

Court No. - 19

Case :- WRIT - C No. - 3000053 of 2005

Petitioner :- Dinesh Verma And Anr.

Respondent :- State Of U.P. Thru Collector Lucknow And Anr.

Counsel for Petitioner :- Mohd. Arif Khan, Mohammad Aslam Khan

Counsel for Respondent :- C.S.C.

Hon'ble Subhash Vidyarthi J.

1. Heard Sri Mohd. Arif Khan, Senior Advocate assisted by Sri Abhishek Mishra, Advocate, the learned counsel for the petitioners and Sri Krishna Kumar Singh, the learned Standing Counsel.
2. By means of the instant petition filed under Article 226 of the Constitution of India, the petitioners have challenged the validity of a notice under Section 10(2) of the U.P. Imposition of Ceiling On Land Holdings Act, 1960 (herein after referred to as 'the Ceiling Act'), issued by the Prescribed Authority/Additional Collector (Administration), Lucknow on 06.01.1999, order dated 14.02.2005 passed by the prescribed authority rejecting the petitioners' objection against the aforesaid notice, an order dated 31.08.2005 passed by the prescribed authority as well as the entire proceedings instituted by the notice issued under Section 10(2) of the Ceiling Act.
3. Briefly stated, facts of the case are that Bindra Prasad, grand father of the petitioners was tenure holder having separate Khata, whereas Randhir Verma, father of the petitioners, was also having his separate holdings. Bindra Prasad had executed various sale-deeds in the year, 1957 transferring an area of 842 Bihgas 18 Biswa 3 Biswansi 9 Kachwansi. The proceedings under the Ceiling Act were initiated against Randhir Verma by issuing a notice under Section 10(2) of the Act to him. Randhir Verma filed objections and by means of an order dated 24.12.1979, the prescribed authority declared 20 Bigha 5 Biswa 10 Biswansi land of Randhir Verma as surplus land.

4. Randhir Verma has filed an appeal against the order dated 24.12.1979 *inter alia* on the ground that considering the size of his family, he was entitled to retain 44.67 Bighas land and further that he had transferred 10 Bigha 2 Biswa 7 Biswansi land by means of a registered sale-deed executed in favour of his daughter prior to 24.01.1971 and it could not be included in his holdings while determining the ceiling area. The sale-deed executed by Randhir Verma, in favour of his daughter excluded the area of 10 Bigha, 2 Biswa 7 Biswansi from his holdings and, accordingly, the ceiling area was determined and the surplus land was declared.
5. Subsequently, another notice under Section 10(2) of the Ceiling Act was issued to Sri Randhir Verma on 16.12.1979 by clubbing the holdings which have already been transferred by Bindra Prasad through various sale-deeds executed in the year, 1957. By means of an order dated 05.04.1982, the Prescribed Authority declared an area of 842 Bighas 18 Biswa 3 Biswansi 9 Kachwansi in terms of irrigated land to be surplus land of the petitioners' father Randhir Verma.
6. Randhir Verma filed a Miscellaneous Civil Appeal No. 176 of 1982 against the aforesaid order dated 05.04.1982. The appeal was allowed by means of an order dated 11.01.1983 passed by IInd Additional District Judge, Lucknow. The order dated 05.04.1982 passed by the Prescribed Authority was set aside and the matter was remanded for re-determination of surplus land, after giving opportunity of hearing to the transferees of Sri Bindra Prasad. The State of U.P. filed a Writ Petition No. 407 of 1983 against the aforesaid order dated 11.01.1983, which was dismissed in limine by means of an order dated 25.01.1983.
7. The petitioners' father Randhir Verma filed a Writ Petition No. 431 of 1983 and the transferees, who had purchased the land from Bindra Prasad in the year, 1957, filed Writ Petition No.2323 of 1983. Both the writ petitions were decided by a common judgment dated 10.10.1984, whereby both the writ petitions were allowed. The notice

dated 26.12.1979 issued by the Prescribed Authority under Section 10(2) of the Ceiling Act and all the proceedings arising therefrom, were quashed. A mandamus was issued commanding the opposite parties to restore the entries in the revenue records in favour of the persons who had purchased the land from Sri Bindra Prasad, as they existed immediately before the passing of the order dated 05.04.1982 by the Prescribed Authority in the proceedings arising from the notice dated 26.12.1979 issued to Randhir Verma under Section 10(2) of the Ceiling Act.

