IN THE HIGH COURT OF JHARKHAND AT RANCHI

W.P.(C) No. 1510 of 2021

.....

1.Prakash Munjal aged about 72 years
2. Harish Munjal aged about 68 years,
both sons of Late Jiwan Lal Munjal.
3.Ritul Munjal aged about 40 years S/o Harish Munjal
All Residents of Firayalal Compound, Kadru Diversion Road, Near Railway Over Bridge, Ranchi P.O. and P.S. Chutia District Ranchi **..... Petitioner(s)**

Versus

1. The State of Jharkhand.

2.Chief Secretary, Government of Jharkhand, Jharkhand Mantralaya, Project Building, P.O. and P.S. Dhurwa District Ranchi.

3. Home Secretary, Department of Home, Government of Jharkhand, Jharkhand Mantrayala, Project Building, P.O. and P.S. Dhurwa District Ranchi.

4. Director General of Police, Government of Jharkhand, P.O. and P.S. Dhurwa District Ranchi.

5. Deputy Commissioner, Ranchi, P.O. G.P.O. P.S. Kotwali, District Ranchi Jharkhand.

6. Senior Superintendent of Police, Ranchi, Jharkhand P.O. G.P.O. P.S. Kotwali, District Ranchi Jharkhand.

7. Officer In-Charge Sadar Police Station, P.O G.P.O. and P.S. Sadar District Ranchi.

9(a) Salo Devi, W/o Late Sanjay Pahan, aged about not known to the petitioner, R/o Booty, P.O.-G.P.O, P.S. Sadar, Dist.-Ranchi.

9(b) Asha Kumari, D/o Late Sanjay Pahan, aged about 20 years, R/o Booty, P.O.-G.P.O, P.S. Sadar, Dist.-Ranchi.

9(c) Misha Kumar, D/o Late Sanjay Pahan, aged about 18 years, R/o Booty, P.O.-G.P.O, P.S. Sadar, Dist.-Ranchi.

9(d) Usha Kumari, D/o Late Sanjay Pahan, aged about 15 years, R/o Booty, P.O.-G.P.O, P.S. Sadar, Dist.-Ranchi.

9(e) Anisha Kumari, D/o Late Sanjay Pahan, aged about 10 years, R/o Booty, P.O.-G.P.O, P.S. Sadar, Dist.-Ranchi.

9(f) Ansh Pahan, S/o Late Sanjay Pahan, aged about 20 years, R/o Booty, P.O.-G.P.O, P.S. Sadar, Dist.-Ranchi.

..... Respondent(s)

with

W.P.(C) No. 1791 of 2021

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1. Prakash Munjal, aged about 72 years, S/o Late Jiwan Lal Jiwan Lal, R/o Firayalal Compound, Kadru Diversion Road, near Railway Overbridge, Ranchi, P.O and P.S. Chutia, District -Ranchi (Jharkhand)
2. Harish Munjal, aged about 68 years, S/o Late Jiwan Lal Jiwan Lal, R/o Firayalal Compound, Kadru Diversion Road, near Railway Overbridge, Ranchi, P.O and P.S. Chutia, District-Ranchi (Jharkhand).
3. Ritual Munjal, aged about 40 years, Firayalal Compound, Kadru Diversion Road, near Railway Overbridge, Ranchi, P.O and P.S. Chutia, District Ranchi (Jharkhand) **..... Petitioner(s)**

Versus

1.State of Jharkhand through its Secretary, Revenue, Land Reforms and Registration, officiating from his office at Project Bhawan, Dhurva, P.O- Dhurva, P.S- Jagannathpur, Dist-Ranchi.

2. The Presiding Officer-cum-Hon'ble Minister, Revenue, Registration and Land Reforms Department, Government of Jharkhand, Ranchi, officiating from his office at Project Bhawan, Dhurva, P.O- Dhurva, P.S- Jagannathpur, Dist-Ranchi.

3. Deputy Commissioner, Ranchi having his office at O/o Collectorate Building, near Civil Court, P.O- G.P.O and P.S- Kotwali, Dist. Ranchi.

4(a). Salo Devi, W/o Late Sanjay Pahan aged about not known to the petitioner, R/o Booty, P.O. Booty, P.S. Sadar, District-Ranchi.

4(b). Asha Kumari, D/o Late Sanjay Pahan aged about 20 years, R/o Booty, P.O. Booty, P.S. Sadar, District-Ranchi.

4(c). Misha Kumar, D/o Late Sanjay Pahan aged about 18 years, R/o Booty, P.O. Booty, P.S. Sadar, District-Ranchi. **..... Respondent(s)**

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CORAM: HON'BLE MR. JUSTICE DEEPAK ROSHAN

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For the Petitioner(s) : Mr. Amar Kumar Sinha, Adv
Mr. Kundan Kr. Ambastha, Adv
Mr. Parth Jalan, Advocate

For the State : Mr. Rajiv Ranjan, A.G.
Mr. Piyush Chitresh, AC to A.G.

For the Private Resp. : Mr. Amritansh Vats, Adv
Mr. Shivak A. Pathak, Adv
Mr. Amartya Choudbey, Adv
Mr. Arpan M. Ekka, Advocate
Mr. Ashish Choudhary, Adv

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C.A.V. ON 13/03/2026 **PRONOUNCED ON:01/05/2026**

1. Heard learned counsel for the parties.

2. Both these Writ Petitions involve common issue; accordingly, with consent of the parties, both were heard together and are being disposed of by this common order.

