



2026:AHC:210685

Reserved on 22.9.2026
Delivered on 8.10.2026

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - C No. - 35380 of 2026

Devesh Kumar and 5 others

.....Petitioner(s)

Versus

State of U.P. and 6 others

.....Respondent(s)

Counsel for Petitioner(s)	: Gulrez Khan
Counsel for Respondent(s)	: C.S.C.

Court No. - 36

HON'BLE SAURABH SHYAM SHAMSHERY, J.

1. A proceeding under the provisions of the Uttar Pradesh Impositions of Ceiling on Land Holdings Act, 1960 (hereinafter called the 'Act, 1960') were commenced and a general notice was issued under Section 9 of 'Act 1960' to tenure holders of Village Karvi, Chitrakoot holding land in excess of ceiling area for submission of statement in respect thereof.

2. Predecessors of petitioners did not submit their respective statements however, later on, no notice was issued under Section 10 (2) of the Act of 1960, immediately to the predecessors of the petitioners herein, therefore, no ceiling proceedings could commence against them. Subsequently, the original tenure holder Baijnath died on 23.5.1984 and his two sons namely Prem Chandra and Raman Lal died respectively on 8.5.1977 and 26.3.1990 therefore, no proceedings were initiated against them.

3. Later on, on basis of a complaint, a notice was issued for the first time under Section 10-(2) of the Act 1960 to legal heirs of said tenure holders on 6.10.2025, i.e. after more than six decades.

4. Petitioners have approached this Court to challenge aforesaid notice on the ground being time barred by way of filing a Writ No.38796 of 2025, which was disposed of by following order dated 23.7.2026.

“1. Heard Sri S.U. Khan, Senior Advocate, assisted by Sri J.H.Khan, learned counsel for the petitioner and Sri P.S. Chauhan, learned Standing Counsel.

2. This writ petition has been filed against a notice dated 6.10.2025 issued under Section 10 (2) of Uttar Pradesh, Imposition of Ceiling on Land Holdings Act, 1960.

3. Petitioner has admittedly not filed any reply to aforesaid notice and has directly approached this Court on the ground that impugned notice was issued after more than 5 decades against a dead person and has placed reliance on a judgment of this Court in Yadunath Vs. State, 1979 Supreme (All) 725.

4. Aforesaid submissions can be entertained by this Court in writ jurisdiction at first instance, however, the authority concern ought to have realised that if a notice is issued and objections are filed on jurisdiction also, then said authority shall be required to pass a reasoned order, that whether notice was bad in law or not on issue of jurisdiction, so that position of law be clarified and the petitioner would have benefit of a reasoned order also.

5. Accordingly, this writ petition is disposed of with an observation that in case a reply to the aforesaid notice is filed by the petitioner on facts as well as on law, within a period of 7 days, the authority concern thereafter within a period of 14 days, shall pass a reasoned order, dealing with all the objections and in case any adverse order is passed, the petitioner would be at liberty to approach this Court directly, even if there is an alternative remedy.”

5. In pursuance of above order, petitioners filed objections to above referred notice however, by impugned order dated 12.8.2026, objections were rejected and it was directed that since earlier details as required as per provisions of Rule 19 (3) of the Rules framed under the Act of 1960

were not provided, therefore, fresh notice be issued under Section 10 (2) of the Act of 1960 along with requisite documents under Rule 19 (3) of said Rules.

6. Order dated 12.8.2026 is impugned in the present case. For reference, relevant part of it is reproduced hereinafter:

“मेरे द्वारा विपक्षीगण की आपत्ति, जिला शासकीय अधिवक्ता राजस्व की प्रति आपत्ति, तहसील आख्या एवं सम्पूर्ण पत्रावली का अवलोकन किया गया। उ०प्र०अधि०जो०सी०आ० अधिनियम, 1960 यथार्थशोधित वर्ष 1972 की धारा-10(2) का उल्लेख किया जाना समीचीन प्रतीत होता है-

धारा-10(2)-"विहित प्राधिकारी उपधारा-(1) के अधीन तैयार किये गये विवरण की एक प्रति के सहित एक नोटिस ऐसी रीति से, जो विहित की जाय, हर एक ऐसे जोतदार पर तामील करायेगा, जिसमें उससे कहा जायेगा कि वह उस नोटिस में निर्दिष्ट अवधि के अन्दर कारण प्रकट करे कि विवरण क्यों न ठीक मान लिया जाय। निर्दिष्ट अवधि नोटिस की तामील की तारीख से 10 दिन से कम की न होगी।"