8. The State filed a Special Leave Petition (Civil) No. 2128 of 1985 changing the aforesaid order dated 10.10.1984 and the aforesaid SLP was dismissed by means of an order dated 12.08.1985.
9. After the SLP had been dismissed by Hon'ble the Supreme Court and the matter attained finality and after Bindra Prasad, grand-father of the petitioners had died and thereafter their father Randhir Verma had also died on 19.05.1996, the notice dated 06.01.1999 was issued to the petitioners under Section 10(2) of the Ceiling Act.
10. After a lapse of about 4 years, the State filed an application dated 10.04.2003, under Order 6 Rule 17 of CPC alleging that the land that had already been transferred by the predecessors of the petitioners, was being held by them as '*Benamidar*' and, therefore, the land that had been transferred should also be included in the proceedings and the said application was allowed by means of order dated 17.04.2003.
11. The petitioners filed an application dated 10.04.2003 for recall of the ex-parte order dated 17.04.2003, which was rejected by means of an order dated 14.02.2005.
12. The petitioners again filed an application dated 16.07.2005 for rejection of application under Order 6 Rule 17 of CPC, which too was dismissed by means of an order dated 14.02.2004.
13. Submission of learned counsel for the petitioners is that when the proceedings under the Ceiling Act have been initiated against the

petitioners' father Randhir Verma and the same attained finality by dismissal of SLP filed by the State, fresh proceedings could only be initiated under Section 27(3) of the U.P. Imposition of Ceiling on Land Holdings (amendment) Act, 1975. After the proceedings had attained finality, no fresh notice could be issued under Section 10(2) of the Ceiling Act and no fresh proceedings could be drawn against the petitioners.

14. The learned Counsel for the petitioner also submitted that the names of the persons who had purchased various parts of lands from the petitioner's grand-father, had been recorded in revenue records even before commencement of the Ceiling Act and there would be a presumption regarding correctness of the settlement entries and the continuance of long standing entries cannot be rejected without any solid rebutting evidence and good grounds, as has been held by this Court in **Lal Behari and others versus Ram Adhar and others**: 1987 RD 206 : 1985 SCC OnLine All 1197.
15. The U. P. Imposition of Ceiling of Land Holdings Act, 1960 Act is an Act to provide for the imposition of ceiling on land holdings in the State of Uttar Pradesh. A general notice was to be given to the tenure-holders holding land in excess of the ceiling area so that they could submit a statement in respect thereof. A quasi-judicial determination is then to be made of the surplus land, where objections are filed and the prescribed authority, after affording the parties a reasonable opportunity of being heard, and of producing evidence, is then to decide their objections after recording reasons, and then determine the extent of surplus land. Some relevant provisions of the aforesaid Act, as enacted originally, are being reproduced below: -

“4. Ceiling area.—(1) Subject to the provisions of this Act, the ceiling area applicable to a tenure-holder shall be calculated after taking into account all the land in any holding in the State held by him, in his own right, whether in his own name or ostensibly in the name of any person.

* * *

5. Imposition of ceiling on existing land holdings.—(1) As and from the date of enforcement of this Act, no tenure-holder shall,

except as otherwise provided by this Act, be entitled to hold an area in excess of the ceiling area applicable to him, anything contained in any other law, custom, or usage for the time being in force, or agreement, to the contrary notwithstanding.