3. The relief sought in WP(S) No. 1510 of 2021 is as follows:-

> 1. *That in the instant writ petition the petitioners pray for issuance of an appropriate writ/rule/order/direction commanding upon the respondents and refraining them from making illegal and unauthorized construction over the lands measuring an area of 2.90 acres appertaining to R.S Plot Nos. 1947,1948 and 1949 of Khata No. 79 situated at Village Booty, P.S. Sadar, District Ranchi exclusively belonging to the petitioners having acquired the same in a legal and*

valid manner by registered deed of sale dated 2.12.1959 after obtaining permission of the competent authority under section 49 of the Chotanagpur Tenancy Act in view of the fact that the petitioners have been forcibly evicted from the lands under proceeding without taking recourse of law and the respondent authorities have not taken any action despite the several representations and complaint made by the petitioners stating therein that the respondent Nos. 8 and 9 along with 400 persons have unlawfully assembled over the lands in the night of 20th February 2021 and surrounded the lands by PVC Sheets forcibly and stealthily and are making illegal constructions over the lands under proceeding without having any right, title and interest over the same

AND

Further the petitioners pray that the respondent authorities be directed to restore the possession of the aforementioned lands to the petitioners forthwith as the respondents have forcibly and illegally dispossessed the petitioners from the lands without initiating any proceeding and without any order of the competent authority and the respondent authorities be directed to demolish the unauthorized and illegal construction over the lands and direction may be given to the respondents to maintain ante status quo with respect to the lands in question AND/OR Pass such other relief or reliefs to which the petitioners are legally entitled to.

4. The relief sought in WP(S) No. 1791 of 2021 is as follows:-

a. For the issuance of an appropriate writ(s), order(s) or direction(s) for quashing of the order dated 17th of February 2021 passed by the Presiding Officer-cum-Hon'ble Minister, Revenue, Registration and Land Reforms Department, Government of Jharkhand (Respondent No. 2) in Misc Case No. 267 of 2020 (Annexure-16) by which Respondent No. 2 has passed an order to restore possession of the lands measuring 2.90 acres appertaining to R.S. Plot nos. 1947, 1948 and 1949 of Khata no. 79 situated at village Booty, P.S. Sadar, District Ranchi in favour of the respondent

no. 4 under Section 49(5) of the Chotanagpur Tenancy Act while further directing to annul the permission granted by the Deputy Commissioner, Ranchi on 11th of November 1959 under Section 49 of the CNT Act for sale of the aforementioned lands vide permission case no. 34R8II/1959-60 as well as to annul the transfer of land by sale deed dated 2nd of December 1959, executed and registered in favour of the ancestor of the petitioners namely Jiwan Lal after obtaining permission of the competent authority, while issuing direction to the Deputy Commissioner, Ranchi to lodge criminal case against the petitioners and direction has also been given to the Anti-Corruption Bureau to lodge F.I.R. against the petitioners; the impugned order has been passed solely on the basis of an affidavit filed by the Respondent No. 4 and has been passed without giving any opportunity to the Petitioner and without considering the several judicial order with respect to the same property. Respondent No. 2, has further ignored that the application is hopelessly barred by limitation.

AND

b. For the issuance of such other writ(s), order(s), or direction(s) to stay the operation of the order passed in Misc 267 of 2020 till the adjudication of the instant writ petition. Case No.

AND/OR

c. For the issuance of such other writ(s), order(s), or direction(s) as this Hon'ble Court may think just and proper in the facts and circumstances of the case doing conscionable justice to the petitioner.

5. Briefly stated as per the writ petitions, in a nutshell, are that as per the Survey Record of Rights (1935), lands situated at Village Booty, P.S. Sadar, Thana No. 182, under Khata No. 79, comprising Plot Nos. 1947 (0.67 acres), 1948 (0.70 acres) and 1949 (1.53 acres), were recorded in the name of Bipta Pahan. Upon his demise, the said lands devolved upon his sons, Ram Pahan and Somra Pahan. In

the year 1959–60, the said raiyats applied before the Deputy Commissioner, Ranchi in Misc. Case No. 34R 8 (II) of 1959–60 seeking permission to transfer the land. Upon recommendation of the Rent Suit Deputy Collector and approval of the Sub-Divisional Officer, permission was granted by the Deputy Commissioner on 13.11.1959 under Section 49 of the Chotanagpur Tenancy Act, 1908, pursuant to which a sale deed was executed by Somra Pahan (for himself and on behalf of his brother Ram Pahan, who was deaf and dumb) in favour of Jiwan Lal, the predecessor of the petitioners. A mortgage (*jarpeshgi*) was also created in favour of Dayanand Modi, which was subsequently redeemed by the petitioners' predecessor.

Thereafter, a series of proceedings ensued wherein possession and rights of Jiwan Lal were repeatedly affirmed. Proceedings under Sections 144 and 145 of CrPC initiated by one Azmat Ali in 1961 and 1964 respectively were decided in favour of Jiwan Lal, and even a criminal revision (No. 8 of 1964) preferred against such orders was dismissed, culminating in execution of a release deed by Azmat Ali in favour of Jiwan Lal. Mutation in favour of the petitioners' predecessor pursuant to Case No. 51(R)27 of 1960–61 also attained finality.

6. Subsequently, in 1991, Sukra Pahan initiated

proceedings under Section 71A of the CNT Act (SAR Case No. 185 of 1990–91), which were challenged by Jiwan Lal before this Court in CWJC No. 2321 of 1991 (R), wherein the proceedings were stayed and ultimately set aside. Parallel SAR cases (Nos. 34, 35 and 36 of 1991), though initially allowed ex parte, were also rendered ineffective in view of the orders passed by this Court. A subsequent SAR Case No. 276 of 2002–03 also failed. Thereafter, the petitioners approached this Court in W.P.(C) No. 5100 of 2004, which was allowed directing issuance of rent receipts in their favour.

7. In the year 2018, Somra Pahan instituted Original Suit No. 657 of 2018, before Civil Judge, Senior Divion, Ranchi. Subsequently, in 2020, upon an application made by Sanjay Pahan, proceedings under Section 49(5) of the CNT Act were initiated, and despite submission of a detailed reply by the petitioners, the Presiding Officer-cum-Minister, Government of Jharkhand Ranchi, vide order dated 17.02.2021, purportedly cancelled the permission granted under Section 49. Hence this writ petition.

Submission on behalf of Petitioner

8. Learned counsel for the petitioner submitted that it is the admitted case of both the parties that the permission under Section 49 of the Act, 1908 was accorded by the then

Deputy Commissioner, Ranchi on 13th of November 1959. Section 49(5) of the Act, 1908 was inserted vide the Amending Act of 1975, i.e., much after the transaction [also much after the lapse of a period of 12 (twelve years) dated of 13th of November 1959. Learned counsel submitted that Section 49(5) of the Chota Nagpur Tenancy Act, 1908 cannot be applied retrospectively to invalidate transfers effected prior to its enactment, and the impugned proceedings are, in any case, barred by limitation.