इसी प्रकार उ०प्र० अधिकतम जोत सीमारोपण नियमावली, 1960 के नियम-19 के उपनियम-(3) का उल्लेख किया जाना समीचीन प्रतीत होता है, जिसके अनुसार-

नियम-19(3) "यदि धारा की उपधारा-(2) के अधीन नोटिस तामील किये जाने के पहले खातेदार की मृत्यु हो जाय, तो विहित प्राधिकारी ऐसी नोटिस उसके निष्पादक, प्रबन्धक अथवा अन्य विधिक प्रतिनिधियों पर तामील कर सकता है और मृत व्यक्ति के सम्बन्ध में लागू अधिकतम सीमा क्षेत्र अवधारित करने की कार्यवाही उसी प्रकार कर सकता है, मानो ऐसा निष्पादक, प्रबन्धक अथवा अन्य विधिक प्रतिनिधिगण ऐसी नोटिस की तामील किये जाने के प्रयोजनार्थ खातेदार थे।"

इस प्रकार अधिनियम की धारा-10(2) व नियमावली के नियम-19(3) स्पष्ट प्राविधान करती है कि खातेदार की मृत्यु के कारण सीलिंग लाइबेल्टी समाप्त नहीं होती है अर्थात् यदि खातेदार दिनांक 08.06.1973 को जीवित था और सीलिंग लाइबेल्टी उस पर आ गयी थी, तो केवल सेक्शन 10(2) नोटिस से पहले उसकी मृत्यु हो जाने से लाइबेल्टी समाप्त नहीं होती। नियम-19(3) के तहत उसके लीगल वारिसों को सेक्शन 10(2) की नोटिस दी जा सकती है।

मा० उच्चतम न्यायालय द्वारा भी *State of U.P. vs Civil Judge, Nainital & Ors* on 5 November, 1986 में सिद्धान्त प्रतिपादित किया गया है कि:-

"The principle enunciated in the above decision has been followed by this court in *Bhikoba Shankar Dhumal (dead) by Lrs. and Others v. Mohan Lal Punchand Tatbed and others*, [1982] 1 S.C.C. 680, In that case it was held that the surplus land in the case of a person who held land in excess of the ceiling area on the appointed day has to be determined as on the appointed day even though such person might have

died before the actual extent of surplus land was determined and notified. It was further held that the persons on whom his holding devolved on his death would be liable to surrender the surplus land as on the appointed day because the liability attached to the holding of the deceased would not come to an end on his death.

Although the above decisions are rendered in case arising under the Maharashtra Agriculture Lands (Ceiling on holdings) Act, 1961 the principle set out therein applies to all cases where there is an imposition of ceiling on lands held by land holders by land ceiling laws with effect from a specified date. In fact, rule 19 of the Rule framed under the Act which is referred to above also leads to the same view. Whatever surplus land was liable to be surrendered by a tenure-holder has to be determined as on 8.6.1973 and taken possession under the Act even though the tenure-holder might have died after 8.6.1973 and before such ascertainment".

उपरोक्त न्याय निर्णीत सिद्धान्त में मा० उच्चतम न्यायालय ने स्पष्ट किया है कि यदि खातेदार दिनांक 08.06.1973 को जीवित था और सीलिंग लाइबेल्टी उस पर आ गयी थी तो केवल अधिनियम की धारा-10(2) नोटिस से पहले उसकी मृत्यु हो जाने से सीलिंग लाइबेल्टी समाप्त नहीं होती है। इसी सिद्धान्त को सुरेन्द्र प्रताप सिंह बनाम स्टेट आफ यू०पी० (मा० उच्च न्यायालय इलाहाबाद निर्णय दिनांक 11.01.2024) में भी स्पष्ट रूप से दोहराया गया है, जिसमें मा० उच्च न्यायालय द्वारा कहा गया कि ऐसी स्थिति में कार्यवाही अबेट नहीं होती लीगल वारिसानों को नियम-19 (3) के तहत नोटिस देकर कार्यवाही आगे बढ़ाई जा सकती है।