*(2) In determining the ceiling area applicable to a tenure-holder at the commencement of this Act, **any transfer or partition of land made after the twentieth day of August, 1959, which, but for the transfer or partition would have been declared surplus land under the provisions of this Act, shall be ignored and not taken into account.***

(3) The provisions of sub-section (2) shall have no application to

—
(a) a transfer in favour of the State Government;

(b) a partition under the U.P. Consolidation of Holdings Act, 1953, or

(c) a partition of the holding of a joint Hindu family made by a suit or proceeding pending on twentieth day of August, 1959.

** * **

12. Determination of the surplus land by the prescribed authority where an objection is filed.—*(1) Where an objection has been filed under sub-section (2) of Section 10 or under sub-section (2) of Section 11, or because of any appellate order under Section 13, the prescribed authority shall, after affording the parties reasonable opportunity of being heard and of producing evidence, decide the objections after recording his reasons, and determine the surplus land.*

(2) Subject to any appellate order under Section 13, the order of the prescribed authority under sub-section (1) shall be final and conclusive and be not questioned in any court of law.

13. Appeals.—*(1) Any party aggrieved by an order under sub-section (2) of Section 11 or Section 12, may, within thirty days of the date of the order, prefer an appeal to the District Judge within whose jurisdiction the land or any part thereof is situate.*

(2) The District Judge shall dispose of the appeal as expeditiously as possible and his decision thereon shall be final and conclusive and be not questioned in any court of law.

(3) Where an appeal is preferred under this section, the District Judge may stay enforcement of the order appealed against for such time and on such conditions as may be considered just and proper.”

16. By U. P. Imposition of Ceiling (Amendment) Act of 1972, being U.P. Act 18 of 1973, which came into force on 08.06.1973, various Sections of the principal Act were substituted. Section 5 of the Principal Act was substituted by the following new Section 5: -

5. Imposition of ceiling on existing land holdings (1) As and from the date of enforcement of this Act no tenure-holder shall, except as otherwise provided by this Act, be entitled to hold an area in excess of the ceiling area applicable to him, anything contained in any other law, custom, or usage for the time being in force, or agreement, to the contrary notwithstanding.

(2) In determining the ceiling area applicable to a tenure-holder at the commencement of this Act any transfer or partition of land made after the twentieth day of August, 1959, which but for the transfer or action would have been declared surplus land under the provisions of this Act, shall be ignored and not taken into account.

(3) The provisions of sub-section (2) shall have no application to (a) a transfer in favour of the State Government, (b) a partition under the U. P. Consolidation of Holdings Act, 1953 ; or (c) a partition of the holding of a Joint Hindu Family made by a suit or proceeding pending on twentieth day of August, 1959."

17. The transitory provision contained in Section 19 of the Amendment Act of 1972 provided as follows: -

"19. Transitory provisions.—(1) All proceedings for the determination of surplus land under Section 9, Section 10, Section 11, Section 12, Section 13 or Section 30 of the principal Act, pending before any court or authority at the time of the commencement of this Act, shall abate and the prescribed authority shall start the proceedings for determination of the ceiling area under that Act afresh by issue of a notice under sub-section (2) of Section 9 of that Act as inserted by this Act:

Provided that the ceiling area in such cases shall be determined in the following manner—

- (a) firstly, the ceiling area shall be determined in accordance with the principal Act, as it stood before its amendment by this Act;***
(b) thereafter, the ceiling area shall be redetermined in accordance with the provisions of the principal Act as amended by this Act.

(2) Notwithstanding, anything in sub-section (1), any proceeding under Section 14 or under Chapter III or Chapter IV of the principal Act, in respect of any tenure-holder in relation to whom the surplus land has been determined finally before the commencement of this Act, may be continued and concluded in accordance with the provisions of the principal Act, without prejudice to the applicability of the provisions of sub-section (2) of Section 9 and Section 13-A of that Act, as inserted by this Act, in respect of such land."

