

**IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION**

IA No. of 2023

IN

Transfer Case (Civil) No. 2 of 2004

In the Matter of :

The Securities and Exchange Board of India Petitioner

Versus

The Golden Forests (India) Ltd. Respondent

Through Committee- GFIL

(Appointed by Supreme Court of India)

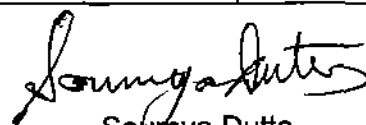
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New Delhi

Date: 17.6.2023



Soumya Dutta
Advocate 2537

Counsel for Applicant- Committee – GFIL
(Appointed by Hon'ble Supreme Court of India)

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IA No. of 2023

In

Transfer Case (Civil) No. 2 of 2004

In the Matter of :

The Securities and Exchange Board of India Petitioner
SEBI Bhavan, BKC, Plot No.C4-A
'G' Block, Bandra, Kurla Complex,
Bandra (E), Mumbai, Maharashtra-400051

Versus

The Golden Forests (India) Ltd. Respondent
Through Committee – GFIL,
Main Building, Golden Forests (India) Ltd.
VPO Jharmari, Via Lalru,
Ambala-Chandigarh National Highway-22,
Tehsil Dera Bassi, Distt. Mohali

APPLICATION FOR DIRECTIONS

To

The Hon'ble Chief Justice
and his Companion Judges of this Hon'ble Court

MOST RESPECTFULLY SHOWETH:

1. That on 21.08.1997, Assistant Collector 1st Class-cum-Sub Divisional Magistrate, Dehradun, passed seven identical orders in Case Nos. 30, 33 to 37 & 39 of 1996-97 under Sections 166/167 of the Uttar Pradesh Zamindari Abolition and Land Reforms Act, 1950, and declared the land, purchased by the Company to be in violation of Section 154, as surplus and further directed that the land in excess of ceiling is vested in the Government. Copy of one of the orders dated 21.08.1997 is annexed as **ANNEXURE A-1**. (Pg. 14 to Pg. 43)
2. That as the above order of the Assistant Collector dated 21.8.1997 was passed without affording opportunity of hearing to the Company, the company filed revision petitions R.O.R. Nos. 51 to 57 of 1996-97 against these orders before the Board of Revenue, UP at Allahabad.
3. That on 24.11.2000, the Board of Revenue, UP at Allahabad allowed the revision petitions R.O.R. Nos. 51 to 57 of 1996-97 mainly for the reason that the report submitted by the Tehsildar was not supported by any evidence and actions taken on the basis of such report are liable to be rejected and quashed the order dated

21.08.1997 passed by the Assistant Collector 1st Class-cum-Sub Divisional Magistrate, Dehradun. Copy of the order dated 24.11.2000 is annexed as **ANNEXURE A-2**. (Pg. 44 to Pg. 49)

4. That the Revenue Board, Allahabad also observed that in terms of Section 154(1) of the Act each major person or company is entitled to purchase 12.5 acres land and the purchases made in the names of different companies cannot be clubbed for deciding the issue relating to violation of that section.
5. That the State of Uttaranchal (now Uttarakhand) challenged the order passed by the Revenue Board, State of UP before the High Court of Uttaranchal at Nainital by filing several writ petitions being Writ Petition Nos. 2046 (M/S) to 2049(M/S) and 2051(M/S) to 2053(M/S) of 2001 on several grounds. These writ petitions were clubbed with Writ Petition No. 81 (M/S) of 2000 filed by the State of Uttarakhand against the order passed by the Board of Revenue, Uttar Pradesh at Allahabad.
6. That the Uttaranchal High Court at Nainital which was later renamed as Uttarakhand High Court dismissed the writ petitions filed by the State of Uttarakhand vide order

dated 21.12.2005 by observing that the conclusion recorded by the Board of Revenue, U.P. on the legality of the disputed matter was correct. Copy of the order dated 21.12.2005 is annexed as **ANNEXURE A-3**. (Pg. 50 to Pg. 79)

7. That against the decision of the Uttaranchal High Court dated 21.12.2005, several SLPs were filed before this Hon'ble Court, including the Special Leave Petition (C) No. 11741 of 2006, wherein the only question to be decided was whether the disputes pertaining to surplus land of the Company situated in the State of Uttarakhand could be heard and decided by the Revenue Board, State of UP after the reconstitution of the State of UP.
8. That this Hon'ble Court passed final judgment and order dated 11.4.2011 in Special Leave Petition (C) no 11741 of 2006 and connected petitions, directing inter alia as follows:

"11. The impugned order as also the order passed by the Board of Revenue, U.P. are set aside and it is declared that the revisions filed by the respondents stood transferred to the Board of Revenue, State of Uttaranchal. The Board of Revenue, U.P. is directed to transmit the record of the revision petitions to the

Board of Revenue of the State of Uttarakhand which shall decide the revision petitions afresh. If there is no Board of Revenue in the State of Uttarakhand then the record shall be transferred to the corresponding adjudicating authority. The respondents shall furnish the list of allottees of plots along with their latest addresses to the Board of Revenue, Uttarakhand or any other competent adjudicating authority within a period of four weeks from today. Thereafter, the allottees be impleaded as parties to the pending revisions and appropriate order be passed in accordance with law after hearing all the parties."

9. The Committee was not a party in these proceedings. Copy of order dated 11.4.2011 in Special Leave Petition (C) no 11741 of 2006 and connected petitions is annexed as **ANNEXURE A-4.** (Pg. 80 to Pg. 85)
10. That accordingly, the revision petitions against the orders dated 21.08.1997 passed by the Assistant Collector 1st Class – cum - Sub Divisional Magistrate, Dehradun being R.O.R. Nos. 51 to 57 of 1996-97 were remanded to the Chief Revenue Commissioner (now Chairman,

Revenue Board), Uttarakhand at Dehradun and re-numbered as R.O.R.Nos.10 to 16 of 2011.

11. That the fact of the pendency of the revision proceedings before the Chief Revenue Commissioner, Uttarakhand at Dehradun, came to the knowledge of the Committee at this stage only. The counsel of the Committee appeared before Chief Revenue Commissioner and apprised him that the Company Golden Forests (India) Limited had closed its business in December, 2000 and the Hon'ble Supreme Court of India has constituted this Committee, so only this Committee is entitled to represent the Company before Chief Revenue Commissioner, Uttarakhand in the said Revision Petitions. The Chief Revenue Commissioner however rejected the verbal submission made by the counsel for the Committee vide order dated 23.11.2011. Copy of the order is **ANNEXURE A-5**. (Pg. 86 to Pg. 88)
12. That In the meantime, the State of Uttarakhand, replaced Chief Revenue Commissioner, with the Revenue Board, Uttarakhand. The impleadment applications filed by the Committee were also rejected by the Revenue Board, Uttarakhand on 04.07.2012. Copy of the order dated 4.7.2012 is annexed as **ANNEXURE A-6**. (Pg. 89 to Pg. 92)

13. That the Committee filed an IA No. 3 in Civil Appeal No. 3195 of 2011 (converted from Special Leave Petition (C) no 11741 of 2006) for modification in the order dated 11.04.2011 to the extent that the Committee be allowed to represent the company before Revenue Board, Uttarakhand. The IA was allowed by this Hon'ble Court on 10.03.2014. Copy of the order dated 10.03.2014 is annexed as **ANNEXURE A-7**. (Pg. 93 to Pg. 95)
14. That by the time the Committee could represent before the Revenue Board, Uttarakhand, the Chairman, Revenue Board vide order dated 21.10.2014 set aside all the orders passed by Revenue Authorities, Dehradun on 21.8.1997 against the companies and remanded the matters to the District Magistrate, Dehradun for fresh decision/determination of surplus area who further transferred the matters to Additional Collector (F&R) and Additional Collector (E) Dehradun. These matters are pending till date. Copy of the order dated 21.10.2014 is annexed as **ANNEXURE A-8**. (Pg. 96 to Pg. 105)
15. That the Committee, thereafter, filed an IA No. 145178 of 2019 in T.C.(C) No. 2 of 2004 before the Hon'ble Supreme Court seeking direction regarding lands declared surplus by

the State of Uttarakhand under UP ZA & LR Act, 1950. The Hon'ble Court was pleased to issue notice in that IA. The State of Uttarakhand has filled reply. In compliance with the order dated 25.9.2019, the Committee has also filled proposed issues.

16. That surprisingly, the State of Uttarakhand in its reply dated 06.1.2020 to IA No. 145178 of 2019 disclosed that the entire land of 486.352 Hectare belonging to Golden Forests Group companies in Uttarakhand have been allotted by the State to its various departments, Educational & Medical Institutions.
17. That the Committee through rejoinder informed the Hon'ble Court that the State has not disclosed full details of all the allotments made by it. Thereafter vide IA No. 42473 of 2020 the State of Uttarakhand filed English translation of the some of the allotment letters as additional documents which are Annexure R-13 to R-20 of that IA. Copies of the Annexure R-13 to R-20 of the IA no. 42473 of 2020 in W.P.(C) No. 2 of 2004 are annexed as **ANNEXURE A-9.(colly) (Pg. 106 to Pg.146)**
18. That on perusal of these allotment letters, it is found that since 2008 number of allotments were made by the State of Uttarakhand and most of them are in the year 2015 & 2018.

It is submitted that vide order dated 21.10.2014 the Chairman of Revenue Board, Uttarakhand set aside all the orders passed by Revenue Authorities, Dehradun on 21.8.1997 against the companies. Resultantly the order of Revenue Authorities declaring land surplus stands set aside is no longer in existence. The effect of this order is that the ownership of the lands which were vested in the State of Uttarakhand vide orders dated 21.8.1997 gets restored in the name of Golden Forests Group companies and therefore, the allotments made by the State after this date are wholly illegal and unjustified. Even the allotments made prior to that i.e. in the year 2008 onwards are also illegal as the litigation was pending at different level of courts during that period.

19. That the Committee wrote DO letter no. 484 dated 23.11.2022 to Chief Secretary to Government of Uttarakhand and requested him as under:

"The above allotments were made from 2008 onwards and details have been taken from the reply itself. In fact some allotments were made even after October 21, 2014, when the orders of the Revenue Authorities Dehradun were set aside.

I request you to examine the matter and take remedial action to return the lands to the Golden Forest Group of Companies. Otherwise the Committee shall be forced to seek compensation for wrongful use and occupation of the lands and may seek compensation for their compulsory acquisition under the appropriate law."


That the Committee has not received any reply from Chief Secretary or any other Revenue official deputed for that matter till the time of Filing of this IA.

20. That the acts of the State of Uttarakhand to allot the lands of Golden Forest Group Companies during the pendency of cases before various courts and particularly after order dated 21.10.2014 passed by the Chairman, Revenue Board Uttarakhand (vide which all the orders declaring the land to be surplus were set aside), are illegal and liable to be set aside. It is necessary because the allottee departments may change the nature of land making it irreversible.
21. It is therefore prayed that:

11.

- a. direction may please be given to the State of Uttarakhand to set aside all the allotments of lands of Golden Forest Group Companies;
- b. direction may please be given to the State of Uttarakhand to compensate the Committee for wrongful use and occupation of land since 2008 as fixed by the Hon'ble Court;
- c. pass any other order which the Hon'ble Court may deem fit and proper in the interest of justice.

New Delhi


Soumya Dutta
Advocate 2537

Date: 17.5.2023

Counsel for Applicant- Committee – GFIL
(Appointed by Hon'ble Supreme Court of India)

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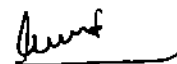
(Appointed by Supreme Court of India)

AFFIDAVIT

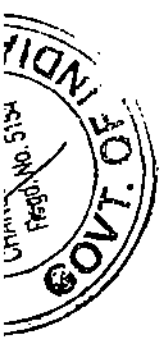
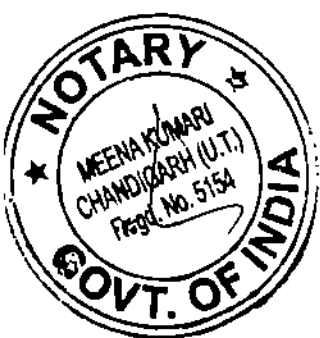
I, Sh. Brij Mohan Bedi S/o Sh. Sadhu Ram Bedi Aged about 72 years R/o H.No. 22, Sector -4 Panchkula, working as Member, Committee-GFIL do hereby solemnly affirm and declare as under:-

1. I am Member, Committee-GFIL, I am duly authorized and being fully conversant with the facts and circumstances of the case, I am competent to swear this affidavit.

2. I say that the Interlocutory Application for directions is drafted under my instructions and the contents thereof are true to the best of my knowledge and belief based on records.



DEPONENT



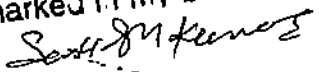
VERIFICATION: -

Verified on this 4th day of May 2023 at Chandigarh that the contents of paras 1 to 21 of the accompanied application and para 1 & 2 of the above affidavit are true to my knowledge based on records and nothing material has been concealed there from.

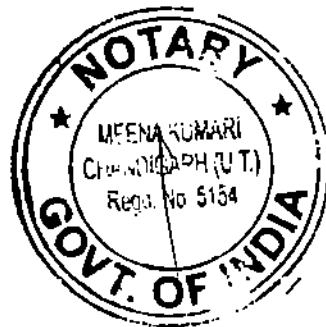


DEPONENT

Identify the deponent
who has signed/thumb
marked in my presence



Signature



ATED AS IDENTIFIED

MEENA KUMARI
NOTARY, CHANDIGARH

04 MAY 2023

The contents of the Affidavit / Document has
been explained to the deponent / executants
He / she has admitted the same to the correct
The deponent / executant has signed Register

688 dt 4/5/2023



COURT OF THE ASSISTANT COLLECTOR, 1ST CLASS/ 14

SUB DIVISIONAL OFFICER, DEHRADUN

Case No. 37/96-97

Sections 166/167 of Z.A. Act

State

Vs.

Golden Forest India Limited & Ors. through Sh.R.K.

Syal, Village Gujrada Mansingh etc. Pargana

Parwadun/Pachhawadun, District Dehradun.

