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is Golden Forest India Limited and it has constituted other companies and to save it from section 154, it has transferred the land in these companies. Mainly the funds have been provided by Golden Forest Limited to these companies for the purchase of land. Therefore, it will be appropriate to deem all these company as the single company. Under the Companies Law, the company has an autonomous existence but there is a no provision to constitute another company to defeat the other law. He has supported to his assertions by giving reference of many other judgmental laws. The companies, the D.G.C(R) has given this plea regarding the proposal of the companies. This fact proves that all the companies are



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same. The Khasra numbers which are sold to the company are still continued the name of original cultivators, because the concerned company has not pursued for making entries (Dakhil and Kharij) in the revenue record. The advantage thereof is being taken by the land mafia and the already sold land of the company is further sold by them.

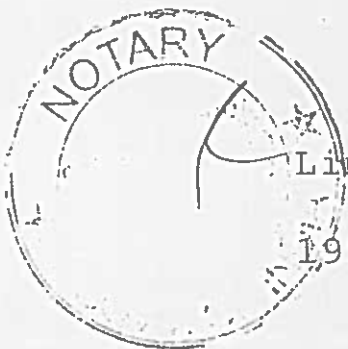
Because despite notice to the respondents, no one has spread on the behalf of the opposite company since long time, therefore ex-parte proceedings are being done in the case under the provisions of Uttar Pradesh Zimidara Abolition and Land Reform Act and the transfer of this land is hereby vested with the state government under



section 154 of the Act. Similarly in the year 1997, Pargana Adhikari had left out land measuring 12.50 acres in the case No.37/96-97 in favour of the Golden Forest Company, therefore the additional land has also been automatically vested under section 154 of the Act.

I have thoroughly perused the case file as well as the evidence came on the record. In the light and spirit of the facts and evidence brought forwarded by the DGC(R) counsel, the facts and circumstances of this case are as follows:

Golden Forest Company India Limited was established in the year 1997. The main object of this company



has been mentioned in this Memorandum of Association as per follows:

1. Subject to the rules of Reserve Bank of India and the provisions of Section 58-A of the Companies Act, 1956 and the rules made thereunder to receive money, deposits on interest or otherwise and to lend money and negotiate loans with or without securities to such companies' firms or persons and on such terms as may seem expedient and to guarantee the performance of contracts of firms provided that the company shall not carry on the banking business as defined in the banking regulation Act 1949.



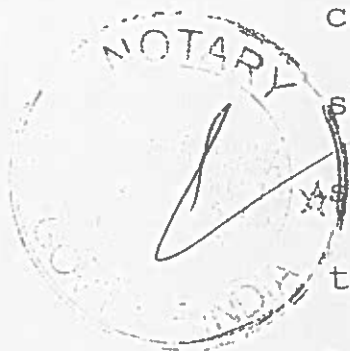
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2. To carry out in India, in all its branches the business of Hire-Purchase, Housing, General Finance & Investment, Supervision and control of any business or operation and to carry in business of agricultural farms, lands and development of agricultural farms for the public.
3. To subscribe conditionally or unconditionally, to under-write, issue on commission or otherwise take, hold, deal in and convert stocks, shares and securities of all kinds (List at Sr. No.2).



Therefore, the main object of the Golden Forest Company was to do banking-based works and the above said

the company. Therefore, first of all the company utilized the invested money on the purchase of land on different places. Golden Forest had purchased the land on its name as well as on the name of its associate companies and this work has been done through the agents appointed by it. The agents procured the land from the farmers by way of execution of sale deeds, agreements and Power of Attorney etc. The registration thereof was not done in name of solely Golden Forest Company but it was done in the name of many small-scale companies. After the registration of sale deed, the company presented the same before the Tehsil office for transfer and the competent authority had done the proceedings regarding



transfer. The sequence to purchase the land was started by the company in the year 1994-95 and it remained continued upto the year 1999-2000. Earlier more than 12.50 acres land transferred to the name of company, therefore the violation of Section 154 of the U.P. Zamidara Act was done, therefore, the land vested with the state government under section 166/167 of the Act. The company was afraid from the action; therefore, the company did not present the documents (which were registered in the name of associated companies) before the competent authority for transfer purpose. (At that time, there was no provision that after the registration of sale deed, the same will be presented before the Sub

NOTARY  
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company has got invested the money from the public on the basis of the agreement that the company shall return the invested amount in a fixed time manner with the fixed profits. Further the company shall develop the large agricultural farms and will do foresting of high-quality trees (such as Sangwan). After the fixed time limit, the profits will be gained from the trees and will be distributed among the investors as per ration of their investment. For this purpose, the company had appointed its agents in different cities with the objective to invest the money from general public in the company. Because the objective of the company was foresting and therefore land in large quantity was required to





Registrar for transfer purpose).

Therefore, the proceedings could not be done for change of revenue record of all the Khasra numbers which were transferred to the company. Consequently, till today the name of the original owners (vendors) is continued in the revenue record. Thus, the status of the land purchased by Golden Forest and its associate companies in the revenue record is as under:

1. The Khasra numbers which are transferred to the name of Golden Forest India Limited and its other associate companies in the revenue record, such Khasra numbers have been vested with the state government under



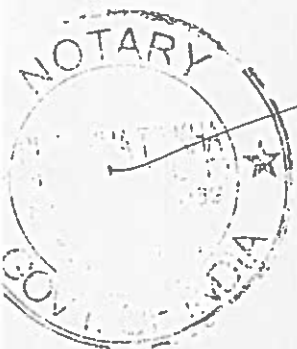
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section 166/167 of the Act except leaving 12.50 acres land.

2. The Khasra numbers which are sold to the company but its revenue record has not been changed in favour of the company and the said Khasra numbers are continuing in the revenue record in the name of the vendor farmers. But the possession is either with the company or its agents or somewhere the land is in possession of the original cultivators. The things have been certainly changed after the custodial arrest of R.K. Sayal, Managing Director of Golden Forest India Limited and most of the land has been either occupied by the agents of the company or by the cultivators. With the motive to commit fraud with the public, the land was



started selling afresh through Power of Attorneys or through connivance with the original cultivators. On the other hand, the investors in order to get back the amounts of their investment, started putting pressure on the company. But the company is not in such a financial state to return the invested amount to its investors. Therefore, the Golden Forest Company who has purchased lands in the name of its associate company, has passed resolution with the object that the company allocates such and such land situated in such and such village to such and such person with the objective to get distribute this land among the investors as per their shares or after selling the land, the amount which will



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be come from the sale will be returned to the investors as per their share of investment. (Attached at Sr. No.3 on the file). The persons in whose favour the above said resolution has been passed have filed application in the Tehsil Office with the motive to make changes in the revenue record in their names from the name of the company, so that they may be able to sell the above said land.