18. The U.P. Imposition of Ceiling on Land Holdings (Amendment) Act, 1974 (U.P. Act 2 of 1975), came into being on 17.01.1975. This 1974

Amendment Act only added to the new substituted scheme the concept of “single crop land”. U.P. Act 2 of 1975 amended Section 5 of the Principal Act and the relevant part of the Act reads as follows: -

“Imposition of ceiling- (1) - On and from the commencement of the Uttar Pradesh Imposition of Ceiling on Land Holdings (Amendment) Act, 1972, no tenure-holder shall be entitled to hold in the aggregate, throughout Uttar Pradesh, any land in excess of the ceiling area applicable to him.

Explanation I- In determining the ceiling area applicable to a tenure holder, all land held by him in his own right, whether in his own name, or ostensibly in the name of any other person, shall be taken into account.

* * *

19. U.P. Act No. 2 of 1975 also contained a transitory provision in Section 9, which is being reproduced below: -

“9. Transitory provision.—Where an order determining the surplus land in relation to a tenure-holder has been made under the principal Act, before the commencement of this Act, the prescribed authority may, at any time within a period of two years from the commencement of this Act, redetermine the surplus land in accordance with the principal Act as amended by this Act.”

20. An Ordinance, which further amended the Principal Act, came into force on 10.10.1975. After the said Ordinance lapsed, the U. P. Imposition of Ceiling on Land Holdings (Amendment) Act, 1976 (U.P. Act 20 of 1976) was enacted with effect from the date of the Ordinance, 10-10-1975. In this Amendment, various other changes were made with which we are not directly concerned, except that the following Explanation II was added to Section 5(1) by Subs. by sec. 6(a) of U.P. Act No. 20, 1976 (deemed to have been substitute from January 17, 1975): -

“Explanation II- If on or before January 24, 1971, any land was held by a person who continues to be in its actual cultivatory possessions and the name of any other person is entered in the annual register after the said date either in addition to or to the exclusion of the former and whether on the basis of deed of transfer or license or on the basis of a decree, it shall be presumed, unless the contrary is proved to the satisfaction of the prescribed authority, that the first mentioned person continues to hold the land and that it is so held by him ostensibly in the name of the second mentioned person.”

21. Section 19 of U.P. Act No. 20 of 1976 inserted the following Section 38-B in the Principal Act: -

*“38-B. No finding or decision given before the commencement of this section in any proceeding or on any issue (including any order, decree or judgment) by any court, tribunal or authority in respect of any matter governed by this Act, shall bar the retrial of such proceeding or issue under this Act, **in accordance with the provisions of this Act** as amended from time to time.”*

22. Section 31 of U.P. Act No. 20 of 1976 contains the following transitory provision: -

*“31. **Transitory provisions.**—(1) All proceedings under sub-sections (3) to (7) of Section 14 of the principal Act, as it stood immediately before the commencement of the Uttar Pradesh Imposition of Ceiling on Land Holdings (Amendment) Ordinance, 1976 (U.P. Ordinance 11 of 1976), pending before any court or authority immediately before the date of such commencement shall be deemed to have abated on such date.*

(2) Where an order determining the surplus land in relation to a tenure-holder has been made under the principal Act before 17-1-1975 and the prescribed authority is required to redetermine the surplus land under Section 9 of the Uttar Pradesh Imposition of Ceiling on Land Holdings (Amendment) Act, 1974 (U.P. Act 2 of 1975), then notwithstanding anything contained in sub-section (2) of Section 19 of the Uttar Pradesh Imposition of Ceiling on Land Holdings (Amendment) Act, 1972 (U.P. Act 17 of 1973), every appeal under Section 13 of the principal Act or other proceedings in relation to such appeal, preferred against the said order, and pending immediately before the tenth day of October, 1975, shall be deemed to have abated on the said date.

(3) Where an order determining surplus land in relation to a tenure-holder has been made under the principal Act before the tenth day of October, 1975, the prescribed authority (as defined in the principal Act) may, at any time within a period of two years from the said date, redetermine the surplus land in accordance with the principal Act as amended by this Act, whether or not any appeal was filed against such order and notwithstanding any appeal (whether pending or decided) against the original order of determination of surplus land.