JUDGEMENT

Tehsildar Dehradun while submitting the report has mentioned that Shri R.K. Syal and his family members, in the names of different companies related to Golden Forest India Limited, have purchased a huge land from different Khata on the basis of registered sale deed in different village while violating the provision under Section 154(1) of the Z.A. Act. Shri R.K. Syal and his family members in violation of the prohibitions under Section 154(1) of Z.A. Act have purchased lands more than 12 ½ acres and they are in possession

on site. Alongwith his report the copies of Khatauni of lands in question and the details of lands in question have been produced, wherein it has been mentioned that Shri R.K. Syal and his family members have purchased lands in village Bhandariwala area 0.202 Hect. in the name of Ku. Pamela Syal and in village Gujarada Mansin area 0.283 Hect. in village Nooriwala area 0.302 Hect. and in village Asthal area 0.332 Hect. in the name of Golden Forest India Limited Chandigarh, in village Danda Ghoran area 1.004 Hect., in Bhandariwala Maichak area 0.256 Hect., in village Gujaraml area 1.298 Hect., in village Gujarada Mansingh area 1.081 Hect., in village Sonyowal Ghoran area 3.149 Hect., in Ghoran Khas area 1.161 Hect., in Danda Lakhaundmalchak area 4.513 Hect. lands in the name of Golden Forest India Limited through R.K. Syal and in village Bajhet area 1.951 Hect. in the name of Golden Forest through Ku. Pamela Syal and in village Jhajara area 1.603 Hect. in village Bajhet area 1.840 Hect., in village Danda Nooriwala area 194 Hect., in village Bhinswara Gaon area 6.093 Hect., Aghoiwala area 4.669 Hect., in village Mothariwala area 0.231

Hect., in village Listrabad area 0.926 Hect., in village Kulhan Karanpur area 0.389 Hect., in village Marotha area 0.194 Hect. in village Khurawa area 0.837 Hect., village Bandawali area 1.405 Hect., in village Nagal Hatnala area 2.089 Hect., in village Chalang area 3.153 Hect., In village Aamwala Uparala area 2.286 Hect., in village Aamwala Tarala, area 0.048 Hect., in village Bakarana area 0.729 Hect., in village Mishras Patti area 3.783 Hect. lands in the name of Golden Forest India Liited through R.K. Syal I.e: total 48.381 Hect. lands have been purchased in the aforesaid names from different Sankramaniye Bhumidhars. Since the purchaser side has purchased the lands more than the limit prescribed under Section 154(1) of Z.A. Act, therefore, proceeding under Section 166/167 Z.A. Act be instituted.

I have perused the evidence available on record and has perused the report of Tehsildar Dehradun. From the evidence available it is clear that the purchasers have purchased the lands in different villages from different Sankramakya Bhumidhars in different names and with the purchaser there is

more land than the limit prescribed under Section 154(1) of Z.A. Act. Therefore for vesting of the said remaining land into State Government now institution of proceeding u/s 166/167 of Z.A. Act is necessary. The purchaser side has purchased total 48.386 Hect. land. In other words the purchaser has acquired land more than 12 ½ acres. The said excessive purchased land in violation of provision under Z.A. Act are presumed to be vested into State Government under Section 166 of Z.A. Act free from all encumbrances. Probably to save from this provision, the purchaser side has willfully has not done the proceeding for mutation of lands purchased into their names and the lands in questions are still have been recorded in the different Khatedars in the revenue record which is wrong. Out of the aforesaid total purchased land in the name of purchaser side, as per rule, total 12 ½ acres lands are fit to be left and remaining lands are justified to be vested in the State Government and since the case in question is an urgent case and there is every possibility of misappropriation of land in this lands. Therefore, in the interest of justice it

is necessary to vest these remaining land into the State Government with immediate effect. 18

Therefore, in favour of the purchaser side the lands situated in village Bhandariwala in Khasra No. 75 area 0.090, Khasra No. 76 area 0.150, Khasra No. 77 area 0.100, Khasra No. 78 area 0.065 $\frac{1}{2}$ portion of total area 0.405 Hect. i.e. 0.202 Hect., in village Gujrada Mansingh in Khasra No. 491 area 1..... Hect., Khasra No. 518 area 0.267 Hect., Khasra No. 538 area 0.623, Khasra No. 560 area 0.271 Hect., 570 area 0.235, 0.283 Hect out of total area 2.901 Hect., in village Danda Nooriwala in Khasra No. 62 area 0.302 Hect. and in village Asthal in Khasra No. 109 area 0.332 Hect. and in village Danda in Khasra No. 45 area 0.490 Hect., in Khasra No. 51 area 0.425 admeasuring 0.308 Hect. out of total area 0.915 Hect. and in Khasra No. 0.069 and Khasra No. 22 area 0.429, Khasra No. ... area 0.050 Hect., in Khasra No. 21 Kha area 0.108, 252 Ga area 0.040 Hect. total area 1.004 Hect., in village Gujarami in Khasra No. 112 area 0.198 Hect., Khasra No. 133 area 0.101 Hect., Khasra No. 113 Ka area 0.234 Hect. i.e. $\frac{1}{4}^{\text{th}}$ portion of 938,

19
Khasra No. 114 area 0.024 Hect., Khasra No. 14Kha area 0.105, Khasra No. 113 Kha area 0.957, Khasra No. 114, Kha area 1.106 total area 0.777 Hect. i.e. $\frac{3}{8}^{\text{th}}$ portion of total 2.063, 1.106 total area 2.063 Hect. and Khasra No. 114 Gha area total area 1.496 Hect. land in village Gujarada Mansingh in Khasra No. 559 area ... Hect. and Khasra No. 491 area 1.514 Hect., 518 area 0.267 Hect., 538 area 0.623, 560 area 0.271 Hect., 570 area 0.235 Hect. total 0.486 out of total area 2.910 Hect. and Khasra No. 491 area 1.514 Hect., 518 area 0.267, Khasra No. 538 area 560 area 0.271 Hect., Khasra No. 570 area 0.235 Hect. total out of total area 2.910 Hect. and total area of village 1.081 Hect. village Kulhan Karan in Khasra No. 95 area 0.090 in Khasra No. 124 Min area 0.013 Hect. total area 0.103 Hect. in village Bhandariwali in Khasra No. 2Chha area 0.206 Hect. i.e. $\frac{1}{4}$ portion of total area 0.824 Hect., village Bhandariwala Khasra No. 79Ja area 0.050 Hect. i.e. $\frac{1}{4}$ portion of total area 0.198 Hect. i.e. total areas of in all villages 5.059 Hect. are hereby released in favour of the purchaser and the remaining land, due to violation of provision u/s 154 of Z.A. Act, are hereby vested in the State

Government accordingly following order is hereby
passed.

20

ORDER

On the basis of aforesaid analysis the lands in question of following villages which are recorded in the revenue record in the names of different khatedars (sellers) and which have been purchased by Shri R.K. Syal in the names of aforesaid companies are hereby vested in the State of U.P. with immediate effect.

Village Name	Rakba No.	Rakba in Hect.	Name of tenure holder name has been deleted from revenue records
1	2	3	4
Sondhowali Cheran	56	0-050	Puran Singh, Meher Singh, S/o Dhoom Singh, Jagmohan
	64	0-077	Suresh Singh, Ravinder Singh

61	0-150
74	0-024
79Ka	0-016
81 Ka	0-016
87	0-032
92Ka	0-020
109	0-0445
110	0-0445
111	0-040
113	0-012
115Kh	0-021
117	0-016
120	0-081
122	0-028
124	0-077
127	0-081
128	0-032

21

130 0-040

135 0-016

137 0-024

141Ka 0-053

156Kh 0-023

166 0-016

169 0-049

171 0-020

175 0-080

176 0-049

177 0-040

180 0-000

0-032 Baldev Singh &
Darshan Singh,
Digambar Singh,
Prem Singh,
Rakesh Singh S/o
Dhoom Singh

13 0-045

19	0-033
30 .	0-0325
94Ka	0-028
102Ka	0-028
167Ka	0-032
55G	0-087
68	0-025
69	0-015
71Kh	0-007
84	0-0345
85	0-0345
101Kh	0-048
102kh	0-0035

Mohan Lal, Madan
Lal S/o Amar
Singh, Baldev
Singh, Darshan
Singh, Digambar
Singh, Prem
Singh S/o Dhoom
Singh

101kh 0-025

116 0-061

126 0-089

163 0-021

164 0-020

165 0-020

172 0-045

174 0-053

26 0-043

27 0-030

34 0-057

35 0-056

38Gh 0-034

39 0-067

44G 0-013

78Ka 0-049

168 0-053

183 0-0325

24

154 0-030

55Gh 0-040

65ka 0-0365

72 0-105

114kh 0-0095

115ka 0-019

131ka 0-045

141G 0-013

143 0-060

150 0-045

151 0-055

153 0-034

Village	236Ka	1-161	Budh Singh S/o
Dhorankhas			Madan Singh,
			Dinesh Singh,
			Naresh Singh,
			Prem Singh,
			Sandeep S/o
			Uttam Singh etc.

Village	484M/1	1-979	Dharam Swaroop
Dandamlōkh			Thakur S/o Amar ²⁶
and Maychak			Singh etc.
	226	0-494	Shanti Devi W/o R.N. Singh
	227	0-210	
	485	0-305	Naveen Kumar S/o Chandr Shekhar
	24M	0-008	Sarswati Devi W/o R.N. Singh,
	213/1	0-040	Krishan Lal, Puran Chand, Kallash Chand etc.
	214	0-085	
	215	0-049	
	216	0-073	
	220	0-024	
	228/1	0-016	

	228/2	0-020	Zamil Ahmad etc.
	226	0-121	27
	237	0-397	Sushil, Ashok S/o Rajkumar etc
	248	0-218	
	315	0-474	
Village	32	0-170	Rajendr S/o
Bajhet			Hosihar Singh
	33	0-160	
	34	0-152	
	122G	0-089	
	25Kh	0-372	Bharat Bhushan, Ashwini Kumar S/o Om Prakash etc
	26	0-355	
	28	0-220	
	35	0-097	
	36	0-235	

37Ka 0-032

28

39 0-045

41 0024

Village 595 M 1-349 Satyendr Kaur
Jhajhra W/o Yashpal
Singh Joli

575 M 1-365 Yashpal Singh S/o
Khajan Singh

595M 1-349

Village 46 0-210 Chokhu S/o Sher
Bajhet Singh

47 0-198

38 0-130 Bahadur Singh,
Bhim Singh etc.

42 0-178

45 0-198

43 0-216

44 0-100

48 0-210

Village	131	0-194	Shantidevi W/o
Dandanooriw			Yadav Chand 29
ala			
Village	29/1	2-120	Badam Singh S/o
Aadholwala			Prithvi Singh,
			Virender Singh,
			Syham Singh
Village	416/9	0-214	R.K. Siyal D/o
Listrabad			M.C. Siyal
	416/10	0-389	
	416/4	0-323	
Village	124M	0-051	Manju Singhal
Kulhal			W/o Sunil Chand
Karanpur			
	123	0-138	Suman Gupta W/o
			Dinesh Chand
	3Gh	0-073	Balbir Singh S/o
			Puran Singh
	22Gh	0-024	
Village	434	0-194	Rabindr Hooda
Marotha			S/o Om Prakash

Village	114	0-388	Kundan etc. S/o
Khurawa			Uttam, 30
			Jagmohan,
			Suresh

125	0-251
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75	0-198	Suresh, Govind,
		Vijender S/o
		Puran

Village	12Gh	0-016	Rashl Devi W/o
Khandwali			Khem Singh etc.

132	0-030
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133	0-070
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134	0-030
-----	-------

135	0-035
-----	-------

136	0-070
-----	-------

137	0-040
-----	-------

138	0-053
-----	-------

241C	0-004
------	-------

275	0-113
-----	-------

277C 0-008

31

306 0-036

201G 0-008

295 0-992 Digambar Singh
etc. S/o Mohar
Singh

Village , 2 M 0-154 Rajkumar S/o
Chaknagal Kishori Lal
Hatnala

2M 0-486 Pramood Kumar,
Ram Narayan etc.

2M 0-514 Pramood Kumar,
Ram Narayan etc.

2M 0-466

Village 11kh 0-121 Smt. Parvati Devi
Nagalhatnala W/o Rameshwar

153G 0-040

154 0-094

353 0-080 Jamaludin S/o
Saini

41G 0-044

32

Village 1095 0-040 Sudesh Chand,
Chalang Mahesh Chand
S/o Gopal Dass
etc.

1376 0-259 Ahmad Ali S/o
Rasool Baksh

17M 0-259

19M 0-016

50 0-088

1080 0-105 Sarwardin, Mohd.
Yamin, Mohd.
Yashin S/o Noor
Mohamad

1108 0-190

1118 0-085

1119 0-089

126/3 0-045 Bishan Singh S/o
Tulsi Ram etc.

1246/1/2 0-092

1251/2/4 0-012

1252/1 0-036

1253/1 0-065

1256 0-032

1377/1 0-045

1386/2/3 0-012

1078 0-134 Sarbarduln S/o
Mohd. Yamin,
Mohd. Yashin S/o
Noor Mohamad

1079 0-348

13M 0-101 Ahmad Ali S/o
Rasoolbaksh

14 0-081

15 --

1249 0-214 Kanti Devi W/o
Patl Ram

1247 0-146

1248 0-218

34

114 0-024 Kaushalya Devi
Widow of Amar
Singh

117 0-130

118/1 0-008

941 0-024

943 0-020

952 0-008

956 0-008

961/1/2 0-020

970 0-008

973 0-016

991 0-101

995 0-016

997 0-049

Village	16	0-093	Devi	Ram
Aamwala			Rajendra	Singh
Uprala			S/o	Dharam

18Kh 0-120

10Kh 0-104

11 0-120 Ranjit . Kunwar
Singh S/o Bhajan
Singh
etc.