Presently, the cases which are pending under section 166/167 of the Act. Out of these most of the cases are wherein the report has been submitted which is based on the possession of the company, meaning thereby that the land has been sold but the name of the



original cultivator is existing in the Khatoni and the possession on the spot is with the company or its agent or itself of the cultivator. These Khasra numbers are sold to the Golden Forest company. By proving through the clear evidence, it is to be settled that whether the violation of Section 154 has been done or not. Therefore, keeping in view the above said facts, the following is to be observed:

1. WHETHER the Golden Forest India Limited has committed violation of Section 154 of the Zamindari Abolition and Land Reforms Act, 1950 by purchasing land at the large extent?

2. WHETHER the company has got permission from the government for the



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purchase of land more than the fixed limit?

3. WHETHER the small-scale companies can be deemed as associate companies of Golden Forest Company and whether the land purchased by these companies can be deemed as the land purchased by Golden Forest?

Before the discussion of the above said questions, it will be necessary to discuss about the provisions of Zamindari Abolition and Land Reforms Act, 1950 with regard to the acquisition of the land as well as the right of the company at what extent it can purchase the land. The pleas put forward by the D.G.C (R) as well as in

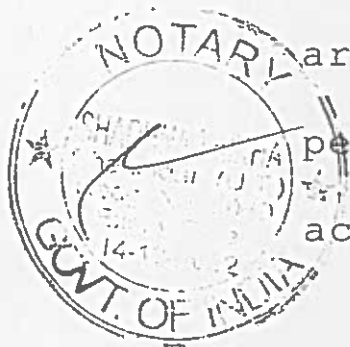


the light of the legal propositions, it is clear that:

Every lawfully registered company has its juristic personality under the jurisprudence i.e., every company has its autonomous corporate personality. There is no doubt that under the Zamindari Abolition and Land Reforms Act, 1950, no company has any right to acquire land more than 12.50 acres. In the case of Golden Forest company, the facts are important to be verified after considering the activities of the company. Why there was a need arose to the company to constitute its associate companies and to purchase land in their names? Under Section 154(1) of the Zamindari

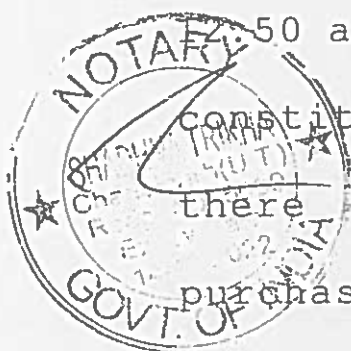


Abolition and Land Reforms Act, 1950 any person can acquire land only upto 12.50 acre. There are provisions available under Section 154(2) of the Act that the state government through its general or special orders can provide the right for the acquisition of land more than the approved limit. Therefore, it is clear that because the company is a lawful personality and has the right to acquire land more than 12.50 acres, but for this purpose, the company should have approval from the state government. Now the question arises that whether the company had got permission from the state government to acquire more land.





The answer is very much clear that had the Golden Forest Company any permission from the state government, the company would have presented the same at the time in the year 1998 when the Assistant Collector had forfeited the land to the state government under section 154(1) of the Act. Till now, no approval has come into light. It is also important to mention here that had this company any permission from the state government to acquire land more than 50 acres, the company would not have constituted its associate company and there would have been no need to purchase land in the name of the above said companies.



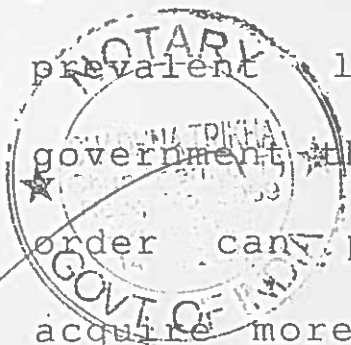
One more special provision among the other is available in the Zamindari Abolition and Land Reforms Act, 1950 that this act works as an estoppel on a person to acquire more land. This act has ended the right of keeping land more than 12.50 acres in the Uttar Pradesh government and have provided the equal category. Therefore, this act will prohibit the right of the cultivator to keep land more than 12.50 acres. Even, in future, if they want to purchase land or to get land through gift etc., they will not be able to keep land more than 12.50 acres.



There are clear provisions under Section 154(1) of the above said Act that "That except the provisions

made in Sub Clause (2), no land owner will have the right to transfer any land other than the tea garden to any other person, otherwise through sale or gift etc., the transferee will become the owner of the land which will become more than 5.0586 Hectare (12.50 Acre) acquired by his family in the state of U.P.

The provisions under Section 154(2) of the act depict that under the provisions of prohibition regarding the prevalent land rights, the state government, through general and special order, can provide the approval to acquire more land than prescribed in the sub clause (1), if the same is done in the manner that the transfer has been




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done in the interest of any organization established for donation programs or for registered cooperative society and the such organization has no adequate land to meet its requirements and further this transfer has been done in the public interest.

The prohibitions of Section 154(2) will not be implemented in the following three cases:

1. Tea garden
2. Registered Cooperative Society

For making compliance of a decree passed by any learned court.


The following are the provisions of Section 166 of the Act:

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Every transfer done through contravention of the provisions laid down in this Act, shall be deemed void.

The provisions laid down in Section 167 and 166 of this Act depicts that the result of transfers which are done under these sections will amounts to zero.

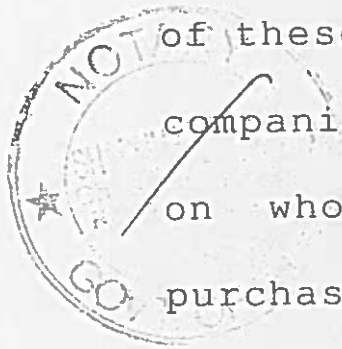
Any such transfer from the date of its transfer shall be deemed forfeited to the state government as well as deemed the same free from all types of encumbrances.