(4) The provisions of Section 13 of the principal Act shall mutatis mutandis apply to every order redetermining surplus land under sub-section (3) of this section or Section 9 of the Uttar Pradesh Imposition of Ceiling on Land Holdings (Amendment) Act, 1974: Provided that the period of thirty days shall, in the case of an appeal against the order referred to in Section 9 of the Uttar Pradesh Imposition of Ceiling on Land Holdings (Amendment)

Act, 1974, be computed from the date of such order or 10-10-1975, whichever is later.

(5) The provisions of Section 13-A of the principal Act shall mutatis mutandis apply to every redetermination of surplus land under the section or under Section 9 of the Uttar Pradesh Imposition of Ceiling on Land Holdings (Amendment) Act, 1974.

(6) Where any assessment roll has become final under sub-section (4) of Section 21 before the sixteenth day of February, 1976, the same shall not be reopened, notwithstanding any amendment made in Chapter III of the principal Act read with the Schedule thereof by this Act.”

23. The effect and scope of Section 38-B was explained by this Court in **Ram Lal v. State of U.P.**: 1978 SCC OnLine All 419 : 1978 All LJ 1197 in the following words: -

“21. This provision to our mind was introduced to achieve the object of the various amendments introduced in the principal Act and to give effect to them. Section 38-B, in our view, contemplates that if by the amendments made in the principal Act a certain findings or decisions had become contrary to law, those findings or decisions could be reopened and the principle of res judicata would not bar a retrial of those issues in accordance with the provisions of the principal Act as amended. This provision, in our opinion, did not authorise the Ceiling authorities to ignore the decisions rendered or decrees passed by competent courts, tribunals or authorities in respect of matters which were not affected by the changes made in the principal Act. Such decisions, in our opinion, would continue to be binding on the parties and would operate as res judicata between them....”

24. The principle of *Res-Judicata* is a long standing basic principle of general application in civil proceedings. In **Escorts Farms Ltd. v. Commr., Kumaon Division**: (2004) 4 SCC 281, the Hon’ble Supreme Court held that: -

“51. Res judicata is a plea available in civil proceedings in accordance with Section 11 of the Code of Civil Procedure. It is a doctrine applied to give finality to “lis” in original or appellate proceedings. The doctrine in substance means that an issue or a point decided and attaining finality should not be allowed to be reopened and reagitated twice over. The literal meaning of res is “everything that may form an object of rights and includes an object, subject-matter or status” and res judicata literally means: “a matter adjudged; a thing judicially acted upon or decided; a thing or matter settled by judgment”. Section 11 CPC engrafts this doctrine with a purpose that

“a final judgment rendered by a court of competent jurisdiction on the merits is conclusive as to the rights of the parties and their privies, and, as to them, constitutes an absolute bar to a subsequent action involving the same claim, demand or cause of action”. (See Black’s Law Dictionary at pp. 1304-05.)

25. However, the Hon’ble Supreme Court held in **Escorts** (Supra) that: -

“52. Proceedings under the Ceiling Act are not adversarial as are proceedings in suit. The Ceiling Act is a legislation to give effect to the directive principles contained in clauses (b) and (c) of Article 39 of the Constitution. The State is advised by the directive principles contained in the Constitution to take necessary legislative measures so as to ensure social justice by equitable distribution of ownership and control of material resources and avoid concentration of wealth and means of production in a few hands. The laudable social objective sought to be achieved by the ceiling legislation is to take surplus land from the holders and distribute the same to the landless agricultural labourers and peasants surviving on agriculture. In applying the principles of res judicata, therefore, to the ceiling proceedings, the object of the Act cannot be lost sight of. All principles of res judicata contained in Section 11 CPC cannot be strictly and rigorously made applicable to ceiling proceedings. Section 38-B introduced by the Amendment Act of 1976 with the transitory provisions made both in Amendment Act 18 of 1973 and Act 20 of 1976 is a departure from the provisions of Section 11 of the Code of Civil Procedure and indicates non-applicability of bar of res judicata in ceiling proceedings under the Act.”