He further submitted that even if Section 49(5) is assumed to apply, it prescribes a strict limitation of twelve years, which is mandatory and not extendable. This position stands settled in ***Kusum Devi & Ors. v. State of Bihar & Ors***[1]**.** and reaffirmed in ***Krishna Kumar Dodrajka & Ors. v. State of Jharkhand & Ors.***[2]

He had also submitted that Section 5 of the Limitation Act, 1963 is inapplicable to such original proceedings. Further, the reliance on Section 17 of the Limitation Act on the ground of fraud is misconceived. In view of Section 230 of the Tenancy Act, the Limitation Act applies only to the extent it is not inconsistent. Since Section 49(5) expressly provides that limitation runs from the date of

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[1] MANU/JH/0372/2004

[2] MANU/JH/0187/2017

consent, invocation of Section 17 is excluded. Consequently, the impugned proceedings are without jurisdiction and liable to be quashed.

9. Learned counsel submitted that even assuming, without admitting, any element of fraud, the Respondents had clear knowledge of the petitioners' ancestor's title since 1991–92, when proceedings under Section 49 of the Chota Nagpur Tenancy Act, 1908 were instituted by Sukra Pahan and Somra Pahan. It was further submitted that a subsequent application by Somra Pahan, being SAR Case No. 276 of 2002-03, was dismissed on 23.07.2002 in light of findings in CWJC No. 2321 of 1991 (R). Despite such knowledge, no proceedings were initiated within the prescribed period thereafter. In these circumstances, Section 17 of the Limitation Act, 1963 cannot be invoked, as the Respondents failed to act within three years from the date of knowledge. The plea of fraud is thus untenable and does not extend limitation.

He further submitted that the impugned proceedings are barred by res judicata. Earlier proceedings under Sections 71A and 49(5) of the Chota Nagpur Tenancy Act, 1908, initiated by the petitioners' ancestor, were decided in his favour, and the same issue cannot be reopened. The applicability of res judicata to such proceedings stands

affirmed in ***Jagan Bediya & Ors. v. Kameshwar Narayan Singh & Ors.***[3]

He further submitted that the Respondents' case rests on the plea that the permission granted by the Deputy Commissioner falls outside Section 49 of the Chota Nagpur Tenancy Act, 1908. The Petitioner relies on the provision as it stood at the relevant time, when permission could be granted upon existence of "reasonable cause," an inclusive expression wide enough to cover purposes such as purchase of cattle. It was further argued that such permission cannot be reopened after expiry of twelve years. Moreover, the State cannot simultaneously allege that the permission was contrary to legislative intent and also obtained by fraud; such inconsistent stands are barred by the doctrine of approbate and reprobate.

He submitted that Section 49 of the Chota Nagpur Tenancy Act, 1908 clearly mandates that annulment of transfer can be made only within twelve years from the date of transfer. The provision being unambiguous, no resort to legislative intent is required. He further submitted that the Respondents' claim of possession is wholly false and unsupported by any document, particularly for the period

[3] MANU/JH/0703/2010

1959–2019. Their own application under Section 71A for recovery of possession, which was dismissed in favour of the Petitioner, demolishes such claim. Further, rent receipts issued in favour of the Petitioner and mutation entries constitute strong prima facie proof of possession.

He further submitted that forcible dispossession can be remedied in writ jurisdiction. In the case of ***Waqf Alalaulad v. Sundardas Daulatram & Sons,***[4] as affirmed in the case of ***Union Club, Dhanbad v. State of Jharkhand & Ors.,***[5] it has been held that possession taken by force can be restored. In the present case, the Petitioner was illegally dispossessed, and is therefore entitled to restoration.

He finally submitted that the Respondents, knowing that their remedy lay before the Civil Court, had instituted Original Suit No. 657 of 2018, which has since abated. During its pendency, they initiated the present proceedings as a circuitous method to secure possession, amounting to forum shopping. Such conduct is a clear abuse of process. In the case of ***V. Anima Malar v. S. Aadhavan & Ors.***[6] and in the case of ***Neelam Manmohan Attavar v. Manmohan Attavar***,[7] the Hon'ble Supreme Court has deprecated

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[4] MANU/UP/1008/1996
[5] Civil Appeal No. 6626 of 2012
[6] MANU/SC/0111/2026
[7] MANU/SC/0055/2021

parallel and repeated proceedings on the same cause.

Accordingly, he prayed that the impugned proceedings, having been initiated during pendency of the suit and after dismissal of earlier claims, are vitiated by forum hunting and liable to be set aside.

Submission on Behalf of State

10. Learned Counsel for the State submitted that the District Administration, Ranchi, through the Circle Officer, Bargain, along with the Circle Inspector, Bargain and the Revenue Sub-Inspector, Booty Village, undertook a detailed verification of the revenue records and conducted a local enquiry with respect to the land and in question. Upon such physical verification and record inspection, enquiry reports were submitted vide Letter No. 1047(ii) dated 27.11.2021 and Letter No. 55(ii) dated 02.02.2026, which reveal the following material facts:

> ***(A)*** *That the land in question is in actual physical possession of the legal heirs and successors of the recorded raiyat, namely Bipta Pahan, S/o Shital Pahan.*
>
> ***(B)*** *That the name of Bipta Pahan stands duly recorded in Volume-I, Page 79 of Register-II, wherein the change of authority column records fixation of rent vide Case No. 27 R8/1959-60 dated 09.11.1959. The records further reflect continuous realization of rent from the year 1955-56 up to 1995-96 pursuant to order dated 11.09.1995 of the Circle Officer, and thereafter, rent realization is reflected in the offline Register-II up to 2014-15 and in the online Register-II up to 2020-21.*
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> ***(C)*** *That although the names of the writ petitioners, namely Harish Munjal and Prakash Munjal, find mention in Volume-V,*

Page 1 of Register-II pursuant to orders passed in W.P.(C) No. 5100 of 2004 and consequential administrative directions, and rent entries exist in their favour, the enquiry categorically records that they have never been in actual physical possession of the land.