The motive of the Golden Forest Company India Limited is clear from its memorandum of association that what will be the business of the company. The main business of the complaint

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which clears from his name was foresting. For this purpose, the company was in need of land in large quantity. It was in the knowledge of the company that it cannot acquire the land more than the prescribed limits. Even, if it was having the approval from the state government, not enough which was required to the company. Therefore, Golden Forest Company in a planned manner constituted other companies, so that it may purchase land on the name of these small companies. As many as 83 companies have come into the knowledge on whose names the land has been purchased for Golden Forest Company in district Dehradun. These are the associate companies of Golden Forest

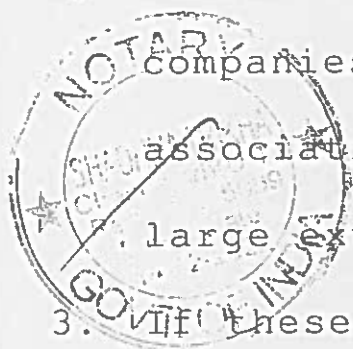


Company and it can be proved on the basis of following facts:

1. All the companies are purchasing land at the large extent in a single month, in the single year (For example Dama Company on 21.12.1996, Iriya Fincap on 15.10.1996, Goman Marketing on 18.10.1996, Jota Fincap etc. on 13.09.19936) For further detail file can be examined at serial No.4).

2. WHETHER you have authorized the companies in your memorandum of association to purchase land at a large extent?

3. If these are authorized, then what are their assets? What is the source of income? What are their deposits



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that they have suddenly purchased the land at such a large extent?

4. The Director/Managing Director of all these companies are either R.K. Sayal or his family members. The resolutions which are passed till date for making changes in the revenue record regarding the land purchased by the company and R.K. Sayal is the Managing Director of all of them. This fact very much clear that the small companies were constituted only to purchase land

for the Golden Forest India Limited.

5. The investors have invested money in the Golden Forest Company and there is no need to prove this fact and it is automatically proved.



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Earlier this fact has been cleared through the memorandum of association of the company. The fact that the money from investors came to the associated companies and they have purchased the land with the same investment and the reason to distribute the land to its investors as per their investment through resolution, because the company is unable to return the amount of its investors. (The resolution of any company can be perused for this purpose. File Sr.



The following points are liable to consideration for the plea put forward by any company:

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(a) WHETHER the investors have invested money in the company such as Soma Buildings, Sonalika Builders, Wara Estate, Izya Fincap etc.?

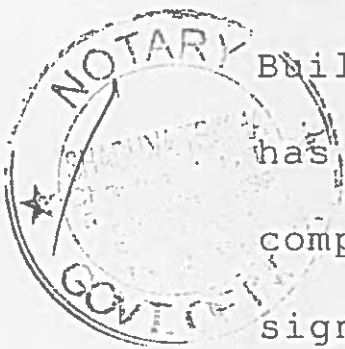
The answer is No any such fact has come into light and nor there is any such proof. On the other hand, there is a proof that N.P. Gupta PW-1, the Chief Development Advisor of Golden Forest Company had written letter to the Commissioner, Gadhwal Division, Dehradun wherein it is written that the company in order to make payment to its investors, the company's land situated at Sudhowala has been distributed to the investors along with the list of investors..... It is requested that we



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want to distribute the above said land to the investors.....

In this letter, it has been concealed about the whereabouts of investors. The fact is this that the investors are of Golden Forest Company and the Golden Forest Company due to its inability to return the investment of its investors, distributed its land to the investors as per their investment. Because, these lands have been purchased by the associate company of Golden Forest Company (such as Wara State, Soma Builders, Sonalika Builders), therefore, the resolution has been passed by this associate company and it is bearing the signatures of R.K. Sayal being its




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director and mainly he is the Managing Director of the Golden Forest India Limited. PW-1 Mr. Gupta and PW-2 Balwinder Sayal has cleared this fact in their affidavit that the investors have mainly invested their amounts in the main company Golden Forest India Limited. (Para no.2 and 12).

Therefore, it is proved:

1. That investors has mainly invested their money in the Golden Forest Company India Limited.



The Golden Forest Company has utilized that amounts for the purpose of purchase of land which is the main object of the company.

3. The company has used its associate company for the purchase of land and

the associate company has purchased the land on its own name.

4. Therefore, the funds were from main company and the associate company have purchased the land at large extent on the different places for its main company.

(b) Whether the associate company has the approval to do business related to banking sector. Whether the company has declared in its memorandum of association to do any such business?

The answer is this that the company has never presented any such record. Otherwise, the onus to prove this fact is on the respondent company. In case, the associate company do not have any right to do business related to banking



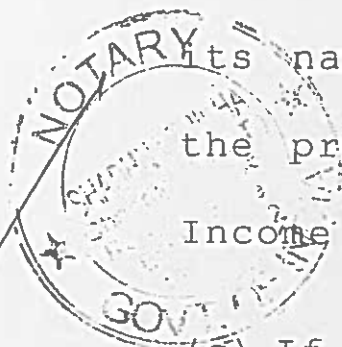
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sector and in case the company has got investment from the investors on some other conditions, in that eventuality, this act of the company is illegal and is a punishable offence. From the statement of PW1 and PW2, it is clear that no investment has been made in the above said associate companies.

Similarly, it is also proved that the small companies have been constituted just to side track the procedure established by law and with the motive to acquire so much land in

its name and to save themselves from the prohibition and punishments under Income Tax Act, Law Laws.

(c) If it is presumed that no important facts have come into knowledge about



the company, on the basis of which, it may be said that because of such fact, the company is compelled to pass resolution regarding the land for the purpose of distributing the land to its investors as per the ration of their investments?

The answer is that no any such important fact has been brought into the knowledge, on the basis of which, it may be said that the company is compelled to pass resolution regarding the land due to this reason. Whether

all the companies such as Wara State, Sonalika Builders, Soma Builders, Izya Fincap, etc. who are said to be going separated from the Golden Forest Company and whether all these company have become insolvent together or sunk

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together or they were compelled to pass resolution on the same day of 05.12.2002 at the same time 11:30 by the single Director (Mr. R.K. Sayal)? The truth and facts are separate; neither the associate companies have itself become insolvent nor they are sunk; this is the main company Golden Forest who has been sunk and is unable to return the invested amount of its investors. Therefore, distributing the lands which is in the name of its associate companies to its investors.