12 0-274

13Ka 0-179

90 0-200 Gayan Singh
S/o Bhajan Singh

91Kh 0-023

19Ka 0-096 Raghubir Singh,
Naresh, Veer
Singh S/o Hukam
Singh

12G 0-077

51M 0-026 Gulabdei W/o
Shrikant

51M 0-022

Village 44,45,47 0-047 Veer Singh S/o

Bhaiswadgao , Chandan Singh

n

48,49,73

36

85,127,1

31,

152,158,

203/4,87

119

16, 17, 6-725 Ratan Singh

20, 28, Tumi Singh,

30, 31, Jitendra Singh

32, 58, S/o Tumi Singh,

59, 60, Suwari Devi W/o

72, 78, Tumi Singh

79, 80,

95, 97,

108,

109,

110,

134,

135,
 136,
 137,
 138,
 147,
 148,
 149,
 154,
 155,
 156, 157

44, 45, 2-047 Jitender Singh
 47, 49, S/o Tumi Singh,
 73, 85, Sawaridevi Tumi
 127, Singh
 131,
 152,
 158,
 203/4,
 87, 119

Above 2-047 Ratan Singh S/o
 number Tumi Singh

53 0-368

84, 106 0-465

38

52, 74, 0-469 Ratan Singh,

83, 113, Jitendra Singh

123 S/o Tuml Singh

Suwarl Devi, Veer

Singh S/o

Chandan Singh

160/1, 0635 Gajender Singh,

161, Dharam Singh,

164, Veer Singh, Raj

165, Singh, Mahendra

166, 167 Singh S/o Amar

Singh

169/1, 0-465 Above

169/2,

172,

174,

176,

177,

178,

179,

190,

203/1

203/13

0-420

Rajendra

39
Singh

S/o

Dharam

Singh etc

Village

2170

Migaspatti

2127

0-466

Balbir Singh S/o

Kewal Singh

1353

0-069

Diwan Singh S/o

Harl Singh

1405

0-045

Ataru S/o Dayal

1418

0000

1410

0-008

1421

0016

1422

0-020

1423

0-020

1424

0-024

1427

0-045

Village

52, 55/2,

1-257

Puran Singh S/o

58, 65,

Bakrana

66, 67,

Jairam

40

68, 70,

71, 74,

78, 82,

115,

139,

151,

162,

164,

166,

555,

558,

576,

587,

591,

598,

601, 336

501

0-405

Digamber Singh,

Puran Singh,

Charan Singh S/o

Kanhiya, Tej

Singh etc

1/8

0-809

Tej Singh, Nand

etc 41 S/o
Apnaram Bahadur
Singh etc S/o
Amar Singh

2	0-142	Sher Singh, Umraon Singh S/o Kishan Singh
499/2	0-615	Baldev S/o Barta
639	0-049	
789	0-032	
791	0-016	
1/14	0-084	Phool Devi W/o Tulsi Ram
610	0-045	
613	0-049	
615	0-028	
628	0-053	
642	0-005	
665	0-016	

666 0-040

672 0-028

676 0-049

679 0-008

680 0-032

688 0-071

43.3220

Hect

Let the Parwana for mutation as per aforesaid be issued. One copy of this order be sent to the Collector, Dehradun with request that he should kindly pass an appropriate order under Section 167 of the Zamindari Abolition Act for dispossession of the defendants from lands in question and to take possession in favour of the State Government.

Sd/- Illegible

(Manvendre Singh)

Assistant Collector 1st Class / SDM

Dehradun

✓ The judgment signed today dated 21.08.1992
and pronounced by me in open court. 43

Sd/- illegible

(Manvendre Singh)

Assistant Collector 1st Class / SDM

Dehradun

//True translated copy//

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ANNEXURE A- 2

COURT OF REVENUE COUNCIL, UTTAR PRADESH, ALLAHABAD

Revision No. 51 upto 57(z)/1996-97/Dehradun

Golden Forest Company Private Limited through R. K. Syal & Ors.

---APPLICANTS

VERSUS

STATE OF UTTAR PRADESH

--RESPONDENT

Under Section 166/167 of Uttar Pradesh Zamindari Abolition and Land Reforms Act

Copy of order 24.11.2000

1. The present seven revision petitions have been preferred against the order dated 21.08.1997 passed by Assistant Collector Ist Class/Parish Officer, Dehradun against application No. 37, 39, 36, 35, 34, 30, 33, year 1996-97 under Section 166/167 of Uttar Pradesh Zimidara Abolition and Land Reforms Act. Vide impugned order the land in dispute of all cases, which is recorded in the name of different Khataholders, land owners has been enshrined into State Government.

2. In nutshell, the facts are like this that Tehsildar Dehradun while concluding has mentioned that the names of Shri R. K. Syal and different companies, which are related to Golden Forest India Limited, in various village while violating Section 154 of Zimidara Abolition Act, a number of land owners have purchased the land on the basis of registered sale deeds from different land owners, which is much more than 12-50 acres. Therefore, the above-mentioned entire land may be enshrined in State of Uttar Pradesh. On the basis of this report, Ld. Assistant Collector/Parish Officer, Dehradun vide his orders enshrined the land in dispute of the mentioned landowners in the State. After having been aggrieved from the above-mentioned order, the present seven revision petitions have been preferred before the Council, which are being decided vide same judgment because all the cases are of similar nature and in all the cases, while adopting same procedure, the points related to one company itself have been contemplated and in all the case same subject matter is involved.

3. I have heard detailed contentions of learned counsel for the revisionists as well as Ld. State/Administrative Council (Revenue) and have carefully perused the case file.

4. The learned counsel for the revisionists contended that on the basis of conclusion of the Tehsildar Dehradun, these cases were registered on 12.08.1997 and next date has been fixed as 21.08.1997

for further proceeding. On 21.08.1997, the lower court in accordance with the verbal orders of the District Magistrate/Collector while passing final order on the entire land mentioned in the report on the same very day, vested the entire land into the State Government. The learned counsel in support of his contention, while showing citation to the Court contended that no notice has been given to any land owner as well as revisionists. Without adopting legal procedure and without caring for the law, the land has been enshrined in the State Government in monopoly manner, due to which sheer miscarriage of justice has taken place. The Ld. Counsel also contended that in such like cases, where illegal transfer may have taken place, in such cases, action should have been taken on the basis of legal process while considering the rules 148 to 152 of Uttar Pradesh Zamindari Abolition and Land Reforms Act, wherein the details should have been prepared by separating every person or registered company. He contended that by treating husband wife and minor children as one unit in the family has got right to hold land measuring 12-50 acres. In any way, every company or adult person can hold the land separately within differently prescribed limit. In the above-mentioned cases, all adult persons and different companies cannot be connected altogether with Golden Forest Company because every person or companies have been registered differently and they have their independent existence and right. The Ld. Counsel for the revisionists in support of his contention produced the

pronouncements of R.D. 1976 page 53 (Baharudin Versus Gram Sabha), R.D. 1996 page 239 (Muni Lal Versus Board of Revenue), in which it has been observed that no order can be passed by lower court without issuing notice under Section 166/166 of Z. A. Act. The Ld. Counsel for the revisionists drawn the attention of the Court towards R.D. 1990 page 267 (Radhey Versus Board of Revenue), wherein the Hon'ble High Court has held that the report of Naib Tehsildar or person making report, report conveyer cannot be read into evidence unless and until, the the person making report may prove the said report by personally appearing before the court. Therefore, in the present case as well, neither the report of Tehsildar can be taken into evidence, nor can any order be passed. He prayed for setting aside the order passed by the Trial Court.

Ld. State Counsel(Revenue) has admitted in his contention that in the concerned cases notice has not been issued to any land owner or revisionists by the Trial Court, but even then it is clear from the report of Tehsildar that the land measuring 12-50 acres has been jointly owned by various companies, therefore, there is no error in the order of the lower court.

5. I have carefully considered the contentions of the Learned Counsel for the revisionists as well as Ld. State Counsel and have carefully examined the case files. From the perusal of the case file, it is

clear that there is sufficient force in the contentions of the Ld. Counsel for the revisionists. It is clear from the perusal of the case files that all the orders passed by the Lower Court are not in accordance with law. It is clear from the order sheets passed by the lower court that neither any notice has been given to the revisionists as well as land owners, nor has the report has been presented in accordance with the prescribed rules. I am in consonance with the contention of the Ld. Counsel for the revisionists that on account of there being no evidence on the report of the Tehsildar, the same is not valuable and the entire proceeding conducted on the basis of this report is liable to be set aside. There is also force in his instant contention that Under Section 154 of Uttar Pradesh Zimidara Abolition and Land Reforms Act, every adult person or company has got right to hold land measuring 12-50 acres and every registered company is a separate unit, which cannot be considered in the category of same family. In under Section 154 of Uttar Pradesh Zimidara Abolition and Land Reforms Act, the definition of family has been made clear, according to which husband wife and minor children falls under the definition of a same family, who after having become joint can hold/own land measuring 12-50 acres. The land of different companies cannot be joined by joining the evidence of land of any other company. Every company/person is a separate unit and keep its independent existence. All the persons/companies can own/hold land in accordance with law within different prescribed limit.

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The provisions presented by the Ld. Counsel for the revisionists are fully applicable in the present case. On the basis of the above-mentioned facts, the order passed by the lower court is not in accordance with the law and the same is liable to be set aside.

In the light of the above, all the revisions succeed and are hereby allowed. The order dated 21.08.1997 of the Lower Court is set aside in all the cases.

The same order will also be applicable in the revision No. 52 upto 57 (z) year 1996-97, Dehradun.

Dated 24.11.2000

SD/- 24.11.2000

R. K. Sharma
IAS Member Incharge

CERTIFIED TO BE TRUE TRANSLATION

ADVOCATE

ANNEXURE - A-3

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IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL.
CIVIL WRIT PETITION NO. 81 (M/S) 2000.

State of U.P. through Collector, Dehradun.

..... Petitioner.

Versus

1. Board of Revenue, U.P. at Allahabad.
2. Sarvodaya Retreat Co. through Its Director Sri Sanjai Ghal.
3. Anil Kumar S/o Krishna Lal, R/o Vlaji Park, Dehradun.
4. Kunwar Singh S/o Tilak Singh, R/o village Paundha, Pargana Pachuadun, district Dehradun.
5. Anuraj Promoters Pvt. Ltd. through Director R.K. Nanda S/o Devraj, R/o Basant Bihār, Dehradun.
6. Santu Kumar S/o Kauhalya.
7. Muni Devi wife of Parikshat
Both respondent no.6 and 7 R/o village Paundha, district Dehradun.
8. Shobhit Mathurson of S.C.Mathur, R/o 5/7 Nari Shllp Mandlr Marg, Dehradun.
9. Mukandi S/o Dasaundhi, R/o village Pauncha, Dehradun.
10. Rajiv Gupta S/o Nand Kishore, R/o village Paundha, Dehradun.
11. M/S Promila Promoters through its Director Dpromlla Nand W/o R.K. Nanda, R/o Basant Bihar, Dehradun.
12. Rajendra S/o Atar Singh, R/o village Paundha, district Dehradun.
13. Rakesh S/o Atar Singh, R/o village Paundha, Dehradun.
14. Subhash Chandra S/o Atar Singh, R/o village Paundha, Dehradun.
15. Rajendra Singh S/o Daya Ram, R/o village Paundha, Dehradun.
16. Brij Mohan Khadka S/o Ram Bahadur, R/o village Paundha, Dehradun.
17. Shamsheer S/o Dattu, R/o village Paundha, Dehradun.
18. Nand Kishore S/o Brij Lal, R/o village Paundha, Dehradun.
19. Rah Nand Jaiswal S/o Ganga Prasad, R/o village Paundha, Dehradun.

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20. Madan Singh S/o Kalm Singh, R/o village Paundha, Dehradun.
21. Surendra Singh S/o Kalam Singh, kR/o Paundha, Dehradun.
22. Padam Bahadur S/o Veer Bahadur, R/o village Paundha, Dehradun.
23. Amar Singh S/o Asha Singh, R/o village Paundha, Dehradun.
24. Ravindra Promoters Pvt. Ltd. through its Director R.K. Nanda S/o Devraj R/o Basant Bihar, Dehradun.
25. Madan Lal Kamboj, S/o S. Kamboj, R/o Kamli Road, Dehradun.
26. Gram Sabha village Vikas Nagar, district Dehradun.

..... Respondents.
Learned Advocate General for the petitioner.
Sri Rajendra Dobhal, learned counsel for respondents
4,5,6,7,8,9,11,13,16,17,18,19,21,23 and 25.
Sri V.K.Kohli, Senior Advocate for respondent no.15.
Sri Diwakar Chamoli, learned counsel for respondent no.26.

AND

WRIT PETITION NO. 2046 (M/S) 2001.

State of Uttaranchal, through Collector/District Magistrate,
Dehradun. Petitioner.

Versus

1. Board of Revenue, Allahabad through its Chairman, Allahabad.
2. Golden Forest Company Pvt. Ltd. through Sanjay Ghai.

..... Respondents.

Learned Advocate General for the petitioner.
Sri Vinod Sharma, learned counsel for respondent No.2.

AND

WRIT PETITION NO. 2047 (M/S) 2001.

State of Uttaranchal, through Collector/District Magistrate,
Dehradun. Petitioner.

Versus

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1. Board of Revenue, Allahabad through its Chairman, Allahabad.
2. Golden Forest Company Pvt. Ltd. through Jitendra Joshi, Dehradun.

..... Respondents

Learned Advocate General for the petitioner.
Sri Vinod Sharma, learned counsel for respondent No.2.

AND

WRIT PETITION NO. 2048 (M/S) 2001.

State of Uttaranchal, through Collector/District Magistrate, Dehradun.
..... Petitioner.

Versus

1. Board of Revenue, Allahabad through its Chairman, Allahabad.
2. Golden Forest Company Pvt. Ltd. through R.K. Sial.

..... Respondents.

Learned Advocate General for the petitioner.
Sri Vinod Sharma, learned counsel for respondent No.2.

AND

WRIT PETITION NO. 2049 (M/S) 2001.

State of Uttaranchal, through Collector/District Magistrate, Dehradun.
..... Petitioner.

Versus

1. Board of Revenue, Allahabad through its Chairman, Allahabad.
2. Golden Forest Company Pvt. Ltd. through Man Singh.

..... Respondents.

Learned Advocate General for the petitioner.
Sri Vinod Sharma, learned counsel for respondent No.2.

AND

WRIT PETITION NO. 2051 (M/S) 2001.

State of Uttaranchal, through Collector/District Magistrate, Dehradun.
..... Petitioner.

- 4 -
Versus

53

1. Board of Revenue, Allahabad through its Chairman, Allahabad.
2. Golden Forest Company Pvt. Ltd. through R.K. Sial, R/o Mani Majra, Chandigarh.

..... Respondents.

Learned Advocate General for the petitioner.
Sri Vinod Sharma, learned counsel for respondent No.2.

AND

WRIT PETITION NO. 2052 (M/S) 2001.

State of Uttaranchal, through Collector/District Magistrate, Dehradun.

..... Petitioner.

Versus

1. Board of Revenue, Allahabad through its Chairman, Allahabad.
2. Golden Forest Company Pvt. Ltd. through Arvind Kumar Negi.

..... Respondents.

Learned Advocate General for the petitioner.
Sri Vinod Sharma, learned counsel for respondent No.2.

AND

WRIT PETITION NO. 2053 (M/S) 2001.

State of Uttaranchal, through Collector/District Magistrate, Dehradun.

... Petitioner.

Versus

1. Board of Revenue, Allahabad through its Chairman, Allahabad.
2. Golden Forest Company Pvt. Ltd. through Rajiv Datta.

..... Respondents.

Learned Advocate General for the petitioner.
Sri Vinod Sharma, learned counsel for respondent No.2.

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21.12.2005.

HON'BLE RAJESH TANDON, J.

Heard learned Advocate General, for the petitioner and Sri Rajendra Dobhal, Sri Vinod Sharma and Sri Diwakar Chamoli, learned counsel for the respondents.

Since a common question of law and facts involve in all the aforesaid writ petitions, hence they are being disposed of by a common order. Writ Petition No. 81 of 2000 shall be the leading case.