(D) *That similarly, the name of one Jitendra Bahadur Johar has been entered in Register-II (Volume-VI, Page 71) pursuant to Mutation Case No. 5678 R 27/07-08, and though rent realization entries exist in his favour for certain periods, the enquiry report clearly records that he too is not in possession of the land.*

11. Learned Counsel for the State submitted that Sanjay Pahan, S/o Somra Pahan (Respondent No. 9 in W.P.(C) No. 1510 of 2021), filed an application before the competent authority asserting that the land measuring about 2.90 acres is his Khatiani raiyati land is under threat from land mafias, pursuant to which Misc. Case No. 267 of 2020 was initiated under Section 49(5) of the Chotanagpur Tenancy Act, 1908.

It was submitted that the land is recorded as *Kaimi Raiyati* in the name of Bipta Pahan, S/o Shital Pahan, a member of the Munda (Scheduled Tribe) community, and thus its transfer is strictly regulated by Sections 46 to 49 of the Chotanagpur Tenancy Act, 1908. The land, admeasuring about 2.90 acres, stands recorded under Khata No. 79, Village Booty, Thana No. 182 (Sadar), and was originally recorded in the Survey Record of Rights (circa 1935) in the name of Bipta Pahan as raiyat.

It was further submitted that post vesting under

the Bihar Land Reforms Act, 1950, Bipta Pahan was found in peaceful possession and cultivation of the land, and his name was duly entered in the revenue records with continuous rent payment. His possession remained undisturbed, and upon his death, the land devolved upon his sons, Ram Pahan and Somra Pahan, and thereafter exclusively upon Somra Pahan, who continued in possession.

It was further contended that the alleged permission granted by the Deputy Commissioner, Ranchi in 1959–60 under Section 49 of the CNT Act was obtained without the knowledge of Somra Pahan, and despite such alleged transfer, the raiyats and their successors remained in uninterrupted possession. It was only in the year 2018 that the respondents came to know of such transaction, whereupon Somra Pahan instituted Original Suit No. 657 of 2018 seeking declaration of the sale deed dated 02.12.1959 as null and void on grounds of fraud. The said suit, having abated due to the demise of the plaintiffs, is now sought to be restored by filing Civil Misc. Case No. 16 of 2026, which is pending consideration before the competent civil court.

12. Learned Counsel vehemently submitted that the alleged permission granted by the Deputy Commissioner, Ranchi in 1959–60 under Section 49 of the Chotanagpur

Tenancy Act, 1908 was obtained by fraud and is legally unsustainable and the same is wholly without jurisdiction. It was contended that Section 49 permits transfer of tribal land only for specified purposes such as charitable, religious or educational use, which is admittedly not the case herein, as the recorded purpose for the purchase of bullocks does not fall within the permissible categories.

It was further submitted that the revenue enquiry reports vide Letter No. 1047(ii) dated 27.11.2021 and Letter No. 55(ii) dated 02.02.2026 conclusively establish that the raiyats and their legal heirs have remained in continuous and undisputed possession of the land, and that the writ petitioners were never in possession.

It was argued that the entire claim of the writ petitioners is founded upon fraudulent and void transactions in violation of the CNT Act, 1908, and that mutation entries or issuance of rent receipts pursuant to W.P.(C) No. 5100 of 2004 do not confer any title or possession. Reliance was placed on ***Meghmala v. G. Narasimha Reddy***[8] to submit that no relief can be granted to perpetuate fraud.

It was lastly submitted that the present writ petition, seeking restoration of possession, involves a private civil

[8] (2010) 8 SCC 383

dispute and is not maintainable under Article 226, as held in ***Roshina T. v. Abdul Azeez K.T.***[9]

He finally submitted that the present dispute involves complex questions of fact, title and possession, which cannot be adjudicated in exercise of jurisdiction under Articles 226 and 227 of the Constitution of India, and must be relegated to the competent civil court, the writ forum being inappropriate for such determination.

Submission on behalf of Private Respondent

13. Learned Counsel for the Private Respondent submitted that the petitioners' claim is wholly misconceived and founded upon a sale deed dated 02.12.1959 which is void ab initio, as the alleged executant, Somra Pahan, had no right, title or interest over the land at the relevant time, his father being the recorded tenant, and further, he was a minor, thereby rendering the transaction legally invalid.

He further submitted that the said transaction is vitiated by gross illegality, as no lawful guardian was appointed for Ram Pahan, who was admittedly a minor and incapacitated, making the execution of the deed unsustainable in law.

14. Learned Counsel submitted that the answering

[9] (2019) 2 SCC 329

respondents have already instituted Original Suit No. 657 of 2018 before the learned Civil Judge (Senior Division)-IX, Ranchi seeking declaration of title and cancellation of the sale deed, and upon abatement due to unavoidable circumstances, have filed Civil Miscellaneous Case No. 16 of 2026 for restoration, which is presently pending, thus clearly establishing that the dispute is civil in nature and sub judice. He further submitted that the respondents are in long, continuous possession of the land, duly supported by State records, Register-II entries and rent receipts in the name of Bipta Pahan.

He further submitted that the documents relied upon by the petitioners are seriously disputed and appear to be forged and fabricated, as even the family members of Somra Pahan have denied execution of any such documents, and the alleged S.A.R. Case No. 185 of 1991 and CWJC No. 2321 of 1991 are not binding upon the answering respondents.

15. In regard to the alleged permission under Section 49 of the C.N.T. Act learned counsel submitted that the permission is itself illegal, as the purpose disclosed does not fall within permissible categories, thereby rendering the entire transaction void. To buttress his argument he relied upon ***Mandu Prakhand Sahakari Grih Nirman Sahyog***

Samiti Limited v. State of Bihar[10] wherein this Court has held that the reasonable and sufficient purpose under section 49 includes the use of land for any charitable, religious and educational purpose or any other purpose, which the State Government may by general or special order declared to be a public purpose and if the transfer was not for the said purpose then, the said permission deemed to be rejected.