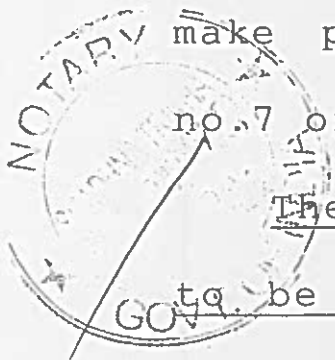
Therefore, it is proved that:

The associate companies have used the amount of Golden Forest Company and purchased land in different villages for the Golden Forest and when the main company Golden Forest India Limited has





been failed to return the amount to its investors. Therefore, the company has intended to distribute the land, which is in the name of its associate companies to its investors as per their shares and although the above said land has not been changed in the revenue record in its name. Thus, the land is being distributed after passing the resolution wherein it has been held that Mr. N.P Gupta an employee of the company shall sale the lands and shall make payment to the investors (Para no.7 of the affidavit of PW-1).

The following facts are necessary to be considered with regard to the resolution passed by the different companies:

1) As per Sections 189 to 192 of the Indian Company Law, there is a provision that the company can pass two types of resolutions i.e. (i) General Resolution (ii) Special Resolution).

2) As per Sections 192 to 194 of the Indian Company Law, there is a provision that the company who pass resolution for the purpose to sale the land or to distribute the land to others or to encumber, therefore any such resolution should be registered from the Registrar of the company.

3) Regarding the above said facts, whether the resolution passed by the company (which is on the case file), is general and special resolution, whether the same is registered from the Registrar of the company or not, the

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situation in this regard is not clear. The assertions of the persons who have presented this resolution that this a lawful resolution. The attestation of the presented resolution is also doubtful because the registered office of the different companies is at different place but the Director of all the companies is same. How it is possible to pass resolution by the companies on the same day of 05.12.2000 at the same time 11:30 AM.

4) It is not important under section 154 of the U.P.Z.L.A Act that whether the resolution passed by the company is valid or not. Even, if it is presumed that the resolution is forged, even then it will not put effect on the proceedings under section 166/167 of



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the Act. Whether the resolution is legal or illegal, the company cannot say merely on this point that it has not purchased such and such Khasra numbers and it is not in its name. For example, the associated company Sonalika Builders has asserted that it has not passed any resolution regarding the land comprised of Khasra no.184 M area 1.687 hectare situated at Village Sudhowala or the presented resolution is forged, therefore whether the Sonalika builders has denied on the fact that it has not purchased the land comprised of Khasra no.184 M area 1.687 hectare? Although the resolution is forged, but the land belongs to Sonalika builders and the Sonalika builders is the associate company of



Golden Forest. Therefore, the land acquired (purchased) by the Sonalika Builders shall be added in the land measuring 12.50 acres under section 154 of the Act.

5) Therefore, there is no effect on the present case whether the resolution is valid or not valid. Rather it has been used for the interpretation of the different circumstances and facts. The resolution presented by the employee of the Golden Forest Company has put light on the facts that the associate companies had purchased the land for the Golden Forest company and the amounts were taken from the Golden Forest Company. When the Golden Forest Company is going to be sunk, now the resolution has been passed to return



the amounts of its investors. Now, whether any sane person would say the above said companies are not associate companies of the Golden Forest Company?

Now, if any associate companies put its plea that they are not the associate companies of the Golden Forest Company, in that eventuality, the onus to prove this fact is on it. They are to prove that they are separate from the Golden Forest Company, it has separate business and it has not used the money of Golden Forest Company to purchase land at the large extent. It must present the accounts of that year and to prove that from where the small company has received this wealth? The companies who are involved in socio economic offences are liable to be



taught lesson. In the country like India, where most of the population is from middle class and their sources of income are limited and they are enticed by these companies and give their all-saved money to these companies in the greed to double it and after some time, these companies do exodus after committing fraud. Therefore, to prove that Rule of Law is supreme and no person is above the law, therefore, it is necessary to teach lesson to any such companies wherever they are and they have committed wrongful act under any law, if the appropriate evidence is there on record, they are liable to be punished in accordance with law in the public interest. So that such types of companies may not be promoted.



Golden Forest Company who has violated the provisions of land laws in the state of Uttar Pradesh, they have not set example for others but have also misguided that if the land is required to be acquired on large extent, then to constitute small companies and then to register the firm and to acquire the land as per its wishes. If the person will get right to acquire land through this way, the motive of the enactment of the U.P.Z.A.L Act will be defeated.

One of the motives is that - The land should not be allowed to be vested only with few persons (The Legislature of U.P) how much serious about the above said Act, the example is as following:

(1) First of all, the limit for the acquisition of land in the Act was 30





acres but thereafter through Land Law (Amendment) Act 1958, it was reduced to 12.50 acres.


(2) In the Section 154(1), before 07.12.1974 the word "Family" was existing transferee husband and wife (whoever may be) and their minor children. Father and mother did not fall under the definition of family. When the transfer was made in favour of a minor child, the land of father and mother was not added in 121.50-acre limit. Therefore, the minor was included in the family for father and mother. But father and mother did not fall in the definition of family of minor. Taking advantage thereof, the clever persons purchased land in the name of their minor children and thus



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they saved themselves from the prohibition laid down in Section 154.

But after that date, through the Uttar Pradesh Land (Amendment) Act 1974, this discrepancy was removed. The definition of the family was determined "The definition of family is Husband or his wife or her husband (whichever the situation may be) as well as their minor children. Thus, this fact has protected its motive that the land should not be collected by few people"



In this perspective, if the activities of the Golden Forest Company is seen and whether it can be said here that the above said act of the company is appropriate? Whether this is not a well-planned conspiracy to defeat the Act for the acquisition of land. The

answer to all the question is positive and I am agreed with the pleas put forwarded by the D.G.C(R). It is proved that the company in order to defeat the Section 154 has constituted the associate companies. In these circumstances, the fact is to be considered that whether the law hereby permit that a work which is not possible to do legally, may be done in an unlawful manner? A company can acquire only 12.50-acre land and not more than this limit. But if the company is in need of more land, then he will constitute more companies and then acquire the land describing that as a separate unit? Whether any such permission should be given whereby an illegal work may be done by making it



technically legal. There is a clear principle of law that the work which you are unable to do clearly, you have no right to do the same in unclear manner.