By the leading writ petition no.81 of 2000 the petitioner has prayed for a writ of certiorari quashing the order dated 08.09.2000.

Briefly stated the proceedings under section 166/167 of the U.P. Z.A. & L.R. Act was initiated for declaring the transfer void, and further in consequence thereto the transferred land shall be deemed to have been vested in the State Government. It appears that while initiating the proceedings the notice was sent only to respondent No.2 Sarvodaya Retreat Company through its Director Sri Sanjay Ghai. Admittedly the proposed transfer of land has been shown to be belonging to the respondent Nos. 3 to 25 whose land was sought to be declared void under section 166/167 of U.P. Z.A. & L.R. Act on the ground that the transfer having made illegally in favour of respondent No.2 Sarvodaya Retreat which is a sister concern of Golden Forest Company who has been shown a respondent in other cases.

From the perusal of the order dated 31.05.2000 it appears that there was report of the Tehsildar dated 17.04.2000 an inquiry was also made by the Revenue

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Inspector as will appear from the order that the transfer of land has been made without any sale-deed on the record Retreat Company and Sarvodaya, i.e. respondent no.2 is doing the plotting work on the land in dispute to the extent of 25.97 hectares of land. The order passed by the Assistant Collector also shows that tenure holders have transferred the land without executing any sale deed which is against the provisions of Section 155 and 166 of Z.A. & L.R. Act. The relevant observations of the Assistant Collector shows as under:

"खातोदारों द्वारा बिना विक्रय पत्र के हस्तान्तरित कर दी गई है जिसे उ.प्र.ज.वि.अ. की धारा-166 के अनुसार शून्य हो गया है तथा धारा -167 के अन्तर्गत प्रश्नगत भूमि राज्य सरकार में निहित होकर कब्जा लिया जाना उचित होगा।"

It may be pointed out that Section 155 of the U.P. Z.A. & L.R. Act provides the mortgage of land by a bhumidhar and Section 164 relates the transfer with possession by a bhumidhar to be a deemed sale. On the aforesaid grounds the Assistant Collector passed the order expunging the names of the tenure holders and directed the land to be vested with the State of U.P. The tenure holders were not heard and were not even issued notices in order to avail them an opportunity of filing revisions before the Board of Revenue. There were total 22 persons in the aforesaid writ petition. As will appear from the order passed by the revisional court that the notices were sent only to respondent no.2, i.e. Sarvodaya Retreat C/O Sanjay Ghai on 12.12.1997 who has filed the objections, on 30.12.1997 He has denied that he has made any transactions at Dehradun with regard to the purchase of the land and no transfer having taken place in his name he is doing only the Agency work for getting the land to be

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sold belonging to the tenure holders. The revisional court has also mentioned that on 03.02.2000 the proceedings against Sarvodaya Retreat and Sanjay Ghai were dropped and, therefore, the revisional court has come to the conclusion that it appears that without hearing the tenure holders whose land was sought to be transferred in favour of Sarvodaya Retreat Company have not been heard. The revisional Court has also mentioned to the following effect:

"जबकि सचिव तहसीलदार की रिपोर्ट से विदित होता है कि विक्रय विक्रय पत्र सम्पादित नहीं किया गया है। यह भी तर्क किया गया कि धारा 166/167 उ.प्र.ज.वि. एवं भू0सु0 अधिनियम की कार्यवाही हेतु लेखमाल को उ0प्र0ज0वि0 एवं भू0 व्यवस्था नियमावली के नियम 148 के अन्तर्गत अपनी रिपोर्ट प्रस्तुत करनी चाहिए थी, जो इस प्रकरण में नहीं किया गया है।"

"कथित प्रारूप 131 तथा वाद की रिपोर्ट लेखमाल तो 17.04.2000 को तहसीलदार द्वारा अग्रसारित की गई है उसमें भी नियम 148 का अनुपालन नहीं किया गया है। इस रिपोर्ट में केवल खार्तेदारों के नाम तथा खसरा नम्बर व रकबे की सूची दी गई है परन्तु किसी भी भू-खण्ड के विषय के दि0 का कोई उल्लेख नहीं है।"

The revisional court has further mentioned that on the basis of the aforesaid report no proceedings under section 166/167 of U.P. Z.A. & L.R. Act can be initiated as neither any notice has been sent to the tenure holders nor any transfer had taken place. On the basis of the aforesaid observations the revisional court was of the firm opinion that "विद्वान शासकीय अधिकारता के इस तर्क में कोई बल नहीं है कि निगरानीकर्तागण ने अपनह कोई भूमि संजय घई अथवा सौंदय रिटीट कम्पनी को विक्रय की है।"

Further the revisional Court on the basis of the aforesaid facts and circumstances has come to the conclusion "जिसका कारण धारा 166/167 उ0प्र0 ज0वि0 एवं भू0सु0 अधिनियम के अन्तर्गत निगरानीकर्तागण की सक्रमणीय भूमि को सरकार में निहित करने का कोई वैधानिक आधार नहीं है अवर न्यायालय की पत्रावली

पर उपलब्ध प्रपत्र सं० 13/1 व 13/3 जो कब्जा प्राप्त करने से सम्बन्धित है में सीलड किये जाने का कोई उल्लेख नहीं है।”

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As will appear from the aforesaid observations of the revisional court that the proceedings under section 166/167 can be initiated only when proper transfer of the land had taken place and further according to the findings of the revisional court that even the transfer had not taken place in favour of the transferee against whom the proceedings under section 166/167 of the U.P.Z.A. & L.R. Act were drawn.

Stay vacation application has been filed on behalf of respondent No.15 Rajendra Singh as well on behalf of respondents Nos 3,4,5,6,7,8,9,11,13,16,17,18,19,21,23 and 25. On behalf of respondent no.15 Rajendra Singh has filed his own affidavit who has stated that one Rajendra Singh, Babu Singh and Gajendra Singh were bhumidhars of the land bearing khasra No. 1439, khasra No. 1440, Khasra No. 1441, Khasra No. 1442 and Khasra No. 1444 and their names were duly mutated in the revenue records. They have sold the land to Smt. Chitra Gurung, the details of the area sold are quoted below:

“That the above persons has sold the following land to Smt. Chitra Gurung.

<u>Khasra No.</u>	<u>Area (in Acres)</u>
1439	0.56
1440	0.40
1441	0.30
1442	0.26

And the name of Smt. Chitra Gurung was duly mutated by order of Naib Tehsildar in the Revenue Records.

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An exact copy of Khatauni for the period from 1397 Fasli to 1402 Fasli has been filed to prove the same."

The name of Smt. Chitra Gurung was duly mutated by the order of Naib Tehsildar in the revenue record as will appear from the Khatauni for the period 1397F. to 1402F. Thereafter Smt. Chitra Gurung sold the above Khasras to Promila Promoters and their names were duly mutated in the revenue records.

So far as Khasra No. 1444 area 0.138 is concerned one Sri Santu and Munna were Bhumidhars and their names were duly entered in the revenue records prior to 1360 Fasli and they have sold the said khasra number to M/S Anurag Promoters and their names were duly entered in the revenue record vide file No. 1028 dated 11.07.1991.

Sri V.K. Kohli, Senior Advocate appearing on behalf of respondent No. 15 has stated that he has purchased the land, namely, khasra No. 1439, 1440, 1441 and 1442 vide sale deed dated 03.09.1999 from Promila Promoters and Khasra No. 1444 area 0.0840 acres from M/S Anurag Promoters. Copy of the registered sale deed has been Annexed as Annexure 3 of the counter affidavit filed by Rajendra Singh son of Daya Ram, respondent No. 15. The aforesaid sale deeds were duly recorded on 14.09.1999 and thereafter the names were duly mutated. The proceedings under section 166/167 were started without impleading any of the tenure holders between whom the transactions had taken place and, as such, the respondent no. 15 or his predecessors have never been heard during the proceedings under section 166/167 of U.P. Z.A. & L.R. Act. The respondent no. 15 has also filed the sale deed in his favour which forms part of the affidavit (Annexure 3) which shows that the transaction had taken place on a sum of

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2,00,000/- and a proper Stamp duty has been paid. There is no other sale/deed is on the record either in favour of the respondent No.2 Sarvodaya Retreat Company through its Director Sanjay Ghal except the aforesaid sale deed in favour of respondent No.15. A counter affidavit has been filed on behalf of respondent No. 4,5,6,7,8,9,11,13,16,17,18,19,21,23 and 25. In paragraph 12 it has been mentioned that while passing the orders under section 166/167 of U.P. Z.A. & L.R.Act no opportunity was given to the aforesaid respondents. When in point of fact they are the real owners of the land and are also in physical possession of the land in dispute. Further a supplementary counter affidavit has been filed where at paragraph No.7 it has been mentioned that no registered agreement has been filed or produced in order to initiate the proceedings under section 166/167 of U.P. Z.A. L.R.Act.

A rejoinder affidavit has been filed by the petitioner wherein in paragraph 7 it has been stated that the Colonizer got this land under his possession under the garb of transfer and after taking the possession of this land his transfer was hit by Section 154 of the U.P. Z.A. & L.R.Act. Further it has been mentioned there was no allegations against the original tenure holders and the transfer of the original tenure holder in favour of Colonizer will amount to transfer under section 164 of U.P. Z.A. & L.R.Act which shall be void under the U.P. Z.A. & L.R.Act. In the rejoinder affidavit (Annexure 1) has been filed by which the petitioner has tried to show that some of the tenure holders has given his assent of transferring the land to the respondent No.2. There is no material to establish from the said application that any transfer has been admitted by the tenure holders. The perusal of the record shows that on

12.12.1997 a notice was sent to the Sarvodaya Retreat C/O 60
Sanjay Ghai stating therein that in proceedings under
section 166/167 you are required to show as to why the
land may not be vested with the State Government in
respect of khasra No. 739 to 749 then khasra No. 78,79
and 70, 753 to 778,804,805,806,807,808 then
1463,1464,1465,1466 and 1517 to 1538 total khasra No.72
area 13.501. The respondent No.2, i.e. Sanjay Ghai filed
his reply stating therein that he has not violated any of the
provisions of U.P. Z.A. & L. R. Act and further it has been
stated in para 5 that the Company has no concern with the
land. Paragraph No.5 to that effect is quoted below:

"यह कि आपत्तिकर्ता कम्पनी का प्रश्नगत भूमि से कोई संबंध
नहीं है आपत्तिकर्ता कम्पनी भूमि की स्वामी नहीं है । आपत्तिकर्ता कम्पनी
की जानकारी के अनुसार प्रश्नगत भूमि के स्वामी श्री अनिल कुमार आदि
विभिन्न भूधारक हैं और प्रश्नगत भूमि से आपत्तिकर्ता कम्पनी का कोई संबंध
नहीं है ।"

The aforesaid fact has been brought by way of
amendment in the writ petition. Further the report has
been filed dated 27.03.2000 to the following effect:

"यह कि जॉच दल के विश्लेषण रिपोर्ट प्रस्तर आख्या में दर्शित
सर्वोदय रिट्रीट ग्राम पौन्धा तहसील विकासनगर द्वारा 23.316 हैक्टेयर भूमि
होना दर्शाया गया जबकि स्थलीय जॉच में पाया गया कि उक्त संस्था
संस्थापक श्री संजय घई द्वारा गूल खातेदारों की मूक सहमति के आधार पर
25.697 है० क्षेत्र को बिना कयोपरान्त सम्पादित कराये भूमि को आवासीय
प्लोटों के रूप में विक्रय किया जा रहा है तथा वर्तमान में उक्त संस्था का
25.697 है० पर कब्जा होना पाया गया तथा उक्त संस्था का उद्देश्य उक्त
भूमि को प्लोटों के रूप में विक्रय करने स्पष्ट उद्देश्य है । उक्त संस्था द्वारा
बिना राज्य सरकार की अनुमति से अवैध रूप 12.50 एंव यानी 5.000 हैक्टेयर
से अधिक भूमि कय करने पर उ०प्र० जमि० अ० 154(2) का उल्लंघन हुआ
है ।

अतः संलग्न विवरण पत्र दशाई गई 25.697 है 0 भूमि धारा 154(2) Z.A. के उल्लंघन करने पर कय शू. माना जाता है । अतः उक्त भूमि को धारा 166-167 के अन्तर्गत घोषित किये जाने हेतु श्रीमान सहायक कलैक्टर प्रथम श्रेणी के न्यायालय में 111-98-99 विचाराधीन है ।

रिपोर्ट सेवामे प्रेषित ।"

There is another report dated 31.03.2000, the same is quoted below:

"अपर जिला अधिकारी गहोदय प्रशासन के पत्रांक 413 एस0टी0 2000 दिनांक 27.3.2003 के संबंध में आपके आदेश दिनांक 31.3.2000 के अनुपालन में जाँच आख्या इस प्रकार है।

यह कि जाँच दल के विश्लेषण टिप्पणी प्रस्तर संख्या 1 में दर्शित सर्वोदय रिट्रीट ग्राम पौन्धा तहसील विकासनगर में गठित जाँच दल द्वारा उपरोक्त संस्था द्वारा उक्त ग्राम में 23.316 है 0 भूमि होना दर्शाया गया है। जब कि स्थलीय जाँच में पाया कि उक्त संस्था के संस्थापक श्री संजय घई द्वारा गूल खातेदारों की मूक सहमति के आधार पर 25.697 है 0 क्षेत्रफल को बिना कय पत्र सम्पादित कराए भूमि को आवासीय प्लोटों के रूप में विक्रय किया जा रहा है तथा वर्तमान में उक्त संस्था का 25.697 है 0 पर कब्जा होना पाया गया है तथा उक्त संस्था का उद्देश्य कब्जे वाली उपरोक्त भूमि का आवासीय प्लोटों में विक्रय करने का उद्देश्य स्पष्ट होता है। यह है कि उक्त संस्था द्वारा बिना सरकार की अनुमति के अवैध रूप से 12.50 एकड़ यानी 5.062 हैक्टेयर से अधिक भूमि कय करने पर उत्तर प्रदेश जमींदारी विनाश भूमि व्यवस्था अधिनियम की धारा 154(2) का उल्लंघन किया है।

अतः संलग्न विवरणपत्र में दर्शित 25.697 है 0 भूमि धारा 154(2) के उल्लंघन के पश्चात उसका कय शून्य हो गया है उक्त क्षेत्रफल को उत्तर प्रदेश जमींदारी विनाश भूमि व्यवस्था अधिनियम की धारा 166/167 के अन्तर्गत घोषित कर कब्जा लिया जाना उचित होगा तथा उपरोक्त संस्था के विरुद्ध श्रीमान असिस्टेंट कलैक्टर प्रथम श्रेणी के न्यायालय में वाद संख्या 111/98/99 विचाराधीन है।

आख्या सेवा में प्रेषित है "

Yet there is other report dated 17.09.2000, the same is quoted below:

"गहोदय,

संलग्न वाद पत्रावली उ0प्र0 सरकार बनाम सर्वोदय रिट्रीट द्वारा संजय घई के सम्बन्ध में आपके आदेश दिनांक 3.2.2000 के अनुपालन में रा0नि0 से जाँच कराई गई। रा0नि0 की जाँच आख्यानुसार उक्त संस्था ने विभिन्न खातेदारों से जिनकी सूची संलग्न है बिना विक्रय पत्र सम्पादित कर भूमि कय की है और उस भूमि पर सर्वोदय रिट्रीट का बोर्ड लगाकर प्लॉटिंग करके आवास हेतु भूमि विक्रय की जा रही

हैं। उक्त सस्था के कब्जे में 25.697 है० भूमि है संलग्न ससुची में अंकित भूमि सूची में दर्ज खातेदारों द्वारा बिना विक्रय पत्र के हस्तान्तरित कर दी है, जिससे उ०प्र०ज० वि०अधि० की धारा 155 व 164 का उल्लंघन हुआ है। उक्त धाराओं के उल्लंघन से भूमि का किया गया हस्तांतरण उ०प्र०ज०वि०अ० की धारा 166 के अनुसार शून्य हो गया है तथा धारा 167 के अन्तर्गत प्रश्नगत भूमि राज्य सरकार में निहित होकर कब्जा लिया जाना उचित होगा।" 62

There are some affidavits on the record, namely of Sri Ummed Singh, Anil Kumar and Munna and in para 2 it has been stated that since no mutation had taken place in favour of Sarvodaya Retreat and, therefore, in revenue records he is still continuing to be the owner and bhumidhar of the plot in dispute. Section 154 of U.P. Z.A. & L.R. Act provides the restriction on transfer by bhumidhar. The same is quoted below:

"154(1). Save as provided in sub section (2), no bhumidhar shall have the right to transfer by sale or gift, any land other than tea gardens to any person where the transferee shall, as a result of such sale or gift, become entitled to land which together with land if any, held by his family will, in the aggregate, exceed 5.0586 hectares (12.50 acres) in Uttar Pradesh.