तहसील आख्या के अनुसार प्रस्तुत वाद में आपत्तिकर्तागणों के पूर्वज मृतक बैजनाथ खातेदार के पास मौजा भंभई, चकना राजरानी व कर्वी में कुल रकबा 39.549 हे० भूमि रही है, जो दिनांक 08.06.1973 को निर्धारित मानक सिंचित अर्थ में 7.300 हे० से सरप्लस भूमि थी तथा खातेदार बैजनाथ दिनांक 08.06.1973 को जीवित थे। इस प्रकार अधिनियम की धारा-10 (2) व नियमावली के नियम-19(3) तथा मा० उच्चतम न्यायालय व मा० उच्च न्यायालय इलाहाबाद द्वारा प्रतिपादित सिद्धान्त के आलोक में मृतक खातेदार बैजनाथ जो कि आपत्तिकर्तागणक के पूर्वज थे, के विधिक वारिसानों अर्थात् आपत्तिकर्तागणों के विरुद्ध निर्गत नोटिस अन्तर्गत धारा-10(2) उ०प्र०अधि०जो०सी०आ० अधि० 1960 यथासंशोधित वर्ष 1972 विधिसंगत है। उपरोक्त विवेचना के आलोक में वाद बिन्दु-1 का निस्तारण किया जाता है।

आपत्तिकर्तागण का यह कथन कि उनको नोटिस के साथ सीलिंग कार्यवाही में तैयार किये गये प्रपत्रों को प्राप्त नहीं कराया गया है, इसलिए प्रेषित नोटिस अवैधानिक व निराधार होने के कारण निरस्त किये जाने योग्य है, सरासर गलत व निराधार है, क्योंकि तहसील आख्या के साथ संलग्न आपत्तिकर्तागण का प्रार्थना पत्र दिनांक 26.06.2025 से स्पष्ट होता है कि आपत्तिकर्तागण को उक्त कार्यवाही की जानकारी पूर्व में ही गयी थी तो भी उनके द्वारा अपनी प्रश्नगत भूमि के सम्बन्ध में विवरण प्रस्तुत किया जा सकता था, जो आपत्तिकर्तागण द्वारा नहीं

किया गया। किन्तु ऐसी स्थिति में यदि आपत्तिकर्तागण को उक्त विवरण प्राप्त नहीं हुए थे तो उन्हें न्यायालय से भी प्राप्त किया जा सकता था। इस तथ्य की पुष्टि आपत्तिकर्तागण के प्रार्थना पत्र दिनांकित 06.10.2025, 17.10.2025, 10.11.2025, 26.11.2025, 17.12.2025, 13.01.2026 से होती है। फिर भी न्यायहित में प्रतिवादीगणों को सीलिंग विवरणों के प्रपत्रों के साथ पुनः नोटिस निर्गत किया जाना उचित प्रतीत होता है। उपरोक्त विवेचना के आलोक में वाद बिन्दु 02 का निस्तारण किया जाता है।

आदेश

परिणामतः वाद बिन्दु संख्या-1 व 2 निस्तारित करते हुए आपत्तिकर्तागण द्वारा प्रस्तुत आपत्ति दिनांकित 03.08.2026 तद्वसार निस्तारित की जाती है। प्रतिवादीगणों को पुनः विधिक नोटिस अन्तर्गत धारा-10 (2) व नियम-19(3) सीलिंग विवरणों के प्रपत्रों के साथ निर्गत की जाय। पत्रावली वास्ते नोटिस तामीला हेतु दिनांक 07.09.2026 को पेश हो।"

7. Sri W.H.Khan, learned Senior Counsel assisted by Sri Gulrez Khan, appearing on behalf of the petitioners submitted that since no notice under Section 10 (2) was issued to original tenure holders after notice under Section 9 (1) of the Act of 1960 was issued, therefore, said notice cannot be issued to his legal heirs after more than six decades. The petitioners were not tenure holders on cut off date i.e. 8.6.1973.

8. Learned Senior Counsel referred Rule 8 of Rules, 1961 that a notice under section 10(4) of the Act of 1960 shall be issued in terms of Section 10 (2) and in terms of Rule 8 of 1961 as soon as may be. The long period of six decades would not be a period 'as soon as may be'.