There are provisions to constitute the companies and to do the business in an honest manner and by respectfully running industry or business, but it is also necessary to save the public from frauds. The protection to the personality of the company can only be given when it is adaptable to the policies from which it gets life. The persons who take advantage of the corporate process, it is their duty to run the business of the company as per its motive. No doubt, the existence of the company is free from the



personality of its members and is different from them. The famous example of this principle found from the decision given by House of Lords in case Soloman Versus Soloman & Company (1897 AC 22). Therefore, every company, which is either associate or small or all the members of a family are the Directors of its division, but it did not put effect on the independent existence of that company. Similarly, the Golden Forest Company and its associate companies are different. They are independent to do their business as a separate unit.

But it is also important that in the perspective of any corporate company, the following is to be observed:

1. Who is the controller thereof?




2. What is the objective of its Director/Manager/Members for this corporate?
3. Whether the corporate of the company is done to defeat any law or to save from any statute or for lawful liabilities or to save from them. Gilford Motor Company Vs. Horn (1933) 1 CH 1935; Workman Vs. Associate Rubber Industry Limited (1985) 4 SCC 114, 118-199).
4. The company has been established in a good faith or not.
5. These people are not against the public policy. (L.I.C Vs. Escorts Limited (1986) 1 SCC 264, 336-337). The inducting of the company is not done to save from any liability. (Union of India B. Playword



Electronics (1990) 68 Comp.cas 582  
AIR 1990 SC 202; Sir Dinsha Manik  
Ji Patit. R. Air 1927 Bom 371).

To be implemented by the learned  
courts under the company law for the  
determination of above said  
circumstances; The Doctrine of Lifting  
the corporate veil. In the matter of  
Golden Forest Company, if the corporate  
veil is lifted and a wide  
interpretation of this doctrine is  
done, the following situation arises  
regarding the above said points:



(1) Almost all the associate companies  
are under the control of persons, who  
are in the directorate division of  
Golden Forest Company i.e., mainly from  
the family of Mr. R.K. Sayal.

(2) The objective of the corporation of these associate companies is clear- The main company Golden Forest Company in order to acquire land at the large extent has incorporate the associate companies. From the incorporation of the associate companies, it is clear that it has been done to defeat the Section 154(1) of U.P.Z.L.A Act (From the discussion made above, this fact has already been proved).

(3) .....

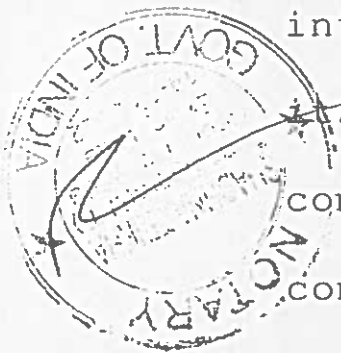
(4) Earlier, it has been proved that the incorporation of the associate companies has been done in a planned manner, to cover the legal independence, to acquire land at large extent by defeating the U.P.Z.A.L Act and the company remained successful for





the same. Therefore, it cannot be said that the incorporation of the associate companies has been done in good faith.

(5) The work of the company without any doubt is against the public policy. The public at large had invested their money in the Golden Forest Company with the hope that the company shall earn profits with this investment and they will also get benefits as per their investment. But the company has intentionally invested the amounts in its associate companies so that these companies may acquire land for this company. Now the Golden Forest Company is about to sink. Therefore, to return the investment of the public, its associate companies are bringing



resolution for the distribution of their land.

Therefore, the situation of this company right now is that Golden Forest India Limited Company has come out a controller company and its associate 83 companies have come into light as its subsidiary companies. The number of associate companies may be more than 83.

The subsidiary company lost its existence in two situations: -

**First:**


Keeping aside the legislative proceedings, it can be said that all the companies which come under one group, must be shown in single group. Accordingly, provisions of Sections 212



and 214 of the Company Law Act will be implemented.

**Second:**

Putting reliance on the facts of any case, the learned court can deny to admit the independent existence of any subsidiary company. One out of these situations are- Managing the entire business of any subsidiary company by its controlling company. (Free wheel India Limited Vs. Ved Misra (Dr.) 1969) Comp L.J. 138, 142-143.



\* In the case of Golden Forest Company India Limited, this learned court deny the independent existence of the subsidiary company on the basis that Golden Forest Company has provided funds to the associate companies for

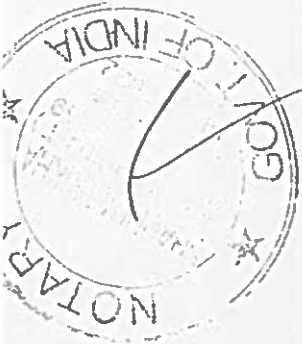
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purchase of land. Therefore, the controlling company Golden Forest Company is managing the business of subsidiary company. This is the reason, that the small company was having merely Rs.1,00,000/- but it has purchased land worth rupees 30/30 Lakh in a single time. This fact also may understand in the example of associate companies Izya Fincap. This company was incorporated on 18.10.1996. Its value was declared as Rs.1 Lakh. This company had purchased land worth Rs. 17 Lakh on 01.01.1996 in village Sudhowala through sale deed No.3949, 3952 and 3948. From where suddenly this company has got the money. This is a point for consideration. Now when the Golden Forest Company is sinking, why Izya



Fincap has passed the resolution to distribute the land to the investors of that company? If the previous evidence and statement of employees of the company is taken into consideration, no doubt the amount was of Golden Forest Company and the main company is distributing the land to its investors. Similarly, the example of other associate companies can also be given, if the date of their incorporation and details of their amount come to know.

Therefore, it is proved that the business of associate companies is being managed by the Golden Forest Company. Now, if any company say that they are separate from the Golden Forest Company, then they must clear



about their accounts and expenditures and the onus to prove the same also lies on the company which claims so.

The principle established by law say "The circumstances are itself the proof) (res ipsa loquitur). This legal maximum is implemented in the case of Golden Forest Company. All the circumstances are clearly showing that the above said small companies are the associate companies of the Golden Forest Company. These companies have purchased land on their name for the Golden Forest Company. (They are the sister concern of the Golden Forest Company India Ltd.).