Provided that where the transferee is a co-operative society, the land held by it having been pooled by its members under clause (a) of sub section (1) of section 77 of the Uttar Pradesh Co-operative Societies Act, 1965 shall not be taken into account in computing the 5.0586 hectares (12.50 acres) land held by it).

(2) Subject to the provisions of any other law relating to the land tenures for the time being in force, the State Government may, by general or special order, authorize transfer in excess of the limit prescribed in sub section (1) if it is of the opinion that such transfer is in favour of a

registered cooperative society or an institution established for a charitable purpose, which does not have land sufficient for its need or that the transfer is in the interest of general public."

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Section 155 of U.P. Z.A. & L.R. Act prohibits the mortgage of the land by a bhumidhar. The same is quoted below:

"No bhumidhar shall have the right to mortgage any land belonging to him as such where possession of the mortgaged land is transferred or is agreed to be transferred in future to the mortgagee as security for the money advanced or to be advanced."

It will appear from Section 154 and 155 of U.P. Z.A. & L.R. Act that there is a restriction of transfer or mortgage by a bhumidhar. However, as will appear from the aforesaid provisions of Section 154 and 155 that the words which have been used that no bhumidhar shall have the right to transfer by sale or gift any land. So far as mortgage is concerned similar words have been used that no bhumidhar shall have the right to mortgage any land where possession of the land is transferred. From the documents on the record it will appear that there is no evidence on the record to prove the compliance of Section 154 or Section 155 of U.P. Z.A. & L.R. Act as the word 'transfer' as used in both the Sections have not been complied with. The document relating transfer of the land is also not available on record in as much as firstly there has been no notice to the tenure holders, secondly from the available documentary or oral evidence on record it is established that the tenure holders are still in possession and neither any transfer had taken place as required by the provisions of the Transfer of Property Act and the Indian

Registration Act and, therefore, merely the respondent No.2 are trying to get the plotting will be only ipsi dexte and the action is warranted against the respondent No.2 alone for fraudulently posing him to be the transferee of the land but in point of fact no transfer had taken place in the eye of law.

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Coming to Section 164 of the U.P. Z.A. & L.R. Act transfer with possession by a bhumidhar to be deemed a sale also reflects the transfer in accordance with law by bhumidhar on certain condition which has been mentioned under section 164 of U.P. Z.A. & L.R. Act, i.e. for the purposes of securing any payment of money advanced to be advanced by way of loan and existing or future debt or the performance of any engagement which may give rise to a peculiar liability. Section 164 of U.P. Z.A. & L.R. Act is quoted below.

"Any transfer of any holding or part thereof made by a bhumidhar by which possession is transferred to the transferee for the purpose of securing any payment of money advanced or to be advanced by way of loan, and existing or future debt or the performance of an engagement which may give rise to a pecuniary liability, shall, notwithstanding anything contained in the document of transfer or any law for the time being in force, be deemed at all times and for all purposes to be a sale to the transferee and to every such sale the provisions of section 154 and 163 shall apply".

As will appear from the aforesaid provision that all the aforesaid eventualities has to be taken into account from the document of transfer. There being no document of transfer on the record the proceedings under section 164 can be initiated only after giving an opportunity to the

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tenure holders and in absence of any document as required under section 164 the proceedings shall be void ab initio against the tenure holders whose land has sought to be vested with the State Government. The reports on the record fully establishes that apparently there is no document on the record showing the transfer of the land in favour of the respondent No.2. The provisions of Section 154, 155 and 164 of U.P. Z.A. & L.R. Act have used the word 'transfer'. The word 'transfer' has been defined under section 5 of the Transfer of Property Act which provides that the transfer of property means an act by which a living person conveys property in person or in future to one or more living person.

Section 5 of the Transfer of Property Act is quoted below:

"In the following Sections "transfer of property" means an act by which a living person conveys property, in present or in future, to one or more other living persons or to himself and one or more other living persons; and "to transfer property" is to perform such act."

Section 54 of Transfer of Property Act further defines the word 'sale' means a sale which is a transfer of ownership and the contract for sale has been specifically excluded by mentioning that it does not create any interest in or charge on such property. Section 54 is quoted below:

"Sale" is a transfer of ownership in exchange for a price paid or promised or part paid and part promised.

Sale how made- Such transfer, in the case of tangible immoveable property of the value of one hundred rupees and upwards, or in the case of a reversion or other intangible thing, can be made only by a registered instrument.

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In the case of tangible immoveable property of a value less than one hundred rupees, such transfer may be made either by a registered instrument or by delivery of the property:

Delivery of tangible immoveable property takes place when the seller places the buyer, or such person as he directs, in possession of the property.

Contract for sale- A contract for the sale of Immoveable property is a contract that a sale of such property shall take place on terms settled between the parties.

It does not, of itself, create any interest in or charge on such property".

The Authorities below have also used the provisions of Section 155 of mortgage of land which also is a 'transfer' within the meaning of Section 58 of the Transfer of Property Act. Section 58 is quoted below:

"58. "Mortgage", "mortgagor", "mortgagee", "mortgage-money" and mortgage-deed" defined - (a) A mortgage is the transfer of an interest in specific immoveable property for the purpose of securing the payment of money advanced or to be advanced by way of loan, an existing or future debt, or the performance of an engagement which may give rise to a pecuniary liability:

The transferor is called a mortgagor, the transferee a mortgagee, the principal money and interest of which payment is secured for the time being are called the mortgage money, and the instrument, if any, by which the transfer is effected is called a mortgage deed.

(b) Simple mortgage- Where, without delivering possession of the mortgaged property, the mortgagor binds himself personally to pay the mortgage money, and agrees,

expressly or impliedly, that, in the event of his falling to pay according to his contract, the mortgagee shall have a right to cause the mortgaged property to be sold and the proceeds of sale to be applied, so far as may be necessary, in payment of the mortgage money, the transaction is called a simple mortgage and the mortgagee a simple mortgagee. 67

(c) Mortgage by conditional sale- Where, the mortgagor ostensibly sells the mortgaged property-

On condition that on default of payment of the mortgage money on a certain date the sale shall become absolute, or

on condition that on default of payment of the mortgage money on a certain date the sale shall become absolute, or

on condition that on such payment being made the sale shall become void, or

on condition that on such payment being made the buyer shall transfer the property to the seller.

the transaction is called mortgage by conditional sale and the mortgagee a mortgagee by conditional sale:

(Provided that no such transaction shall be deemed to be a mortgage, unless the condition is embodied in the document which effects or purports to effect the sale)

(d) Usufructuary mortgage- Where the mortgagor delivers possession or expressly or by implication binds himself to deliver possession of the mortgaged property to the mortgagee, and authorizes him to retain such possession until payment of the mortgage money and to receive the rents and profits accruing from the property or any part of such rents and profits and to appropriate the same in lieu of interest or in payment of the mortgage money, or partly

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In lieu of interest or partly in payment of the mortgage money, the transaction is called an usufructuary mortgage and the mortgagee an usufructuary mortgagee. It is a (e) English mortgage where the mortgagor binds himself to repay the mortgage money on a certain date, and transfers the mortgaged property absolutely to the mortgagee, but subject to a proviso that he will retransfer it to the mortgagor upon payment of the mortgage money as agreed, the transaction is called an English mortgage. (f) Mortgage by deposit of title deeds. Where a person in any of the following towns, namely, the towns of Calcutta, Madras, and Bombay and in any other town which the State Government concerned may, by notification in the Official Gazette, specify in this behalf, delivers to a creditor or his agent documents of title to immoveable property, with intent to create a security thereon, the transaction is called a mortgage by deposit of title deeds.

(g) Anomalous mortgage. A mortgage which is not a simple mortgage, a mortgage by conditional sale, an usufructuary mortgage, an English mortgage or a mortgage by deposit of title deeds within the meaning of this section is called an anomalous mortgage.

In the present case the tenure holders are the real beneficiaries and the Apex Court from time to time in the matter of Land Acquisition has emphasized that the beneficiary whose land has been acquired is a necessary party to the proceedings under Order 1, Rule 10 CPC. The Hon'ble Supreme Court in A.I.R. 1995 Supreme Court M/S Neyveli Lignite Corpn. Ltd. Vs Special Tahsildar (Land Acquisition), Neyveli and others has observed as under:

"The consistent thread that runs through all the decisions of this Court starting from Himalayan Tiles Case,

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(AIR 1980 SC 1118). is that the beneficiary, i.e. local authority or company, a Co-operative society registered under the relevant State law, or statutory authority is a person interested to determine just and proper compensation for the acquired land and is an aggrieved person. It flows from it that the beneficiary has the right to be heard by the Collector or the Court. If the compensation is enhanced it is entitled to canvass its correctness by filing an appeal or defend the award of the Collector. If it is not made a party, it is entitled to seek leave of the Court and file the appeal against the enhanced award and decree of the Civil Court under section 26 or of the judgment and decree under section 54 or is entitled to file writ petition under Article 226 and challenge its legality or correctness. When the award made under section 11 of the Collector is vitiated by fraud, collusion or corruption, the beneficiary is entitled to challenge it in the writ petition apart from the settled law that the conduct of the Collector or Civil judge is amenable to disciplinary enquiry and appropriate action. These are very valuable and salutary rights. Moreover in the language of Order 1 rule 10 C.P. C. in the absence of the beneficiary who ultimately is to bear the higher compensation, no complete and effectual determination of binding just and proper compensation to the acquired land would be made. So it is concomitantly a proper party if not a necessary party to the proceedings under Order 1, Rule 10 CPC. The denial of the right to a person interested is in negation of fair and just procedure offending Article 14 of the Constitution".

Further in the case of **D.K.Yadav Vs. J.M.A. Industries Ltd (1993, S.C.C. 259)** it has been held that the principle of natural justice requires that the right to be

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heard is given to the person who is ultimately effected by the decision. The observations are quoted below:

"9. It is a fundamental rule of law that no decision must be taken which will affect the right of any person without first being informed of the case and giving him/her an opportunity of putting forward his/her case. An order involving civil consequences must be made consistently with the rules of natural justice. In Mohinder Singh Gill Vs. Chief Election Commissioner the Constitution Bench held that 'civil consequences covers infraction of not merely property or personal right but of civil liberties, material deprivations and non-pecuniary damages. In its comprehensive connotation every thing that affects a citizen in his civil life inflicts a civil consequences. Black's Law Dictionary, 4th edn., page country ...they include ...rights capable of being enforced or redressed in a civil action... In State of Orissa v. (Miss) Binapani Dei this Court held that even an administrative order which involves civil consequences must be made consistently with the rules of natural justice. The person concerned must be informed of the case, the evidence in support thereof supplied and must be given a fair opportunity to meet the case before an adverse

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decision is taken. Since no such opportunity was given it was held that superannuation was in violation of principles of natural justice.

10. In *State of W.B. v. Ali Sarkar* per majority, a seven-Judge Bench held that the rule of procedure laid down by law comes as much within the purview of Article 14 of the Constitution as any rule of substantive law. In *Maneka Gandhi v. Union of India* another Bench of seven Judges held that the substantive and procedural laws and action reason and justice cannot be abstract. They cannot be divorced from the cease to be reasonable. The tests have to be pragmatic otherwise they would reasonable even through there is no specific provision in a statute or rules against an individual, which affects the right of that individual. The duty to give reasonable opportunity to be heard will be implied from the nature of the function to be performed by the authority which has the power to administrative action involving any deprivation of or restriction on inherent fundamental rights of citizens, must take care to see that justice is not only done but manifestly appears to be done. They have a duty to unreasonableness or unfairness. They have to act

in manner which is patently impartial and meets 72
the requirements of natural justice. "

It is a case where valuable land of the petitioner having been taken away by the Golden Forest Company without impleading him as a party. The question with regard to proper party has been interpreted by the Apex Court in *Aliji Momonji & Co. Vs. Lalji Mavji* (1996 Vol-V, S.C.C) are quoted below:

"The controversy is no longer res integra. It is settled law by catena of decisions of this Court that where the presence of the respondent is necessary for complete and effectual adjudication of the dispute, though no relief is sought, he is a proper party. Necessary party is one without whose presence no effective and complete adjudication of the dispute could be made and no relief granted.

The only reason which makes it necessary to make a person a party to an action is that he should be bound by the result of the action and the question to be settled, therefore, must be a question in the action which cannot be effectually and completely settled unless he is a party."