26. In **S. Ramachandra Rao v. S. Nagabhushana Rao**, 2022 SCC OnLine SC 1460, the Hon’ble Supreme Court explained the principles of Res Judicata as follows: -

22. The doctrine of res judicata, having a very ancient history, embodies a rule of universal law and is a sum total of public policy reflected in various maxims like ‘res judicata pro veritate occipitur’, which means that a judicial decision must be accepted as correct; and ‘nemo debet bis vexari pro una et eadem causa’, which means that no man should be vexed twice for the same cause. The ancient history of this doctrine and its consistent recognition could well be underscored with reference to the following statement of law in the case of Sheoparsan Singh v. Ramnandan Prasad Narayan Singh, AIR 1916 PC 78:—

“...But in view of the arguments addressed to them, their Lordships desire to emphasise that the rule of res judicata, while founded on ancient precedent, is dictated by a wisdom which is for all time.

“‘It has been well said,’ declared Lord Coke, ‘interest reipublicoe ut sit finis litium, otherwise great oppression might be done under colour and pretence of law’ ”.-(6 Coke, 9 A.)

Though the rule of the Code may be traced to an English source, it embodies a doctrine in no way opposed to the spirit of the law as expounded by the Hindu commentators. Vijnanesvara and Nilakantha include the plea of a former judgment among those allowed by law, each citing for this purpose the text of Katyayana, who describes the plea thus:“If a person though defeated at law sue again he should be answered, ‘You were defeated formerly. This is called the plea of former judgment.’” [See “The Mitakshara(Vyavahara),” Bk. II, ch. I, edited by J. R. Gharpure, p. 14, and “The Mayuka,” Ch. I, sec. 1, p. 11 of Mandlik’s edition.] And so the application of the rule by the Courts in India should be influenced by no technical consideration of form, but by matter of substance within the limits allowed by law.”

(emphasis in original)

* * *

25. It hardly needs any over-emphasis that but for this doctrine of res judicata, the rights of the persons would remain entangled in endless confusion and the very foundation of maintaining the rule of law would be in jeopardy. Even if this doctrine carries some technical aspects, as explained by this Court in Daryao (supra), it is in the interest of public at large that a finality should attached to the binding decisions of the Courts of competent jurisdiction; and it is also in public interest that individual should not be vexed twice with the same kind of litigation. As noticed, the Constitution Bench has placed this doctrine on a high pedestal, treating it to be a part of rule of law.”

27. Since Section 38-B of the Act carves out an exception to the general principle of *Res Judicata*, the provisions of Section 38-B have to be interpreted strictly, keeping in view the other provisions contained in the Principal Act as also U.P. Act No. 20 of 1976, through which Section 38-B was inserted.
28. Section 38-B of the Act provides that no finding or decision given before the commencement of this section in any proceeding or on any issue (including any order, decree or judgment) by any court, tribunal or authority in respect of any matter governed by this Act, shall bar the retrial of such proceeding or issue under this Act, **in accordance with the provisions of this Act** as amended from time to time. A bare

reading of the entire Section 38-B would indicate that it where a retrial is held in accordance with the provisions of the Act, any finding or decision given in any proceedings before commencement of Section 38-B would not bar the same. The exception to the general principle of *Res-Judicata* will apply only where a retrial is permissible in accordance with the provisions of this Act.