From the facts and evidence mentioned above, it has been cleared



that Golden Forest Company is the main company and the associate companies have been constituted to extend help to this company, with the intention to defeat the law and to acquire maximum land. Therefore, the land which has been purchased by the associate companies shall be added under the provisions laid down in Section 154 of the Act.

Here it can be said that no revenue court has the jurisdiction to use the principle to remove the cover of incorporation under the company law. In this regard, it is mentioned here that revenue law in itself is a complete law. Under this law, all such matters are entertained which pertains to the



revenue and land laws and even the civil courts have no jurisdiction regarding the said matter. In case any provision under the land law is violated, in that eventuality, the revenue court in the interest of law and in the interest of public, takes the assistance of principles of sustentative law and can go into the depth of the case and to decide the same under the land law. In India, the Hon'ble Supreme Court of India has used the principle to remove the cover of incorporation and has cleared the legal aspects (Charanjit Lal Vs. Union Bank of India, AIR 1951, SC 41; 1950 SCR 869.52). The law declared by the Hon'ble Supreme Court is binding on all other courts of the country. There is provision under





Article 141 of the Constitution of India (The doctrine of state decisis). The revenue courts also fall under the categories of all other courts). Therefore, the revenue court can also use this principal to check the corporate company who is violating the law laws under the garb of its incorporation and to clear the situation with regard to the said company in an appropriate manner.

The provisions of Section 167 of the U.P.Z.A.L Act are that: All the transfers of land which have been declared Zero under section 166 of the Act shall become free from all encumbrances and shall be forfeited to the state.



From the perusal of this section, it is clear that: As and when the transferee got the land in his name and if it exceeds the limit of 12.50 acres, the said transfer shall become zero and the land will be forfeited to state from that very date and it is also to provide information to him? Section 167 do not provide any permission to give information, because the word which have been used in this section are "That will be deemed forfeited" and not "Will be forfeited". If the word "Will be forfeited" was used, no doubt the transferee which rights are affected, is compulsory to provide information to him. Before the Uttar Pradesh Land Law (Amendment) Act 1982, Section 167 was like "That under this



section, in each case of vacation, the transferor will be made party".

But presently, the word that is used in Section 167, it is not necessary to provide information to the transferor or transferee.

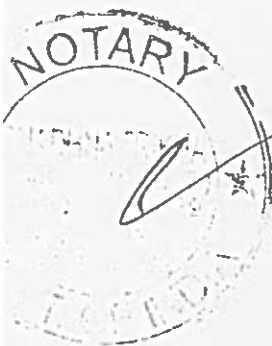
The words used in Section 166 are- (Shall be void).

The meaning thereof is that:

As and when the transferee received the land more than 12.50 acre and the proof thereof has come on record that the total land is exceeding 12.50 acre and from the date of transfer, the above said land stands free from all types of encumbrances and shall be deemed forfeited to the state. And only



the fact should be true that the transferee has more than 12.50-acre land and one of the best proofs thereof is "Khatoni". But in the situation where the transferor has transferred the land but it has not been changed in the revenue record and thus his name is not entered into the Khatoni i.e., the transferee did not present the deed for making changes in the revenue record (whereas it was earlier provided that for making changes in the revenue record, the purchase can present his sale deed). In this situation, whether or not the sale deed can be deemed decision making proof under section 154(1) and Section 166/167. As per the learned court, sale deed will also be deemed as a decision-making evidence



like the Khatoni to satisfy the provisions of the above said sections. The following are the reasons to do so:

1. The meaning of transfer is (ownership) and (possession) has been delivered and its best proof of evidence is registered sale deed.

2. The fiscal is the natural process of making changes in the revenue record and it only determines the Malgujari (Smt. Lakhpati Vs. R. Board 1984 R.D 0378).

3. In case the purchaser, due to certain reasons do not make changes in the revenue record, then the purchaser has the right to make transfers on the basis of registered sale deeds. (Devi Singh Vs. Sukha etc. 1994 R.D 48).



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Meaning thereby is that merely the changes in the revenue record have not been made is no the basis to put effect on the rights of his ownership. The meaning to say is that the day when the purchaser had got registered the sale deed in his favour and since that day, he can use the rights of his ownership.

4. The words have been used in Section 167 of the U.P.A.L Act - From the date of transfer, the land shall be deemed free from all encumbrances and shall be deemed forfeited to the state. It is clear that the day of transfer is that

when the sale deed was registered and

nor from the day of making changes of

name in Khatoni. Section 54 of Transfer

of Property Act define the sale- Under

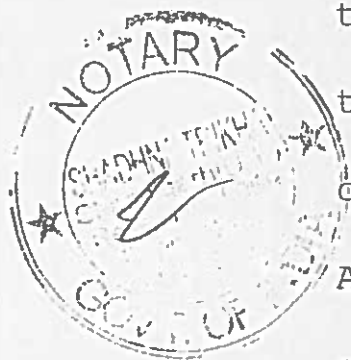
this provision, for the transfer of



immoveable property, makes registration as compulsory. The Hon'ble Supreme Court has held in Hamda Amal Vs. Avdi Appa Pathar 1991(1) M.P.W.N 10 SC is hereby determined that the date of transfer shall be deemed on the day when the deed was registered. Therefore, the object of the Act is very much clear that the transferee intentionally did not make changes in revenue record, but because of the transfer of land, he acquires more than 12.50-acre land. (Such as through deed of gift). Therefore, the registered sale deed will be the best evidence for the satisfaction of section 154(1). On the basis of that the transacted material will be forfeited to the state government. In the case of Golden



Forest Company, there is no bar or objection to implement this principle. Not making the changes in the revenue record cannot provide any permission to any person that he may acquire land more than 12.50 acres and he may also save himself from the consequences of prohibition of Section 166/167 of the Act. In case due to technical reasons, if any such relaxation is given, no doubt the public shall take advantage of this facility to the extent that to purchase land in large extent and take possession of that land and utilize that land but do not make changes in the revenue record and to save from the consequences of Sections 166/167 of the Act. If it happens, it will hurt the soul of the U.P.Z.A.L Act. Here this

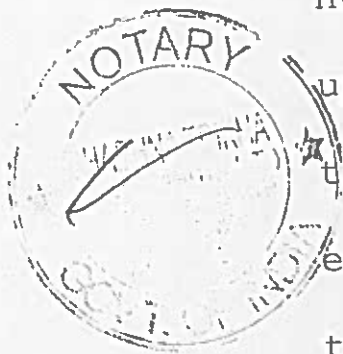




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point is also to be considered that what was the reason that Golden Forest Company or its associate companies have purchased land in the year 1996-97 but did not make changes in the revenue record. From this action of the company, its modus operandi also come into light.