He further submitted that the writ petition being W.P (C) No. 1510 of 2021 seeking restoration of possession and adjudication of title is not maintainable under Article 226, in view of settled law laid down in ***Roshina T. v. Abdul Azeez K.T.*** (supra) and ***Shri Sohan Lal v. Union of India.***[11]

Analysis

16. After hearing both the parties and perusal of the materials on record, it transpires that the fulcrum of this case is the order dated 13 November 1959, by which the Deputy Commissioner accorded permission to sell the subject land purportedly in terms of section 49 of the Chhotanagpur Tenancy Act, 1908, on an application made by Ram Pahan and Somra Pahan in favour of late Jiwan Lal, the ancestor of the present petitioners. Consequent thereto,

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[10] (2004) 1 JLJR 260

[11] 1957 SCC Online SC 39

a sale deed was executed in December 1959. The petitioner's case is entirely founded on this order.

17. In the application filed by Ram Pahan and Somra Pahan, permission was sought to sell the land on the ground that they have among themselves, 32.08 acres of land and some of their paddy lands have been mortgaged and hence they want to dispose their Tanr lands in order to release their paddy lands from mortgage and further that they also propose to purchase bullocks. The Deputy Commissioner accepted the application and held that the purposes for sale appear to be reasonable and consequently, on the basis of the recommendations made by his subordinate officials sanctioned transfer of the subject lands by the applicants to the ancestor of the present petitioners.

18. Section 49 of the Chhotanagpur Tenancy Act, prior to its amendment and as it stood in the year 1959, permitted an occupancy or any member of Bhuinhari family to transfer his holding or tenure, or any part thereof for any reasonable and sufficient purpose. Subsection (2) of section 49 set out what the expression "reasonable and sufficient purposes" would include, which are as follows:-

> *a) In the case of a member of Bhuinhari family, but not in the case of an occupancy raiyat, building purposes, generally;*
>
> *b) In any case, the use of land for any charitable, religious, or educational purpose, or for any other purpose, which the state government may, by general or special order, declare to be*

public purposes or for the purposes of manufacturer or irrigation or as building ground for any such purpose, or for access to land used or required for any such purpose, and

c) In any case, the use of the land for the purpose of mining or for any other purposes, which the state government may, by notification, declared to be subsidiary there two or four access to land used or required for any such purpose.

19. Section 49 CNT carves out exceptions from the restrictions imposed by the preceding sections. Provisions of section 49 CNT grant exemptions. It is well settled that exemption / exception provisions must be construed strictly [see ***Sea Customs Act, s. 20(2), In re***: AIR 1963 SC 1760].

20. In ***Madhu Kishwar*** v. ***State of Bihar***,[12] the Hon'ble Supreme Court held that the preamble of CNT Act suggests that it was a law to amend and consolidate certain Acts relating to the law of landlord and tenant and the settlement of rent in Chota Nagpur.

21. The Hon'ble Supreme Court in ***Amrendra Pratap Singh v. Tej Bahadur Prajapati***[13] while dealing with a case involving interpretation of the Orissa Scheduled Areas Transfer of Immovable Property (by Scheduled Tribes) Regulations, 1956, the purpose of which is akin to the CNT Act, held as follows:

*"**15.** Tribal areas have their own problems. Tribals are historically weaker sections of the society. They need the protection of the laws as they are gullible and fall prey to the tactics of unscrupulous people, and are susceptible to exploitation on account of their innocence, poverty and backwardness extending over centuries. The Constitution of India and the laws made thereunder treat tribals and tribal areas separately wherever*

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[12] (1996) 5 SCC 125

[13] [(2004) 10 SCC 65]

needed. The tribals need to be settled, need to be taken care of by the protective arm of the law, and be saved from falling prey to unscrupulous device so that they may prosper and by an evolutionary process join the mainstream of the society. The process would be slow, yet it has to be initiated and kept moving. The object sought to be achieved by the 1950 Act and the 1956 Regulations is to see that a member of an aboriginal tribe indefeatably continues to own the property which he acquires and every process known to law by which title in immovable property is extinguished in one person to vest in another person, should remain so confined in its operation in relation to tribals that the immovable property of one tribal may come to vest in another tribal but the title in immovable property vesting in any tribal must not come to vest in a non-tribal. This is to see and ensure that non-tribals do not succeed in making inroads amongst the tribals by acquiring property and developing roots in the habitat of tribals.

18. *In Pandey Oraon v. Ram Chander Sahu the term "transfer" as used in Section 71-A of the Chota Nagpur Tenancy Act, 1908, came up for the consideration of the Court. "Transfer" was not defined in the Act. It was held that considering the situation in which the exercise of jurisdiction is contemplated, it would not be proper to confine the meaning of "transfer" to transfer under the Transfer of Property Act or a situation where "transfer" has a statutory definition. What exactly is contemplated by "transfer" in Section 71-A is where possession has passed from one to another and as a physical fact the member of the Scheduled Tribe who is entitled to hold possession has lost it and a non-member has come into possession, would be covered by "transfer". Their Lordships observed: (SCC p. 80, para 7)*

> *"7. The provision is beneficial and the legislative intention is to extend protection to a class of citizens who are not in a position to keep their property to themselves in the absence of protection. Therefore when the legislature is extending special protection to the named category, the court has to give a liberal construction to the protective mechanism which would work out the protection and enable the sphere of protection to be effective than limit by (sic) the scope."*

Their Lordships referred to three earlier decisions of this Court, namely, Manchegowda v. State of Karnataka3, Lingappa Pochanna Appelwar v. State of Maharashtra4, Gamini Krishnayya v. Guraza Seshachalam5 and a decision of the House of Lords in D (a minor) v. Berkshire County Council6 laying down the proposition that a broad and liberal construction should be given to give full effect to the legislative purpose.