9. Learned Senior Counsel has placed reliance on a judgment passed by this Court in **Shantanu Kumar Vs. State of U.P., 1979 Supreme (All) 476**. Its relevant part is reproduced hereinafter:

"It is thus evident that the notice requiring the tenure-holder to show cause why the statement prepared by the Prescribed Authority be not taken as correct is to be issued to the tenure-holder in respect of whose holding the statement has been prepared. Under the proviso, the Prescribed Authority shall cause to be served a notice to the person in whose name the land included in C. L. H. Form 3 is ostensibly held. The Prescribed Authority prepares the statement on the basis of revenue records. If from the revenue records or other information, the Prescribed

Authority comes to know that the land included in the statement in C. L. H. Form 3 includes land ostensibly held in the name of any other person, the Prescribed Authority is bound to serve notice on such person. The phrase used is shall cause to be served.

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It is obvious that service of such a notice is preliminary to the acquisition of jurisdiction to proceed in the matter and decide whether the land ostensibly held in the name of the petitioner could be declared as surplus land in the hands of Bhupendra Singh. In the premises, the proceedings were without jurisdiction and void. Learned Standing Counsel submitted that the petitioner had knowledge and he should have filed an objection under Section 11(2) of the Act as has been held by a Division Bench of this Court in Dilbagh Singh v. The State of Uttar Pradesh and another (supra) The existence of another remedy under the Act cannot validate the proceedings which are void for lack of jurisdiction and which have resulted in the declaration as surplus land of an area which a person other than the tenure-holder who has been heard, claims. The fact that the petitioner could have filed an objection under Section 11(2) will not breath life into or validate the deed proceedings.”

10. Per contra, Sri Shyam Singh, learned Standing Counsel has supported the impugned order and submitted that after a notification was issued under Section 9 of the Act of 1960, liability falls on original tenure holder who was alive then and after his death, liability would fall on their legal heirs and it has no effect if no notice was issued to original tenure holder under Section 10 (2).of the Act of 1960.

11. I have considered the above submissions and perused the records.

12. The facts which are not under dispute are that a notification was issued under section 9(1) of the Act, 1960, wherein original tenure holders were asked to submit their statements, but no statements were submitted and the matter rests at that stage for many decades and subsequently on basis of a complaint, for the first time, a notice under Section 10 (2) of the Act of 1960 was issued to the petitioners i.e. legal heirs after more than six decades.

13. First issue for consideration before this Court is as to whether any such notice can be issued to legal heirs of original tenure holder and for that Court takes note of Section 10 of the Act of 1960 that in case original tenure holder fails to submit a statement or submits an incomplete or incorrect statement, required to be submitted under Section 9, the Prescribed Authority shall, after making such inquiry as he may consider necessary either by himself or by any person subordinate to him, cause to be prepared a statement containing such particulars as may be prescribed. The statement shall in particular indicate the land, if any, exempted. The Prescribed Authority shall thereupon cause to be served upon every such tenure holder, therefore, in case where the original tenure holder dies after the notification issued under Section 9 (2) of the Act of 1960, before a notice can be issued under Section 10 (2) of the Act of 1960, it would not mean that no proceedings could commence under Act of 1960.

14. In that scenario, a notice can be issued to the legal heirs of the tenure holders and even in ***Shantanu Kumar*** (Supra) no such bar was held. Only requirement was that a notice shall be served upon the legal heirs if original tenure holder has died and this is because if a notice is issued under Section 10 (2) of the Act to a dead person, his legal heirs would not be in a position to reply to it, therefore, only on a ground that notice was issued to legal heirs of original tenure holder, same cannot be held to be bad in law. They can explain that why now their land cannot be declared surplus and this issue is still to be decided by the Prescribed Authority.

15. Now the other question for consideration is whether any such notice can be issued after 6 decades and for that Court takes note that the word are 'as soon as may be' therefore, authorities were required to issue notice within a reasonable time, therefore, it is up to the State Government to explain whether delay occurred in present case which is more than 6 decades would be justified or not and since no reason was

assigned in the impugned order as to why proceedings were initiated on basis of a complaint filed after many years as there is no discussion as to why it was issued after 6 decades.

16. In the aforesaid circumstances Court is of a view that impugned order can be set-aside and matter be remitted to the Prescribed Authority to decide whether delay of more than 6 decades was due to administrative fault or it was due to petitioner's act.

17. In the aforesaid circumstances, impugned order dated 12.8.2026 is set-aside. This writ petition is disposed of with aforesaid direction of remand and to decide afresh preferably within a period of six months.

(Saurabh Shyam Shamshery,J.)

October 8, 2026
SB