5. This section do not put effect on the rights of the seller because he can sold his land with his own consent and can receive the sale consideration. The responsibility is on the purchaser and he should pay attention to get the land upto the extent that it may not exceed the limit of 12.50 acres. If this limit exceeds, the purchaser should be read to face the consequences. Therefore, as per the provisions of the above said



section, no information is necessary to be given. But in the case of Golden Forest Company, both transferor and transferee have been provided information through summons as well as through publication. The transferee company has come present through his counsel and have raised objections from time to time.

The proceedings under section 166/167 are based on the decision-making evidence, therefore when the Khatoni or sale deed have come on record as evidence regarding the transfer, there is no need to pursue the cases like this and the land shall automatically stands forfeited by virtue of Section 167. The nature of



section 166/167 is administrative. For the implementation of these sections, the necessary evidence is only to the extent that the transferee has acquired more than 12.50-acre land.

In this case, the vendors who are farmer have also been summoned to file their objections, because in certain cases, the proceedings U/S 166/167 of the Act are based upon the facts of possession of Golden Forest Company and its associate companies. Therefore, the vendor has been given opportunity to say that he has not sold the land to the Golden Forest Company, otherwise they were not required for any action. Out of these, certain vendor Khata holders have filed the



following objections and the same have been disposed of in a time bound manner. The objections mainly divided into following four categories:

(1) The objection wherein it has been told that the land has not been sold to the company, but appropriate evidence is available. On the basis of which, it is proved that the land has been sold to the company and on the basis of which, the land will be attached under section 154 of the Act- **EXAMPLE-**

(A) In case No.25/00-01, Smt. Ashla Devi wife of Prem Singh has tendered the affidavit to the extent that she has not sold the land comprised of Khasra No.716 area 0.437 hectare to the Golden Forest Company. The assertion of



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the objector is wrong. She has sold her land to Izya Fincap Pvt. Ltd. Company on 10.10.1996 and its registration number is 3791. Therefore, the objection is declined.

(B) The objection has also been raised by Arjun Sharma, who have purchased the Khasra No.1295 from Gram Central Hope Town, original owner. This Khasra number has not been sold to the company.

Some share of the above said Khasra number was sold by its original owner Navtej Singh Bains etc. to the Golden Forest Company and its associate company Padamroopa Construction Private Limited on 02.07.97 and the remaining share was sold on 03.07.1997 through sale deed No.2713, 2716, 2727,



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2730 and 2733. Accordingly, the objection has been declined, therefore the above said Khasra number will be attached under the provisions of Section 154 of the Act.

This example also relates to the fact, which proves that first of all the farmers have sold their land to the Golden Forest Company and later on sold to others.

(2) The objection, wherein the original cultivator/Khata holder has stated that he has sold the portion of his share from his Khata to the company, but the proceedings are taken against the whole Khata-**EXAMPLE:**

In the case file No.29/00-01, Ram Nath son of Raja Ram has raised



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objection by way of an affidavit that he had sold his land comprised of Khasra No.1439A area 03030, 1440 B area 0.097, Khasra No.1454J, Area 0.182 total 0.259 to the Golden Forest Company but did not sold total land measuring 0.105 hectare i.e., comprised of Khasra No.276 area 0.020, Khasra No.389 area 0.028, Khasra No.491 area 0.057 to the Golden Forest Company, but it has been attached under section 166/167. Therefore, the above said land which was not sold to the company will not be included under section 154 of the Act.

(3) The objection, wherein the original cultivator/khata holder has stated that he has never sold the land to the company and in this regard also

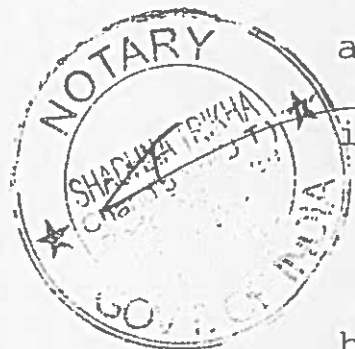


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presented the affidavit. In the case NO.15/00-01 Ram Asre, Mangat, Hukam Singh sons of Rulia and Sunder, Puran sons of Santu have presented their objections that they have not sold their land comprised of Khasra No.692, area 0.405 situated at village Jassowala to the Golden Forest Company. There is no proof regarding the sale of this land. Therefore, the land will not be attached under section 166/167 of the Act.

(4) The property which has the Khasra numbers whereon old Abadi is dwelling and is not sold to the company nor there is any proof regarding the sale of land.

Therefore, total 10 objections have been received upto the date fixed





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and out of them 4 have been disposed with examples along with the present decision. The remaining objections are being sent to the record keeper with the object that the pages regarding the sale of land be enclosed therewith and to send the report through the Tehsildar, so that this learned court may take further action.

In all the cases, the facts regarding misappropriation of law, to raise procedural and technical discrepancies and then to file pleas to prove that all the proceedings are wrong is very simple and in the present perspective protection of the procedure established by law is so much hard, to do things with intention to save from



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the prohibitions of the law. It becomes mockery of law when the big companies and persons defeat the law by doing so. Further it has become the trend to do work against the law and to succeed in the same. Its clear effect reflects on the public at large in India, its economy as well as on its development. In the present case, there are number of examples where the people knowingly and fraudulently purchased the Khasra numbers which were already sold to the company. The land mafia has cheated the general public, sold the land which was already sold to the company and unlawfully gained profit. Therefore, in the interest of justice, all the cases have become necessary to dispose of as soon as possible.