It may be pointed out that according to the petitioner in a collusive manner the case has proceeded before the Asstt. Collector without impleading the petitioner as a party. Undisputably, the land

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of the petitioner and other farmers were obtained by the Golden Forest Company and they have been deprived with their valuable rights of cultivation which is the only source of livelihood for these farmers. It is a case where fundamental right of the petitioner as contained under Article 21 of the Constitution of India has been violated. In S.C.C. 2000 Vol-III, *United India Insurance Co. Ltd. Vs. Rajendra Singh*, the Apex Court has observed as under:

"13. In *S.P.Chengalvaraya Naidu Vs. Jagannath* two-Judge Bench of this Court held:

"Fraud avoids all judicial acts, ecclesiastical or temporal" observed Chief Justice Edward Coke of England about three centuries ago. It is the settled proposition of law that a judgment or decree obtained by playing fraud on the court is a nullity and non est in the eyes of law. Such a judgment / decree -- by the first court or by the highest court -- has to be treated as a nullity by every court, whether superior or inferior. It can be challenged in any court even in collateral proceedings."

14. In *Indian Bank Vs. Satyam Fibres (India) (P) Ltd.* Another two-Judge Bench, after making reference to a number of earlier decisions rendered by different High Courts in India, stated the legal position thus:

"23. Since fraud affects the solemnity, regularity and orderliness of the proceedings of the court and

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also amounts to an abuse of the process of court, the courts have been held to have inherent power to set aside an order obtained by fraud practiced upon that court. Similarly, where the court is misled by a party or the court itself commits a mistake which prejudices a party, the court has the inherent power to recall its order."

16. Therefore, we have no doubt that the remedy to move for recalling the order on the basis of the newly-discovered facts amounting to fraud of high degree, cannot be foreclosed in such a situation. No court or tribunal can be regarded as powerless to recall its own order if it is convinced that the order was wangled through fraud or misrepresentation of such a dimension as would affect the very basis of the claim."

In Bhaurao Dagdu Paralkar Vs State of

Maharashtra and others, JT 2005 (7) SC 530, it has been held as under:

"A 'fraud' is an act of deliberate deception with the design of securing something by taking unfair advantage of another. It is a deception in order to gain by another's loss. It is a cheating intended to get an advantage.

"Fraud" as is well known vitiates every solemn act. Fraud and justice never dwell together. Fraud is a conduct either by letter or

words, which includes the other person or authority to take a definite determinative stand as a response to the conduct of the former either by words or letter. It is also well settled that misrepresentation itself amounts to fraud. Indeed, innocent misrepresentation may also give reason to claim relief against fraud. A fraudulent misrepresentation is called deceit and consists in leading a man into damage by wilfully or recklessly causing him to believe and act on falsehood. It is a fraud in law if a party makes representations, which he knows to be false, and injury ensues therefrom although the motive from which the representations proceeded may not have been bad. An act of fraud on court is always viewed seriously. A collusion or conspiracy with a view to deprive the rights of the others in relation to a property would render the transaction void ab initio. Fraud and deception are synonymous. Although in a given case a deception may not amount to fraud, fraud is anathema to all equitable principles and any affair tainted with fraud cannot be perpetuated or saved by the application of any equitable doctrine including res judicata."

In Vice Chairman, Kendriya Vidyalaya Sangathan and another Vs Girdharilal Yadav, (2004) 6 Supreme Court Cases 325 the Apex Court has held as under:

"A fraudulent misrepresentation is called deceit and consists in leading a man into damage by wilfully or recklessly causing him to believe and act on falsehood. It is a fraud in law if a party makes representations which he knows to be false, and injury ensues

therefrom although the motive from which the representations proceeded may not have been bad".

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Even assuming that the land of the tenure holders have been taken by the Company, in that event in absence of the ingredients of 'transfer' the transaction will amount to 'fraud' and the same can be agitated at any point of time.

As held by the Apex Court that 'fraud' embraces not only actual fraud but also by conduct which is known as 'moral fraud' in the ordinary sense. The observations of the Apex Court reported in 2003 (95) RD 213, Allahabad High Court is quoted below:

"Fraud as defined in the Contract Act means actual fraud. But in equity the Courts have also developed the doctrine of "constructive fraud". The following extract Part II, Page 55 on the concept of "constructive fraud" is being quoted:-"

"In the equity, the term "fraud" embraces not only actual fraud, in the sense just defined, but also certain other conduct which falls below the standards demanded by equity. Courts of equity did not even stop at "moral fraud in the ordinary sense" but took account of any "breach of the sort of obligation which is enforced by a Court that from the beginning regarded itself as a Court of conscience" Nocton V. Lord Ashburton. The Courts have refused to define this extended, or

constructive, fraud; for, in the words of Lord Hardwicke, "fraud is infinite, and were a Court of equity once to lay down rules, how far they would go, and no further, in extending their relief against it, or to definite strictly the species of evidence of it, the jurisdiction would be cramped, and perpetually eluded by new schemes which the fertility of man's invention would contrive."

As will appear from the order passed by the Assistant Collector for vesting of the land has been set aside by the Revisional Court by observing that the tenure holders having not been impleaded as a party and further no land has been transferred in reality and the possession continued with the tenure holders requires no interference under Article 226/227 of the Constitution of India. The proceedings against the respondents have also been held to be nugatory in view of the fact that they were not parties in proceedings under section 166/167 of the U.P. Z.A. & L.R. Act and as such, no fruitful purpose will be served by remanding the matter either to the revisional court or before the Assistant Collector as proceedings have to be initiated afresh and denovo if the petitioner has any reason to believe that the provisions of Sections 154, 155, 166 or 167 have been violated. As will appear from the record of the case that no land has yet been transferred or agreed to be transferred at any point of time in favour of the petitioner and, therefore, at the best it will amount to fraud on the tenure holders for getting their land. In any view of the matter there being no vesting of the land, the provisions of Sections of Section 154, 155, 166 or 167 can

not be said to be attracted at any point of time. The vesting therefore, cannot be made applicable unless the aforesaid provisions are satisfied. It appears that the respondent No.2 wanted to get the land from the tenure holders and there is no material on record that on what terms and conditions the land wanted to be transferred. At the best it will amount to 'moral fraud' in the ordinary sense. Unless and until there is any document on the record to show the intention of the tenure holders to transfer the land I am unable to find any fault with the orders passed by the revisional court. No counter affidavit has been filed on behalf of respondent no.2 in order to justify any action on his part although respondent no.2 is represented by Sri Vinod Sharma, Advocate.

In view of the fact that the order passed by the Revisional Court having been passed by holding that the proceedings initiated under section 166/167 is wholly void in absence of notice to the beneficiaries, i.e. tenure holders. I find no fault in the order passed by the revisional court, and the land shall continue to remain in the ownership of the tenure holders.

However, Advocate General Sri M.S.Negi, Senior Advocate has submitted that liberty may be given to initiate fresh proceedings in case the ingredients of Section 166 or 167 of U.P. P.A. & L.R. Act are satisfied against the tenure holders. However, it is made clear that if the ingredients of the aforesaid provisions are satisfied only then the proceedings against the tenure holders can be initiated. However, it is made clear that the State shall not interfere with the rights of the tenure holders except in accordance with law.

Subject to the aforesaid observations, all the
petitioners are dismissed. No order as to costs.

Cop. of the same shall be sent to the Chief
Secretary, State of Uttaranchal.

(Rajesh Tandon, J)

21.12.2005.
Negi.

Compared to file

Noted

True Gp
11-01-06

M.

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

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CIVIL APPEAL NOS. 3195 _____ OF 2011

(Arising out of SLP (C) NO. 11741 OF 2006)

State of Uttaranchal

.....Appellant

VERSUS

M/S Golden Forest Co. (P) Ltd.

.....Respondents

WITH

SLP (C) NOS. 16476, 16477, 16478, 16481, 16482, 16483 and 16484
OF 2006.

J U D G M E N T

G.S. Singhvi, J.

1. Leave granted.
2. The only question which arises for consideration in these appeals is whether the Board of Revenue, U.P. could hear and decide the revisions filed by the appellant after creation of the State of Uttaranchal (renamed as Uttarakhand) by the Uttar Pradesh Reorganisation Act, 2000 (for short "the Reorganisation Act").
3. One Sanjay Ghai had purchased bhumidhari land from various tenure holders in the name of Golden Forest India Limited and its sister concerns, namely, Indian Peace Foundation Trust, Mani Majra, Chandigarh, Golden Forest India Limited, Golden Agro Forest Limited and Golden Forest Distributors Limited.

Tehsildar, Dehradun, submitted report dated 12.08.1997 to Assistant Collector 1st Class-cum-Sub Divisional Magistrate (for short "the Assistant Collector") with the finding that the purchases made in the name of the respondents were violative of the restriction contained in Section 154 (1) of the Uttar Pradesh Zamindari Abolition and Land Reforms Act, 1950 (for short "the Act"). He suggested that action may be initiated against them under Sections 166/167 of the Act and land in excess of the ceiling may be declared to have vested in the State Government. The Assistant Collector issued notice to the respondents, gave them opportunity of hearing and passed order dated 21.08.1997 whereby he held that the disputed transactions were ultra vires the provisions contained in Section 154(1) of the Act and forwarded the matter to Collector, Dehradun for taking action under Section 167(2) of the Act.

4. The respondents challenged the aforesaid order by filing revisions, which were allowed by the Board of Revenue, U.P. vide order dated 24.11.2000 by observing that in terms of Section 154(1) of the Act each major person or company is entitled to purchase 12.5 acres land and the purchases made in the names of different companies cannot be clubbed for deciding the issue relating to violation of that section.

5. The State of Uttar Pradesh challenged the order of the Board of Revenue in Writ Petition No. 81 (M/S) of 2000. The State of Uttranchal

also challenged that order in Writ Petition Nos. 2046 (M/S) -2049(M/S) and 2051(M/S) - 2053(M/S) of 2001 on several grounds including the one that after coming into force of the Reorganisation Act, the Board of Revenue, U.P. did not have the jurisdiction to deal with and decide the revisions filed by the respondents.

6. The Learned Single Judge did not deal with the issue of jurisdiction and dismissed the writ petitions by observing that the conclusion recorded by the Board of Revenue, U.P. on the legality of the disputed transaction was correct.

7. Shri Mukul Rohtagi, learned senior counsel appearing for the appellant argued that in view of Section 91 of the Reorganisation Act, the proceedings pending before the Board of Revenue, U.P. stood transferred to the newly created State of Uttaranchal and, as such, it did not have the jurisdiction to decide the revisions filed by the respondents. Learned senior counsel pointed out that the Reorganisation Act had come into force w.e.f. 09.11.2000 and, therefore, the Board of Revenue, U.P. could not have decided the revisions on 24.11.2000.

8. Shri Vijay Hansaria, learned senior counsel appearing for the respondents argued that the appellant cannot question the orders passed by the Board of Revenue, U.P. on the ground of lack of jurisdiction because no such objection was raised at the hearing of the revision petitions. Learned senior counsel further argued that this Court may not interfere with the impugned

order because the land purchased in the names of the respondents had already been divided into plots and allotted to various persons, who are not parties in these cases.

9. We have considered the respective submissions. Section 91 of the Act reads thus:

"91. Transfer of pending proceedings.--(1) Every proceeding pending immediately before the appointed day before a court (other than High Court), tribunal, authority or officer in any area which on that day falls within the State of Uttar Pradesh shall, if it is a proceeding relating exclusively to the territory, which as from that day are the territories of Uttaranchal State, stand transferred to the corresponding court, tribunal, authority or officer of that State (2) If any question arises as to whether any proceeding should stand transferred under subsection (1) it shall be referred to the High Court at Allahabad and the decision of that High Court shall be final (3) In this section—

(a)"proceeding" includes any suit, case or appeal; and

(b)"corresponding court, tribunal, authority or officer" in the State of Uttaranchal means--

(i) the court, tribunal, authority or officer in which, or before whom, the proceeding would have laid if it had been instituted after the appointed day; or

(ii) in case of doubt, such court, tribunal, authority, or officer in that State, as may be determined after the appointed day by the Government of that State or the Central Government, as the case may be, or before the appointed

day by the Government of the existing State of Uttar Pradesh to be the corresponding court, tribunal, authority or officer."

10. A reading of the plain language of the above reproduced provision makes it clear that every proceeding pending before a Court, Tribunal, Authority or Officer in any area which fell within the State of U.P. on 09.11.2000 stood automatically transferred to the corresponding Court, Tribunal, Authority or Officer of the State of Uttranchal (now Uttarakhand). Therefore, the revisions which were pending before the Board of Revenue, U.P. on 9.11.2000 stood transferred to the State of Uttranchal and, as such, the same could not have been decided by the Board of Revenue, U.P. Unfortunately, the learned Single Judge over looked the fatal flaw in the order of the Board of Revenue, U.P. and pronounced upon the legality of the purchases made in the names of the respondents.

11. In the result, the appeals are allowed. The impugned order as also the order passed by the Board of Revenue, U.P. are set aside and it is declared that the revisions filed by the respondents stood transferred to the Board of Revenue, State of Uttranchal. The Board of Revenue, U.P. is directed to transmit the record of the revision petitions to the Board of Revenue of the State of Uttarakhand which shall decide the revision petitions afresh. If there is no Board of Revenue in the State of Uttarakhand then the record shall be transferred to the corresponding adjudicating authority. The

respondents shall furnish the list of allottees of plots along with their latest addresses to the Board of Revenue, Uttarakhand or any other competent adjudicating authority within a period of four weeks from today. Thereafter, the allottees be impleaded as parties to the pending revisions and appropriate order be passed in accordance with law after hearing all the parties.

.....J.

(G.S. Singhvi)

.....J.

(Asok Kumar Ganguly)

New Delhi,

April 11, 2011.

COURT OF CHIEF REVENUE COMMISSIONER,

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UTTRAKHAND - DEHRADUN

Revision No. 10 / 2010-11

Golden Forest Company Ltd. Pvt. Ltd.

Versus

State

Today file was presented. The call was given. From the Revision side Counsel, and from Respondent side, District Administration Attorney (Revenue), Dehradun are present.

One Counsel Shri Abhimanyu Sharma introduced himself as counsel from the Committee, appointed by Hon'ble Supreme Court of India in Golden Forest India Ltd. matter and presented his power of Attorney for Hon'ble Supreme Court I.A. No. 28, 36, 41, 42, 43, 44, 45, 46 and 47-49 and in I.A. No. 33, I.A. 50 order dated 05.09.2006 Transfer Case (Civil) No. 2 / 2004 The Securities & Exchange Board of India Versus The Golden Forest (I) Limited, he presented para No. 31 & 33 for the kind attention of the Court and argued that now the entire property of Golden Forest have now come within the control of Committee appointed by Hon'ble Supreme Court, therefore in the pending Revisions also, the Committee be given the opportunity to present their argument.

