamla Rani was aged about 20 years.

(g) After considering the aforesaid, this Court is of the view that the petitioner(s) Tarawati, Banwari Lal and Sandeep Singh (whose petition has been held to be not maintainable) and also Smt. Kamla Rani are not entitled to any indulgence by this Court. It is for the reason that this Court has already held, in para 23.3 of this judgment, that the revenue entry related to Gulab Chand is not a genuine entry. In this regard, it would be apt to refer following two maxims:-

(i) *'Nemo Dat Quod Non Habet',* which means 'no one can give what they do not have' and in other words, 'no man convey a better title than what he has'.

(ii) *'Sublato Fundamento Cadit Opus',* which means 'the foundation being removed, the structure falls.'

(h) In addition to above, all the petitioners have failed to establish that the land in issue was donated by Gulab Chand, as per the mode, manner and procedure prescribed in the law, if presumed that the entry in 1359 Fasli (C.E. 1952) was genuine. In this regard, reference can be made to Section(s) 9, 11, 13 and 14 of U.P. Act No. X of 1953 (quoted at page Nos. 44 to 48 of this judgment) and Rule(s) 8 to 13 of the Rules of 1953 (quoted at page Nos. 48 to 52 of this judgment).

(i) In regard to submissions of learned counsel for the petitioner(s) that the Gift/Grant(s) under the U P. Act No. X of 1953 can be provided/granted to a minor are concerned, this Court is of the view that the same have force as the U.P. Act

No. X of 1953 is a special law and Transfer of Property Act, 1882 is general law and there is maxim *"Generalia Specialibus non Derogant"* and the law in this regard is also settled that special law would prevail over general law, more particularly, when the U.P. Act No. X of 1953 was framed with specific aims and objects, according to which, the Grant under the U.P. Act No. X of 1953 can be provided to 'landless agricultural labourers/Bhoomihin Kisan/Tiller'.

H. CONCLUSION-

25. For the reasons/observations aforesaid, this Court is of the view that the impugned order(s) dated 13.01.1994 passed by the C.O., 07.06.2003 passed by the S.O.C. and 25.02.2005 passed by the D.D.C. challenged in all the petition(s) are not liable to be interfered with. Accordingly, all the petition(s) indicated above, are hereby ***dismissed.*** No order as to costs.

November, 10, 2025

Vinay/-

(Saurabh Lavania,J.)

Digitally signed by :-
VINAY KUMAR
High Court of Judicature at Allahabad,
Lucknow Bench