19. *State of M.P. v. Babu Lal is an interesting case showing how this Court dealt with an artistic device employed by a non-tribal to deprive a tribal of his land. The M.P. Land Revenue Code, 1959 imposed restrictions on the transfer of land by members of a Scheduled Tribe. Babu Lal, a non-tribal, filed a suit for declaration against Baddiya, a Bheel, notified Scheduled Tribe, for declaration that his name be recorded in the revenue record as bhumiswami over the land of Baddiya. Baddiya did not contest the suit and the parties filed a compromise conceding to the claim of Babu Lal. The State Government intervened and filed a petition in the High Court*

seeking a writ of certiorari, submitting that the entire proceedings in the suit were in contravention of sub-section (6) of Section 165 of the M.P. Land Revenue Code, 1959. The judgment of the civil court based on compromise was sought to be quashed. The High Court dismissed the petition holding that the State could pursue the alternative remedy of filing a suit for declaration that the decree was null and void. In appeal by special leave, this Court set aside the judgment of the High Court and issued a writ of certiorari to quash the judgment and decree passed in the civil suit. It was held: (SCC p. 436, para 5)

> *"5. One of the principles on which certiorari is issued is where the Court acts illegally and there is error on the face of record. If the Court usurps the jurisdiction, the record is corrected by certiorari. This case is a glaring instance of such violation of law. The High Court was in error in not issuing writ of certiorari."*
>
> *(underlining by us)*

20.*The law laid down by this Court is an authority for the proposition that the court shall step in and annul any such transaction as would have the effect of violating a provision of law, more so when it is a beneficial piece of social legislation. A simple declaratory decree passed by a civil court which had the effect of extinguishing the title of a member of a Scheduled Tribe and vesting the same in a non-member, was construed as "transfer" within the meaning of Section 165(6) of the M.P. Land Revenue Code, 1959. Thus, we are very clear in our minds that the expression "transfer of immovable property" as defined in clause (f) of para 2 of the 1956 Regulations has to be assigned a very wide meaning. Any transaction or dealing with immovable property which would have the effect of extinguishing title, possession or right to possess such property in a tribal and vesting the same in a non-tribal, would be included within the meaning of "transfer of immovable property."*

22. Thus, it is clear that the court shall step in and annul any such transaction as would have the effect of violating a provision of law; more so, when it is a beneficial piece of social legislation. Therefore, it is the duty of the Court including the Constitutional Courts to ensure that the tribals get the protection of the laws as they are gullible and are susceptible to fall prey to the tactics of unscrupulous people, and are vulnerable to exploitation on account of their innocence, poverty and backwardness.

23. The object sought to be achieved by the CNT Act is to see that a member of an aboriginal tribe indefeasibly continues to own the property and ensure that non-tribals do not succeed in making inroads amongst the tribals by acquiring property in a manner prohibited by the CNT Act.

24. Having noticed that one of the object and purpose of the CNT Act is to protect the lands belonging to the aboriginal raiyat it has to be ascertained as to what is the purport of the term "includes" appearing in section 49 (as it existed at the relevant time) and the same is an important issue which falls for consideration for determination in the present petition.

25. It is well settled that whenever a definition clause uses the word "includes", it is so done in order to enlarge the meaning of the words or phrases occurring in the body of the statute, and when it is so used, these words of phrases must be construed as comprehending, not only such things which they signify according to their natural import, but also those things with the interpretation declare that they shall include [see ***State of Maharashtra*** v. ***Reliance Industries Ltd***.,[14] (paras 21 and 22)].

26. The Hon'ble Supreme Court in the case of ***Karnataka Power Transmission Corporation*** v. ***Ashok***

[14] (2017) 10 SCC 713

Iron Works (P) Limited,[15] at paragraph 17 held that resort to the word "includes" by the legislature after shows the intention of the legislature that it wanted to give extensive and enlarged meaning to the relevant expression. However, sometimes the context may suggest that the word "includes" may have been designed to mean "means" and thus, for interpretation of the word "includes", sufficient guidance may be provided by setting, context, and object of the relevant Act. Likewise, the Hon'ble Supreme Court in the case of ***South Gujarat Roofing Tiles Manufacturers Association*** v. ***State of Gujarat***,[16] held that generally "includes" is used as a word of extension, but there could not be any inflexible rule that the word 'include' should be read always as a word of extension without reference to the context.

27. The right way therefore to interpret the provisions of section 49 CNT (as it stood earlier) is to read it in the context of the CNT Act.

28. Section 49 has an overriding effect over the earlier provisions of section 46, 47 and 48, which imposed restrictions of transfer of raiyati rights. Therefore, if the words "for any reasonable and sufficient purpose" occurring

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[15] (2009) 3 SCC 240
[16] (1976) 4 SCC 601

in section 49 construed liberally to include any purpose as reasonable and sufficient, then the provisions as contained in section 46, 47 and 48 would be rendered absolutely otiose and completely nugatory.

29. In ***Urmila Dixit v. Sunil Sharan Dixit***,[17] the Hon'ble Supreme Court of India discussed in details the rule of purposive construction with respect to a beneficial legislation in the following manner:

> "***8.*** *To answer the issue at hand, it is imperative for this Court to discuss the rules of interpretation to be applied when interpreting a beneficial legislation akin to the Act at hand. While dealing with certain provisions of the Motor Vehicles Act, this Court in Brahampal v. National Insurance Co, observed that a beneficial legislation must receive a liberal construction in consonance with the objectives that the Act concerned seeks to serve.*
> ***9.*** *This Court in K.H. Nazar v. Mathew K. Jacoz reiterated the above expositions and stated that : (SCC pp. 135-36, paras 11 & 13)*
>
> > *"11. Provisions of a beneficial legislation have to be construed with a purpose-oriented approach. The Act should receive a liberal construction to promote its objects. Also, literal construction of the provisions of a beneficial legislation has to be avoided. It is the Court's duty to discern the intention of the legislature in making the law. Once such an intention is ascertained, the statute should receive a purposeful or functional interpretation.*
> > ***
> > *13. While interpreting a statute, the problem or mischief that the statute was designed to remedy should first be identified, and then a construction that suppresses the problem and advances the remedy should be adopted. It is settled law that exemption clauses in beneficial or social welfare legislations should be given strict construction. It was observed in Shivram A. Shiroor v. Radhabai Shantram Kowshik that the exclusionary provisions in a beneficial legislation should be construed strictly so as to give a wide amplitude to the principal object of the legislation and to prevent its evasion on deceptive grounds. Similarly, in Minister Administering the Crown Lands Act v. NSW Aboriginal Land Council, Kirby, J. held that the principle of providing purposive construction to beneficial legislations mandates that exceptions in such legislations should be construed narrowly."*