According to the para 31 and 33 order passed by Hon'ble Supreme Court of India dated 05.09.2006 has directed to Deputy Commissioner and other Civil and Revenue Officers that they should cooperate with the Committee in preparing the details of properties of Golden Forest, for taking the possession by Committee and in mentioning the necessary mutation in land records.

This Court has to decide the matter in Civil Appeal No.3196/2011 in which Hon'ble Supreme Court has passed the order dated 11.01.2011, in compliance of order dated 21.08.1997 passed by Assistant Collector First Grade against Revenue Council, Uttar Pradesh in which present Revisions and Revisions of Golden Forest are to be disposed of. According to the order of Hon'ble Supreme Court in this case only the allottees of plots are to be involved as parties. The earlier order passed by Hon'ble Supreme Court on 05.09.2006 these Revisions were not under the subject matter. Therefore the prayer of counsel representing the Committee is not acceptable that he should also be involved as party in the pending Revisions.

In this regard Ld. Counsel for Shri Maheshanand, Harshmani, Maya Ram and Vishalmani has requested that pending Revision which are mentioned in the order of Assistant Collector First Grade, Revenue Council (Board of Revenue) and Hon'ble High Court Nainital, in the same serial the land of land holders be deleted in the revenue records and other's name should be entered so that their interest be involved in the Revisions. Therefore only these persons shall be involved as parties of the Revisions and shall be given the opportunity of hearing.

As the matter has already been analyzed, this Court have to involve the allottee parties for the hearing and disposal of Revisions in the light of order dated 11.04.2011 passed by Hon'ble Supreme Court. Therefore there is no basis that Shri Maheshanand and other be involved as party in the present revisions. Therefore the application dated 19.11.2011 for involvement of party is dismissed.

According to the order dated 11.04.2011 passed by Hon'ble Supreme Court to provide the list of allottees to the Hon'ble Court, this point was made clear to the counsel of Revisionist that Golden Forest has purchased the land therefore they are the custodians. According to Zamindari Abolition Act any custodian cannot allot their land. The right of allotment is vested with the Government only. Therefore it is not possible to provide the list of allottees.

In compliance of order passed by Hon'ble Supreme Court notice for concerned allottees be published on behalf of this Court and the file be presented on Next Date 14.12.2011.

---sd/--- 23/XI/11

(P.C. Sharma)

Chief Revenue Commissioner

CERTIFIED TO BE TRUE TRANSLATED COPY

ANNEXURE- A-6

**IN THE COURT OF BOARD OF REVENUE,
UTTARAKHAND, DEHRADUN.**

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Revision Petition No. 10/2010-11

Golden Forest Company

Vs

State

ORDER

04.07.2012: Matter is listed today. Case is called out. Counsels for parties are present. Arguments of learned counsels on the applications of Sri P.N. Agrawal, Chairman – Committee, GFIL, Sri Nityanand Joshi and Sri Hari Singh etc. for impleading them as Parties to aforesaid Revision Petitions.

Argument was forwarded by the learned counsel for Chairman – Committee GFIL that assets of Golden Forest Company have already been given in custody of Committee by the Order of Hon'ble Court. Therefore, it is required to give opportunity to

Committee to be heard for impleading as party to Revision Petitions.

It was pleaded by the counsel on behalf of other applicants that advertisement has been published by this learned Court regarding revision petitions in question that allottees of plots of Golden Forest Company may produce their respective sides. Since applicants are aggrieved due to vesting of their lands to State in the matter of Golden Forest Company without any ground, therefore, impleading them as parties to aforesaid revision is not necessary.

It was the arguments of the counsels on behalf of Golden Forest Company and State that in pursuant to order dated 11.04.2011 passed by the Hon'ble Supreme Court, this learned Court has to dispose of only those Revision Petitions, which were produced before erstwhile Board of Revenue, Uttar Pradesh against the order dated 21.08.1997 passed by Assistant Collector, First Class and according to order dated 11.04.2011, only allottees of plots can be

impleaded as parties in aforesaid matter. Earlier order passed by the Hon'ble Supreme Court in this matter of Golden Forest Company is the subject matter of Revision Petitions before this Court. Therefore, applicants can't be impleaded as parties to aforesaid Revisions.

Para no.11 of the order passed in Civil Appeal No. 3195/2011 by the Hon'ble Supreme Court is as below-

"-----"

It is categorically mentioned in aforesaid order that only allottees of plots shall have to be impleaded as parties to revision petitions. Since applicants are not the allottees of the plots of Golden Forest Company, hence they can't be impleaded as parties to Revision Petitions. In this respect, speaking order has already been passed on 23.11.2011 by the then Corresponding Court of Chief Revenues Commissioner, Uttarakhand.

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Therefore, all the tree applications for impleadment are rejected. This order shall be effective in other 6 Revision Petitions of Golden Forest Company. Matter be listed for arguments of the parties on 11.07.2012.

Sd/-

(Subhash Kumar)

Chairman

04.07.2012

TRUE TRANSLATED COPY

ITEM NO.3

COURT NO.9

SECTION X

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S
I . A . N O . 3
I N
C I V I L A P P E A L N O . 3 1 9 5 O F 2 0 1 1

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STATE OF UTTARANCHAL

Appellant (s)

VERSUS

M/S. GOLDEN FOREST CO. (P) LTD.

Respondent(s)

(For modification and office report)

Date: 10/03/2014 This I.A. was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE CHANDRAMAULI KR. PRASAD
HON'BLE MR. JUSTICE PINAKI CHANDRA GHOSE

For Appellant(s) Ms. Rachana Srivastava, Adv.
Mr. Utkarsh Sharma, Adv.
Ms. Pratiksha Chaturvedi, Adv.

For Applicant (s) Ms. Suruchi Aggarwal, Adv.
Mr. Prashant Chouhan, Adv.

For Respondent(s) Mr. Shailendra Bhardwaj, Adv.
Mrs. Aroma S. Bhardwaj, Adv.

UPON hearing counsel the Court made the following
O R D E R

This interlocutory application stands disposed of in
terms of the signed order.

(Sanjay Kumar)
Court Master

(Indu Satija)
Assistant Registrar

(Signed order is placed on the file)

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

I.A. NO.3 OF 2014

In

CIVIL APPEAL NO.3195 OF 2011

STATE OF UTTARANCHAL

.....APPELLANT

VERSUS

M/S. GOLDEN FOREST CO. (P) LTD.

....RESPONDENTS

O R D E R

This application has been filed for modification of our order dated 11.04.2011 in the light of the observation made by this Court in its order dated 21.10.2013 passed in SLP(C) No.13793 of 2013.

It is common ground that this Court had appointed a Committee to look after the affairs of M/s Golden Forest Co.(P) Ltd. (for short the 'Company'). It is further common ground that the said company has filed various revision applications including R.O.R. Nos.10-16 of 2011 which are pending before the Board of Revenue.

As this Court appointed the Committee to look after the affairs of the company, we are of the opinion that to meet the ends of justice, it shall be desirable that the Committee appointed by this Court is heard by the Board of Revenue while deciding R.O.R. Nos.10-16 of 2011 in accordance with law.

We direct accordingly.

It is made clear that we have not expressed any opinion in regard to the merit of the cases of the parties which are pending before the Board of Revenue.

We modify our earlier order to the extent as indicated above.

I.A. No.3 of 2014 stands disposed of accordingly.

.....J
[Chandramauli Kr. Prasad]

.....J
[Pinaki Chandra Ghose]

New Delhi;
March 10, 2014.

COURT OF REVENUE BOARD, UTTARAKHAND

1. Serial No.10/2010-11 Golden Forest Company Private Limited V/s State Government
2. Serial No.11/2010-11 Golden Forest Company Private Limited versus State Government
3. Serial No.12/2010-11 Golden Forest Company Private Limited versus State Government
4. Serial No.13/2010-11 Golden Forest Company Private Limited versus State Government
5. Serial No.14/2010-11 Golden Forest Company Private Limited versus State Government
6. Serial No.15/2010-11 Golden Forest Company Private Limited versus State Government
7. Surveillance No.16/2010-11 Golden Forest Company Private Limited versus State Government

Present: Shri Subhash Kumar, I.A.S., Chairman

ORDER

All the revisions have filed against the order dated 21.08.97 passed by Assistant Collector 1st Grade/ Parganadhikari, Dehradun in cases no. 37,39,36,35,40,30 and 33 of the year 1996-97 titled as State Versus Golden

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Forest India Ltd. filed U/S 166/167 Agriculture Disaster and Land Management Act.

The detail facts of the case are that the Tehsildar Dehradun sent his report that R.K. Siyal and his family members who are concerned with Golden Forest India Ltd. have violated sections 154(1) of the Agriculture Disaster and Land Management Act by purchasing the enough land on the basis of sale deeds executed by many Khata holders. R.K. Siyal and his family members have purchased more than 12.50 acre land and violated sections 154(1) of the Agriculture Disaster and Land Management Act. Therefore action may be taken to forfeit the land in the name of State U/S 166/167 of the Agriculture Disaster and Land Management Act. On the basis of report of Tehsildar, the order dated 21.08.1997 passed by Assistant Collector 1st Grade/ Parganadhikari, Dehradun in cases no.37, 39, 36, 35, 40, 30 and 33 of the year 1996-1997 titled as State Versus Golden Forest India Ltd. filed U/S 166/167 Agriculture Disaster and Land Management Act and the land of different villages has been forfeited vide order dated 21.08.1997 U/S 166/167 Agriculture Disaster and Land Management Act. Golden Forest India Ltd. has filed 7 Revision Petitions against the impugned order before the Ld. Revenue Counsel, Uttar Pradesh, Allahabad. The Revenue Counsel, Uttar Pradesh, Allahabad vide its order

dated 24.11.2000 had accepted all the Revision Petitions bearing No.51 to 57 of the year 1996-97 which were filed by Golden Forest India Ltd. through R.K. Sayal and the order dated 21.08.1997 passed by Assistant Collector 1st Grade/ Parganadhikari, Dehradun was set aside. The State Government filed Writ Petition No.81 M/S of 2000 against the order dated 24.11.2000 passed by the revenue Counsel Uttar Pradesh before the Uttrakhand High Court at Nainital and the same was dismissed by the Uttrakhand High Court at Nainital vide its order dated 21.12.2005. The State Government approached the Hon'ble Supreme Court through Civil Appeal No. 3195 of 2011 and SLP (C) No.16476 titled as State of Uttranchal Versus Golden Forest India Company Pvt. Ltd. against the order 21.12.2005 passed by Uttrakhand High Court at Nainital. The Hon'ble Supreme Court admitted the appeal 3195 of 2012 in case titled as State of Uttranchal Versus Golden Forest India Company Pvt. Ltd. vide order dated 11.04.2011 and set aside the order passed by the High Court of Nainital and Revenue Counsel of Uttar Pradesh and thus this case has listed before this Ld. Court for fresh decision. As per the order passed by High Court, the Revisions decided by Revenue Counsel UP has been received in this office.

In the above said revision petitions Golden Forest India Ltd. presented an application to plead them as

party which was dismissed by this Ld. Court vide order dated 04.07.2012. Golden Forest India Ltd. approached High Court through Civil Appeal against that order and the Hon'ble high vide order dated 10.03.2014 passed order to provide opportunity of hearing to the Golden Forest India Ltd. Incompliance of the order dated 10.03.2014 passed by the Hon'ble High Court, date of hearing was fixed for 17.07.2014 but after that date till today no representative on behalf of Golden Forest India Ltd. has come present in pursuance of the case.

In the above said revisions pleadings have been heard from the counsel for the revisionists and special counsel appointed by the state govt. and the case files of the dispute have been perused.

From the side of revisionist, Sh. Arun Sexena has pleaded that the above said revisions have been filed against the order dated 21.08.97 passed by A.C. First Dehradun. The Ld. Lower Court has taken action on the report of Tehsildar. No sale purchase deed has been attached on the report of Tehsildar from which it may be ascertain that the action U/S 166/167 of the Agri. Disaster Act has been taken. On the letters of the Ld. Lower Court it has not been mentioned that any Notice or Information has been given to the Khata Holders. Only on the basis of report of Tehsildar, the land has been forfeited with the State

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Government, which is against the Principle of Natural Justice. There is also nothing on the record from which it may be ascertain that adequate opportunity of hearing has been given to the Khata holder before forfeiting the land section 154/1 of A.D.L.M Act is implemented on the natural person nor on unnatural person or lawful company. From the perusal of the A.C. First it is clear that no notice has been issued to the cultivators. The counsel for the petitioners referred 2013(1) C.A.R 77 HC, WP No. 2046/MS of 2001 of HC Nainital and RD 2001 (92) page-99 (Hindi).

Another counsel D.R. Tiwari has pleaded on behalf of the petitioner that the report dated 12.08.97 of Tehsildar which is sent to A.C. First is just and no compliance of section 148 has been made. In the order dated 21.08.97 passed by A.C. First Dehradun, it is mentioned that the action which has been taken against the cultivators is based on verbal orders. No notice to the cultivators has been given nor has any opportunity of hearing been provided. Gram Sabha has also not pleaded as party, which was mandatory to plead as party. The Ld. Counsel to prove his case referred 2001(92) RD99(H).Revenue Counsel U.P 2005. (Sampli) R.D. 512 2007(103) R.D. 206 Allahabad High Court 1998(89) R.D. (H) 32 Revenue Counsel UP 1996 (87) R.D. 240 Allahabad High

10/

Court and R.D. 1990 Page 267 High Court Allahabad have been presented.

L.D. Thaplial learned counsel on behalf of state has pleaded that the Khata holders/cultivators have violated section 154 and the Golden Forest Company has sold land measuring 12.5 acres, therefore Assistant Collector 1st Grade/ Parganadhikari Dehradun has forfeited the land under section 166/167 of the Agricultural Disaster and Land Management Act by virtue of order dated 21.08.97. The revision has been filed only on the ground that no notice has been issued. The revisionist have also not mentioned as to how they came to know about the passing of the order by the learned lower court. Because Golden Forest India Limited has sold 12.50 acre land therefore the land has been forfeited the land under section 166/167 of the Agricultural Disaster and Land Management Act. The revisionists did not approach the learned court afresh and the orders which have been challenged are the administrative orders and the revision is not maintainable. When the land is sold more than 12.50 acres by any cultivator or occupant it violates section 154 of the Agri. Disaster and Land Management Act and the competent authority upon coming to know about this can immediate forfeit this land to the statement government. The order passed is an administrative order and it cannot be

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challenged in the learned court. The revision has been filed only by the Golden Forest India Limited and not by any cultivator/Khata holder. From which it is clear that the original Khata holders have sold this land. To prove his pleadings the learned court has presented R.D. 1979 page 121, R.D. 2010(109) page 696, S.C. R.D. 1979 Page 80 of S.C., R.D.; 2001(92) page 25 (H) Revenue Counsel U.P R.D. 1999 (90) page 40 Revenue Council U.P R.D. 2002(94) page 115, Revenue Council U.P and R.D. 2005(98) page 158 of S.C.