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Therefore, keeping in view the statements of Tehsildar, record keeper, affidavits given by the PW-1 and PW-2 employees of the Golden Forest Company, from the record and details presented by them, the actions of the company, its objectives, regarding the transfers made by it as well as its investors and the details in this regard are attested by the Join Registrar and on the basis of all these, it is proved that all the companies are the associate companies of Golden Forest Company. Therefore from the above said discussions, facts and evidence, I Sunil Kumar Chaudhary, Assistant Collector, First Grade/Pargana Adhikari, Vikasnagar have reached at a conclusion that Golden Forest Company in association with its



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associate companies have acquired land more than 12.50 acres in the area of Tehsil Vikasnagar District Dehradun which is violation of Section 154 of Uttar Pradesh Zimidara Abolition and Land Reform Act and therefore all the land which has been mentioned in the enclosed list (1) has been forfeited to the state government except leaving 12.50 acre land in favour of the company. Subsequently, it will be lawful to change the revenue record on the name of state government. I am agreeing with the assertion of D.G.C (R) that Golden Forest Company has been left with 12.50-acre land on its name, therefore all other land of the company is now forfeited to the state

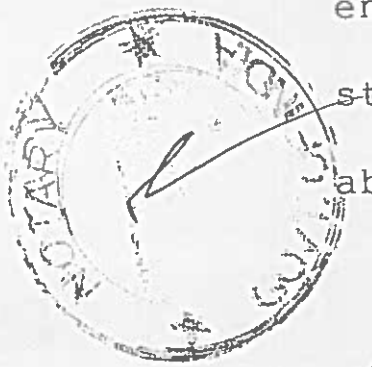


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government under section 154 of the Act.

### ORDER

Golden Forest Company in association with its associate companies have acquired land more than 12.50 acres in the area of Tehsil Vikasnagar District Dehradun which is violation of Section 154 of Uttar Pradesh Zimidara Abolition and Land Reform Act and subsequently, the land which was earlier left (A copy of this order for reference is attached at page No.), except that all other land from the date of transfer is free from all encumbrances and forfeited to the statement government. Because all the above said Khasra numbers have become



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void since the date of their transfer and are vested to the state government. Therefore, all the deals, agreements or transfer which have been done after that shall be deemed void since beginning and accordingly there will not be evolve legal rights of any type. Further, the orders are passed that list number 1, which is a part of this order and therefore the names of Khata holders in the Khasra numbers given therein be strike out and the revenue record be changed on the name of statement government. The summons of amaldramad be issued as per the numbers of the list. A copy of this order be sent to the Collector with the request that order under section 167(2) of Uttar Pradesh Zimidara Abolition and



Land Reform Act be passed for the dispossession of the respondents from the land in question and for taking the possession by the state government.

2. Further, the orders are passed that the other Khasra numbers which are sold to the Golden Forest Company and its associate companies, which are situated in the different villages, be also inquired into, because such Khasra numbers are sold to the company and such Khasra numbers are consequently forfeited to the state government since the date of their transfers. The entries regarding the same be made in the revenue record. It will be better in the interest of public that a list of such Khasra numbers be prepared and



to make the same available in the Tehsil Head Quarters as well as before all the record keepers, so that the general public may not be confused regarding the above said Khasra numbers and the public may be saved from the frauds regarding the sale and purchase of the above said Khasra numbers.

3. Because, now it is established fact that associate companies are pertains to the Golden Forest Company therefore any Khasra number if come into light in any village, from which it may be proved that any such Khasra number either sold

main company or to the associate companies, the same be deemed forfeited to the state government and entries be made in the revenue record. But it is





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compulsory to attach a certified copy of the sale deed or Khatoni with any such report. In the present case, if report regarding the possession of the company on any Khasra number has been prepared and such cultivators have raised objection that they have not sold their land to any such company or some area of the Khasra number has been sold, but the action is being taken against all the area of Khasra number. Therefore, to avoid any difficulty to such bona-fide cultivators, the orders are passed that every objection which has been received upto the fixed date and the Khasra numbers thereof may not be included in this order and to forward the same for inquiry before the record keeper. And further Tehsildar to send



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the well-reasoned remarks to this learned court after holding a detailed enquiry and should be based on the evidence produced by the cultivator. Because the facts are same in all the cases pertaining to the Golden Forest Company, therefore, the copy of this order be placed on all the cases. After making due compliance, the case files be consigned to the office.

SD/- Sunil Kumar  
Chaudhary Assistant  
Collector 1<sup>st</sup>  
Grade/Pargana Adhikari,  
Vikasnagar.

CERTIFIED TO BE TRUE TRANSLATED COPY

ADVOCATE

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To Be True Translation  
from ..... English  
NOTARY CHAUDHARY  
14/7/21



IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

Writ Petition No.515 of 2004 (M/S)

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Manish Bansal

... Petitioner

Vs.

Divisional Commissioner & Ors.

... Respondents

With

Writ Petition No.516 of 2004 (M/S)

Smt. Saroj Devi

... Petitioner

Vs.

Divisional Commissioner & Ors.

... Respondents

Mr. Ramji Srivastava, Advocate for the petitioner

Mr. N.S. Pundir, Brief Holder for the State/respondent nos.1 to 3

None present for respondent no.4

Hon'ble B.S.Verma, J. (Oral)

No supplementary affidavit has been filed by the petitioner in spite of time being granted.

Since the controversy involved in both these writ petitions are same, therefore, for sake of convenience, both these writ petitions are being decided by this common order.

These writ petitions have been filed for quashing of the impugned judgment and orders dated 2.6.2003 and 28.7.2003 (Annexure Nos.3 and 7 to the writ petition) passed by respondent nos.2 and 1 respectively.

By impugned order dated 28.7.2003, learned Commissioner has rejected the appeal of the petitioners being not maintainable on the

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ground that the petitioners were not party in the original suit. So far as this finding is concerned, it is a perverse finding. It is well settled that any aggrieved party, though not arrayed as party in the suit, can file appeal with the leave of the court. However, in the case at hand, no application for leave was moved by the petitioners before the appellate court. Learned Commissioner has also observed in its order that if the petitioners are aggrieved by the order, they may file an application for restoration before the trial court. In the opinion of the Court, learned Commissioner has wrongly rejected the appeal of the petitioners since aggrieved party has a right to file appeal with leave of the court and, while granting it, it is the duty of the court to examine whether the person filing appeal is aggrieved person or not.

In the light of aforesaid, the writ petitions are allowed. Impugned judgment and orders dated 2.6.2003 and 28.7.2003 (Annexure Nos.3 and 7 to the writ petition) passed by respondent nos.2 and 1 respectively are set aside, and it is provided if leave to appeal is filed by the petitioners before the appellate court, learned Commissioner shall decide the same in accordance with law.

**(B.S.Verma, J.)**  
**27.03.2014**