29. The Act permits redetermination of surplus land only after a trial of an issue within two years from the date of a Notification under Section 14(4) for rectifying any mistake, as provided in 13-A, or in circumstances mentioned in Section 29 (a) and (b). Section 38-B of the Act would be applicable to the situations covered by the aforesaid provisions of the Act only and it cannot be interpreted in a such a manner as would give a free hand to the authorities to ignore any finding recorded in any proceedings which have attained finality upto the Hon'ble Supreme Court and to initiate proceedings for redetermination of surplus land.
30. Section 19 (2) of the Amendment Act of 1972 contained a transitory provision permitting redetermination of surplus land of any tenure-holder in relation to whom the surplus land has been determined finally before the commencement of the Amendment Act of 1972.
31. Section 9 of the U.P. Act No. 2 of 1975 also contained a transitory provision which empowers the prescribed authority to redetermine the surplus land of a tenure-holder at any time within a period of two years from the commencement of Act No. 2 of 1975, determination of surplus land in respect of whom had been made under the principal Act before the commencement of Act No. 2 of 1975.
32. Section 31 (3) of U.P. Act No. 20 of 1976 also contained a transitory provision providing that where an order determining surplus land in relation to a tenure-holder has been made under the principal Act before 10.10.1975, the prescribed authority may, at any time within a period of two years from the said date, redetermine the surplus land in accordance with the principal Act as amended by Act No. 20 of 1976, at any time within a period of two years from the said date.

33. Thus it is clear that the intention of the legislature was to permit redetermination of surplus land only within a period of two years from the date of enforcement of U.P. Act No. 20 of 1976, i.e.10.10.1975 and that too, if it was necessitated by the amendments incorporated in the Act. The authorities under the Act have not been given unfettered powers to ignore any finding order passed in earlier proceedings
34. The notice under Section 10(2) of the Ceiling Act was issued to Sri Randhir Verma on 16.12.1979 by clubbing the holdings which had already been transferred by his father Bindra Prasad through various sale-deeds executed in the year, 1957. By means of an order dated 05.04.1982, the Prescribed Authority declared an area of 842 Bighas 18 Biswa 3 Biswansi 9 Kachwansi in terms of irrigated land to be surplus land of the petitioners' father Randhir Verma, but that order passed by the Prescribed Authority was set aside by an order dated 11.01.1983 passed by II Additional District Judge, Lucknow in Miscellaneous Civil Appeal No. 176 of 1982. The State of U.P. filed a Writ Petition No. 407 of 1983 against the aforesaid order dated 11.01.1983, which was dismissed in limine by means of an order dated 25.01.1983. The petitioners' father Randhir Verma filed Writ Petition No. 431 of 1983 and the transferees, who had purchased the land from Bindra Prasad in the year, 1957, filed Writ Petition No.2323 of 1983. Both the writ petitions were allowed by a common judgment dated 10.10.1984, the notice dated 26.12.1979 issued by the Prescribed Authority under Section 10(2) of the Ceiling Act and all the proceedings arising therefrom, were quashed and a mandamus was issued commanding the opposite parties to restore the entries in the revenue records in favour of the persons who had purchased the land from Sri Bindra Prasad. The State filed a Special Leave Petition (Civil) No. 2128 of 1985 changing the aforesaid order dated 10.10.1984 and the aforesaid SLP was dismissed by means of an order dated 12.08.1985.
35. In the present case, no circumstances exist justifying the redetermination of surplus land of the petitioners. The proceedings for redetermination of the surplus land of the petitioners has been initiated

on 06.01.1999, i.e. long after the period of two years mentioned in Section 31 (3) of U.P. Act No. 20 of 1976, which is not permissible in law. Now it is not open to the State to ignore the aforesaid order dated 11.01.1983 passed by II Additional District Judge, Lucknow in Miscellaneous Civil Appeal No. 176 of 1982, which was affirmed by this Court and by the Hon'ble Supreme Court and this is not permissible by Section 38-B of the Act.

36. Therefore, the initiation of fresh proceedings and the order for fresh determination is unsustainable in law.
37. Accordingly, the Writ Petition is **allowed**. The notice dated 06.01.1999 issued by the Prescribed Authority/Additional Collector (Administration), Lucknow under Section 10(2) of the Ceiling Act and the entire proceedings initiated by the aforesaid notice are hereby **quashed**. The parties will bear their own costs of litigation.

(Subhash Vidyarthi J.)

Order Date: 16.05.2024

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