[17] (2025) 2 SCC 787,

(emphasis supplied)

10. *More recently, in Kozyflex Mattresses (P) Ltd. v. SBI General Insurance Co. Ltd., this Court held the definition of a consumer under the Consumer Protection Act, 1986 to include a company or corporate person in view of the beneficial purpose of the Act.*

11. *While considering the provisions of the Medical Termination of Pregnancy Act, this Court in X2 v. State (NCT of Delhi), reiterated that interpretation of the provisions of a beneficial legislation must be in line with a purposive construction, keeping in mind the legislative purpose. Furthermore, it was stated that beneficial legislation must be interpreted in favour of the beneficiaries when it is possible to take two views.*

12. *It is in the above background that we must proceed to examine the Act. The Statement of Objects and Reasons of the Act indicates the purpose behind the enactment, as relied upon by this Court in S. Vanitha v. Commr, is:*

> *"Traditional norms and values of the Indian society laid stress on providing care for the elderly. However, due to withering of the joint family system, a large number of elderly are not being looked after by their family. Consequently, many older persons, particularly widowed women are now forced to spend their twilight years all alone and are exposed to emotional neglect and to lack of physical and financial support. This clearly reveals that ageing has become a major social challenge and there is a need to give more attention to the care and protection for the older persons. Though the parents can claim maintenance under the Code of Criminal Procedure, 1973, the procedure is both time-consuming as well as expensive. Hence, there is a need to have simple, inexpensive and speedy provisions to claim maintenance for parents."*

13. *The Preamble of the Act states that it is intended towards more effective provisions for maintenance and welfare of parents and senior citizens, guaranteed and recognised under the Constitution.*

14. *Therefore, it is apparent, that the Act is a beneficial piece of legislation, aimed at securing the rights of senior citizens, in view of the challenges faced by them. It is in this backdrop that the Act must be interpreted and a construction that advances the remedies of the Act must be adopted."*

30. Therefore, the term "reasonable and sufficient purpose" must be interpreted in a manner which would be in consonance with the context and object of the CNT Act, 1908.

31. The instances given in section 49 of the CNT Act as to what would constitute a "reasonable and sufficient purpose" is the reflection of the legislative policy and must guide the court to lead to an inference that not every purpose

cited by the tribal to obtain permission can be said to be a "reasonable and sufficient purpose" and purpose must be akin to what has been set out in the illustrations.

32. In the application purportedly filed by the claimed predecessors of the private respondents to transfer the land, it was stated that they need the permission to get their paddy lands released and to purchase bullocks. Ex facie it appears that the grounds set out in the said application cannot be brought within the ambit of reasonableness and sufficiency as contemplated by the provisions of section 49 of the CNT Act. The existence of "reasonable and sufficient purpose" is the jurisdictional fact for exercise of powers under section 49 CNT Act.

33. In ***Shrisht Dhawan (Smt)* v. *M/s. Shaw Bros.***,[18] an interesting discussion on "jurisdictional fact" is found in the concurring opinion of Hon'ble R.M. Sahai, J. (as his Lordship then was). It reads : (SCC pp. 551-52, para 19)

> *"19. … What, then, is an error in respect of jurisdictional fact? A jurisdictional fact is one on existence or non-existence of which depends assumption or refusal to assume jurisdiction by a court, tribunal or an authority. In Black's Legal Dictionary it is explained as a fact which must exist before a court can properly assume jurisdiction of a particular case. Mistake of fact in relation to jurisdiction is an error of jurisdictional fact. No statutory authority or tribunal can assume jurisdiction in respect of subject-matter which the statute does not confer on it and if by deciding erroneously the fact on which jurisdiction depends the court or tribunal exercises the jurisdiction then the order is vitiated. Error of jurisdictional fact renders the order ultra vires and bad. In Raza Textiles it was held that a court or tribunal cannot confer jurisdiction on itself by deciding a jurisdictional fact wrongly……."*

[18] (1992) 1 SCC 534

34. This Court is constrained to observe that the order purporting to grant permission to transfer the land under section 49 CNT Act is an order which suffers from grave error of jurisdiction and without the existence of any jurisdictional fact and the assumption of jurisdiction is nothing but an egregious fraud on the beneficial legislation. In ***State of Assam v. Banshidhar Shewbhagavan & Co.,***[19] the Hon'ble Supreme Court held as under:

> *"**8.** .....There can be no doubt that if any authority exercised any power conferred on him by law in bad faith or for collateral purpose, it is an abuse of power and a fraud on the statute. In such a case there can be no difficulty in striking down that act of the authority by the issue of an appropriate writ under Article 226 of the Constitution....."*

35. The order granting permission is a glaringly, conspicuously, and extraordinarily bad act of deception. It is not merely a small mistake or a standard dispute, but a flagrant violation that is so obvious and reprehensible that it shakes the conscience of the Court. The order dated 13.11.1959 passed by the Deputy Commissioner in Misc. Case No. 34/R/8/(II) of 1959–60 is a nullity and hence void ab initio. The order is unenforceable and no Court and / or authority can take cognizance of it. The validity of an order without jurisdiction can be tested in a collateral proceeding and especially when the same is sought to be enforced. The Courts including constitutional courts enforce rights but

[19] (1981) 4 SCC 283

when no right is validly created by an order of an authority or court or any legislative or executive act, the courts would ignore such orders/ acts even in absence of a direct challenge to it.

36. The case of the petitioners is completely founded on the order dated 13.11.1959 passed by the Deputy Commissioner in Misc. Case No. 34/R/8/(II) of 1959–60. It is trite that if the foundation goes the superstructure is bound to fall. In ***TRF Ltd. v. Energo Engg. Projects Ltd.,***[20], the Hon'ble Supreme court held that:

> *"**54.** ….Needless to say, once the infrastructure collapses, the superstructure is bound to collapse. One cannot have a building without the plinth..."*

37. In ***State of Punjab v. Davinder Pal Singh Bhullar***,[21] the Hon'ble Supreme Court on similar lines, had elaborated the principle and the same applies with equal force in the present case.

> *"**106.** The order impugned has rightly been challenged to be a nullity at least on three grounds, namely, judicial bias; want of jurisdiction by virtue of application of the provisions of Section 362 CrPC coupled with the principles of constructive res judicata; and the Bench had not been assigned the roster to entertain the petitions under Section 482 CrPC. The entire judicial process appears to have been drowned to achieve a motivated result which we are unable to approve of.*
> ***107.** It is a settled legal proposition that if initial action is not in consonance with law, all subsequent and consequential proceedings would fall through for the reason that illegality strikes at the root of the order. In such a fact situation, the legal maxim sublato fundamento cadit opus meaning thereby that foundation being removed, structure/work falls, comes into play and applies on all scores in the present case.*
> ***108.** In Badrinath v. Govt. of T.N. and State of Kerala v. Puthenkavu N.S.S. Karayogam this Court observed that once the basis of a proceeding is gone, all consequential acts, actions, orders would fall to the ground automatically and this principle is applicable to judicial,*

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20 [(2017) 8 SCC 377]
21 (2011) 14 SCC 770

quasi-judicial and administrative proceedings equally.
109. *Similarly in Mangal Prasad Tamoli v. Narvadeshwar Mishra this Court held that if an order at the initial stage is bad in law, then all further proceedings, consequent thereto, will be non est and have to be necessarily set aside.*
110. *In C. Albert Morris v. K. Chandrasekaran this Court held that a right in law exists only and only when it has a lawful origin. (See also Upen Chandra Gogoi v. State of Assam, Satchidananda Misra v. State of Orissa, SBI v. Rakesh Kumar Tewari and Ritesh Tewari v. State of U.P.)*
111. *Thus, in view of the above, we are of the considered opinion that the orders impugned being a nullity, cannot be sustained. As a consequence, subsequent proceedings/orders/FIR/investigation stand automatically vitiated and are liable to be declared non est."*

38. In ***Employees' State Insurance Corporation and others*** v. ***Jardine Henderson Staff Association and others***,[22] (para 61), the Hon'ble Apex Court held that relief in a writ of certiorari can be denied inter alia when it would be opposed to public policy or in a case where quashing of an illegal order would revive another illegal order.

39. More recently the Hon'ble Supreme Court in ***Al-Can Export (P) Ltd. v. Prestige H.M. Polycontainers Ltd.,***[23] has held as under:-

"***98.*** *Assuming for the moment that the Additional Commissioner had no jurisdiction to adjudicate and decide the two appeals filed by Respondent 1 and Respondent 6, respectively, yet the common order passed by the Additional Commissioner allowing the appeals and remanding the matter back to the authority concerned could not have been disturbed and the High Court rightly did not disturb the same. Had the High Court taken the view that the Additional Commissioner had no jurisdiction and the order passed by it was a nullity, the result would have been the revival of the illegal order passed by the Additional Collector confirming the sale.*
99. *It is well-settled principle in law that issuance of a writ or quashing/setting aside of an order if revives another pernicious or wrong or illegal order then in that eventuality the writ court should not interfere in the matter and should refuse to exercise its discretionary power conferred upon it under Article 226 of the Constitution. The writ court should not quash the order if it revives a wrong or illegal order. (Vide : Gadde Venkateswara Rao v. State of A.P.; Chintamani Saran Nath Shahdeo v. State of Bihar; M.C. Mehta v. Union of India; Mallikarjuna Mudhagal Nagappa v. State*

[22] (2006) 6 SCC 581
[23] (2024) 9 SCC 94

of Karnataka; Chandra Singh v. State of Rajasthan and Raj Kumar Soni v. State of U.P.)"

40. In the backdrop of the above position in law, this Court is of the considered view that all the contentions of petitioner leading to its attack to the order dated 17.02.2021 passed by the Presiding Officer – cum- Minister, Revenue, Registration and Land Reforms, Government of Jharkhand in Misc Case No. 267 of 2020 (Annexure 16), directing restoration of the subject land and annulling the permission granted under section 49 CNT Act must fail; as setting the same aside would revive and restore the order dated 13.11.1959 passed by the Deputy Commissioner in Misc. Case No. 34/R/8/(II)) of 1959–60, which has been held in earlier part of this judgment and order to be a nullity being an order without jurisdiction.

41. Though the petitioners have raised various arguments, both on substantive and procedural, but, there is no doubt that all such argument emanate on the basis of the right purportedly created by the order dated 13.11.1959 passed by the Deputy Commissioner in Misc. Case No. 34/R/8/(II)) of 1959–60 and thus once the said order fails to satisfactorily withstand the legal challenge on the ground of jurisdiction, no further discussion on the subsequent proceedings is required.

42. However, the observations and directions made in the impugned order dated 17.02.2021 regarding initiating criminal proceedings by the Deputy Commissioner and the Anti-Corruption Bureau is misconceived and unwarranted to that extent the order dated 17.02.2021 is bad and requires interference. The Presiding Officer – cum- Minister, Revenue, Registration and Land Reforms, Government of Jharkhand while deciding an application under section 49(5) is a Tribunal of limited jurisdiction and such directions are in excess of the jurisdiction vested in such authority. Hence such directions are set aside.

43. This Court, for the reasons stated above, is not inclined to exercise its discretion under Article 226 or 227 of the Constitution in favour of the petitioners, especially having regard to the object and purpose of the CNT Act.

44. The writ petition must fail except to the extent indicated above. Ordered accordingly. Costs made easy. Pending I.A.s, if any, also stands closed.

(Deepak Roshan, J.)

Dated:01/05/2026
Amardeep/fahim
A.F.R

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04.05.2026