I have perused all the letters of Assistant Collector 1st Grade/ Parganadhikari Dehradun. The action on all the application have been initiated on the report dated 12.08.1997 of the Tehsildar Dehradun that R.K. Sayal being Manager of the different companies has purchased the land which comes to more than 12.50 acre and being higher than the limits determined in the Section 154(1) of the Agricultural Disaster and Land Management Act and thus is the violation of the Section 154(1) of the Agricultural Disaster and Land Management Act and is liable to be vested to the state government under section 166/167 of the Agricultural Disaster and Land Management Act. From the perusal of all the letters of Assistant Collector 1st Grade/ Parganadhikari Dehradun, it has been cleared that before passing the impugned order by the Assistant Collector, no

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appropriate notice or information was given to the Khata holder/cultivators. And consequently, the Khata holder/cultivations did not get any opportunity of hearing. Further, nor is sale or purchase deed present with the applications from which it may be ascertained that by which deed the land has been sold in favour of the Golden Forest Company. In Para no.2 of the direction dated 21.08.97 given by the Assistant Collector 1st Grade/ Parganadhikari Dehradun, it is clear that the land in question has been continued in the name of the Khata holders/ cultivators. Further from the perusal of order dated 21.08.97 passed by the learned court, it is clear that all the action has been taken on the verbal orders of the District Officer. Before forfeiting the land with the state government under section 166/167 of the Agricultural Disaster and Land Management Act, no opportunity has been provided the Khata holders/cultivators nor has any notice or information been given to them. Tehsildar Dehradun has sent his report to Assistant Collector on dated 12.08.97. Assistant Collector 1st Grade/ Parganadhikari Dehradun vide its order dated 12.08.97 forfeited all the land with the state government. No opportunity has been given to the Khata Holder/ cultivators by not adopting the proper procedure and land has been forfeited to the state government.

In the interest of justice, it was required to provide adequate opportunity of hearing to the khata holders/cultivator before forfeiting their land but it has not been complied. In different provisions, it is appropriate to provide adequate opportunity of hearing to the khata holders/cultivators before forfeiting their lands and notice or information should be given to them.

In view of the above said circumstances, I have reached at a conclusion that the order dated 21.08.97 passed by the learned lower court is discrepant and it will be in the interest of justice to provide opportunity to the khata holders/ cultivators to stake their claim.

Besides this, the present learned court has lastly wrote on dated 28.08.2014 to the Assistant Collector 1st Grade/ Parganadhipkari Dehradun through letter no. 36/96/97 to avail the record pertaining under section 166/167 of the Agricultural Disaster and Land Management Act titled as State Versus Golden Forest India Limited, Mauja Danda, Laukhanda, Pargana Parva/Pachhwadon before this learned court but the record has not been sent. Therefore Assistant Collector 1st Grade/ Parganadhipkari Dehradun may find the application and to dispose of the same in accordance with law.

The committee- Golden Forest India Limited constituted by the Hon'ble Supreme Court has not put their

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claim before this learned court. They will have the right to put their claim before the Assistant Collector 1st Grade/ Parganadhikari Dehradun. Assistant Collector 1st Grade/ Parganadhikari Dehradun has been directed to hear the Golden Forest Indian Limited after making them party in the case.

The revision is hereby accepted and the order dated 21.08.97 passed by Assistant Collector 1st Grade/ Parganadhikari Dehradun is hereby set aside. Further the registry office is directed to service notice to the cultivators or khata holders keeping in view the direction given above and to provide them adequate opportunity of hearing and to decide the case on merits. A copy of this order may also be enclosed with six other revisions from Serial No.11 to 16 year/2010-2011 titled as Golden Forest Company versus State

Dated: 21.10.2014

SD/-
Subhash Kumar
President Revenue Council.

CERTIFIED TO BE TRUE TRANSLATED COPY

ADVOCATE

No. 434/18(2)/2008

106

From:

N.S. Naplachyal,
Principal Secretary,
Government of Uttarakhand.

To:

District Collector,
Dehradun.

Revenue Department Dehradun: Date 04
August, 2008

Sub: Regarding grant of 7.0650 Hect. on
Patta/Lease to Diya Shiksha Evam Vikas Samiti
for establishment of State of Art Institute.

Sir,

I have been directed to state in reference to
your Letter No. 443/D.L.R.C.-08 Date 3.7.2008
regarding above subject matter that the
Hon'ble Governor, for establishment of State of
Art Institute, under the provisions contained in

the Government Order No. 558/16 (1)/73-Ra-1¹⁰⁷
dated 09 May, 1984 and as amended
Government Order No. 1695/97-1-1(60)/93-Ra-
1 dated 12.9.97 of Revenue Section -1 (Govt.
of U.P.), has granted approval for allotment of
7.0650 Hect. land in Khasra No. 1353 of village
Central Hope Town, Tehsil .Vikas Nagar of
District Dehradun on Najarana calculated at
double the rate of present market price and
annual rent of 20 times of Malguzari under the
following terms and condition:

- (1) The land in question will be used for the
specific purpose for which approval has
been granted.
- (2) The Pattedar will not have any right to
transfer the land in question by way of
sale/lease to any other person or
organization in any manner. Use of land
will have to be mandatorily completed
within the period of 03 (three) years from
the date of allotment, otherwise the

, allotment will automatically stand
cancelled. / 08

(3) Under the provisions in Government Order No. 150/1/85(24)-Ra-6 Date 09 October, 1987 with regard to management of government property under the control of Revenue Department and under the Government Grants Act 18954 Patta to the Pattedars first will be for the period of 30 years and Pattedar will have option for its renewal two times for 30-30 years. At the time of renewal the government will have right to increase the rent, which will not be less than 1-1 ½ times of previous rent (Lagan).

(4) When the Pattendar will not have further requirement of land in question then land with structure will be returned to the Revenue Department for which no compensation etc. will be payable.

(5) If land/building is left/deserted , or organization get dissolved, then land/¹⁰⁹ building will stand vested in the state government free from all encumbrances.

(6) On completion of period of allotment or violation of any condition under aforesaid condition numbers 1 to 5 or due to any such reason, which the state government deems fit and proper, the land in question with structure vest into Revenue Department for which no compensation will be payable.

2. Kindly ensure immediate compliance of the said orders.

Faithfully yours

Sd/- (Illegible)

(N.S. Napalachyal)

Principal Secretary.

No. and even dated

Copy forwarded to the following for information and necessary action:

1. Chief Revenue Commissioner, Uttarakhand,
Dehradun. 110

2. Commissioner, Garhwal Division, Paudi.

3. The District Collector, Dehradun.

4. Director, N.I.C., Uttarakhand Secretariat.

5. Shri Yogesh Atre, Secretary, Diya Shiksha
Evam Vikas Samiti, 103, Kheda-Khurd, New
Delhi - 110082.

6. Guard file.

By the Order of

Sd/- (Illegible)

(Santosh Badoni)

Under Secretary.

//TRUE ENGLISH TRANSLATION//

No. 138/XVIII(II)/2014-18(76)/2013

From:

Bhaskaranand,

Secretary,

Govt. of Uttarakhand.

To:

District Collector,

Dehradun.

Revenue Section -2

Date: 15

January, 2014

Sub: Regarding allotment of total 0.1540 Hect.

Land on Patta/Lease in District Dehradun to
Jaunsar Bawar Sewavritta Karmachari Mandal,
Dehradun for Jaunsari Bhawan Construction.

Sir,

In reference to your Letter No. 295/12A (2011-14) D.L.R.C. - 2013 Date 14.11.2013, I have directed to state that the Hon'ble Governor has granted approval for allotment of land

admeasuring 0.1540 Hect. in Khasra No. 755Ka
of Khata No. 47 in village Suddhowala, Tehsil ^{1/2}
Vikasnagar, Pargana Pachhawadun of District
Dehradun on Patta under the provisions of
Government Order No. 258/16(1)/73-Revenue-
1 Date 09.05.1984 and as amended
Government Order No. 1695/97-1-1(60)/93-
280-Ra-1 Date 12.09.1997 regarding Grade -
1Ka land recorded in the name of State of Uttar
Pradesh, on the price of land calculated on
double the rate of prevailing present market
price and on one time deposit of amount
equivalent to 20 times of Malguzari of the said
land under the following terms and conditions.

1. Prior to allotment of proposed land, the District Collector at his own level will get confirmed that the proposed land is not the private land?
2. The land in question will be used for the specific purpose for which approval has been granted.

3. The Pattedar will not have any right to transfer the land in question by way of sale/lease to any other person or organization in any manner. Use of land will have to be mandatorily completed within the period of 03 (three) years from the date of allotment, otherwise the allotment will automatically stand cancelled. 113

4. Under the provisions in Government Order No. 150/1/85(24)-Ra-6 Date 09 October, 1987 with regard to management of government property under the control of Revenue Department and under the Government Grants Act 18954 Patta to the Pattedars first will be for the period of 30 years and Pattedar will have option for its renewal two times for 30-30 years. At the time of renewal the government will have right to increase the rent, which will not be less than 1-1 ½ times of previous rent (Lagan).

5. When the Pattedar will not have further requirement of land in question then land with structure will be returned to the Revenue Department for which no compensation etc. will be payable. 114
6. If land/building is left/deserted, or organization get dissolved, then land/building will stand vested in the state government free from all encumbrances.
7. In case of application of Forest Conservation Act on the land in question, change of land use for non forest work will be applicable only when under the said Act permission from prescribed authority is being obtained.
8. Since the District Collector has not provided the prescribed certificate under concerned Government Order Dated 9.5.1984. Therefore, in that regard the District Collector will have to ensure

compliance of prescribed provisions at its own level.

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9. In this regard compliance of order passed by the Hon'ble Supreme Court in Civil Appeal No. 1132/2011 .(S.L.P (C) No. 3109/2011; Shri Jagpal Singh and Ors. Versus State of Punjab and other relevant directions will also be ensured.

10. On completion of period of allotment or violation of any condition under aforesaid condition numbers 1 to 9 or due to any such reason, which the state government deems fit and proper, the land in question with structure vest into Revenue Department for which no compensation will be payable.

Kindly in this ensure further proceeding as per rule in this regard and also mandatorily acknowledge the government with regard to order issued at the level of district in light of government

order and compliance of conditions of
government order. 116

yours,

Faithfully

Sd/- (Illegible)

(Bhaskaranand)

Secretary.

Page No. /Even dated /2014

Copy forwarded to the following for
information and necessary action.

1. Commissioner and Secretary, Revenue Board, Uttarakhand, Dehradun.
2. Commissioner, Garhwal Division,, Paudi.
3. Jaunsar Bawar Sewavrit Karmachari Mandal, 101, Tapowan Vihar, Nalapani Road, Dehradun.
4. Director, N.I.C., Uttarakhand Secretariat.
5. Incharge Media Center, Secretariat.
6. Guard File.

By the Order of

(Santosh Badoni)

Under Secretary.

//True English Translation//

No. 974/XVIII(II)/2011-3(99)/2010 ¹¹⁷

From:

Dr. Rakesh Kumar,

Secretary,

Government of Uttarakhand.

To:

The District Collector,

Dehradun,

Revenue Section-2 Dehradun: Date 19 April, 2011

Sub: For free of cost transfer of 5.292 Hect.

Land in village Jhajhara, Tehsil Vikas Nagar,

District Dehradun to Disaster Management

Department, Uttarakhand.

Sir,

In reference to your letter no. 40/12-A-D.L.R.C. (2005-08) Date 10.10.2007 on aforesaid subject I have been directed to state that the Hon'ble Governor has granted approval for free of

cost transfer of 5.292 Hect. land in Khasra No. 1171
in village Jhajhara, Tehsil Vikas Nagar, District ¹¹⁸
Dehradun to Disaster Management Department,
Uttarakhand keeping in view of the request by the
Disaster Management Department, Uttarakhand in
Government Order No. 260/Finance Section-3/2002
Date 15.02.02 of Finance Section -3 under the
following terms and conditions.

1. There should not be any religious or historical importance building on the land.
2. The project for which the land is being transferred should be an approved project and for which consent from government has been obtained.
3. If the transferred land is being used for the purpose other than the proposed work then for that fresh approval will be required from the parent department.
4. If there has not been requirement of land or upto the period of 3 years the transferred land

has not been used for the work/purpose
proposed then it will stand automatically vested ¹¹⁹
in parent department.

5. The land cannot be transferred to any other person, organization, samiti or department for use of the purpose other than the purpose for which this land is being transferred without permission from the original department.
6. After fulfillment of the purpose for which land is being allotted, if land remain surplus then the original department will have right to return back the same.
7. In case of application of the Forest Conservation Act on the land in question, change of land use will only be applicable, when under the said Act permission is obtained from the authority prescribed under the said Act.

Kindly accordingly take necessary and copy of order to be issued at the level of district in light of the government order shall

kindly be made available to government at the
earliest.

/20

Faithfully yours,

Sd/- (Illegible)

(Dr. Rakesh Kumar)

Secretary.

No. /Even Dated/2011

Copy forwarded to the following for information and
necessary action.

1. The Secretary, Disaster Management
Department, Govt. of Uttarakhand.
2. The Chief Revenue Commissioner, Uttarakhand,
Dehradun.
3. Director, N.I.C. Secretariat.
4. Incharge Media Center Secretariat.
5. Guard File.

By the Order of
(Santosh Badoni)
Under Secretary.

//True English Translation//

No. 608/XLI-1/2015-70/2015

From:

R.K. Sudhanshu

Secretary,

Govt. of Uttarakhand.

To:

District Collector,

Dehradun.

Technical Education Section-1 Dehradun, Date
14th July, 2015

Sub: Regarding allotment/ transfer of land free
of cost for establishment of Satellite Campus of
I.I.M., Kashipur in village Suddhowala
(Dehradun).

Sir,

Kindly take reference of Government Order No.
833/XVIII(II)/2015-18(86)/2014 dated
05.03.2015 of Secretary, Revenue Section-2 on
aforesaid subject whereby approval has been

granted for free of cost transfer of land in
Khasra No. 756 Min. area 0.251 Hect., 757 area ¹²²
1.311 Hect., 758 area 0.060 Hect., 759 area
0.143 Hect., 760 area 0.080 Hect., 761 area
0.150 Hect., 797 area 0.035 Hect. total area
admeasuring 02.030 Hect. in village
Suddhowala, Pargana- Pachhawadun, Tehsil-
Vikasnagar, District- Dehradun to the Training
and Technical Education Department for
establishment of Satellite Campus of I.I.M.,
Kashipur (Udham Singh Nagar) subject to
following terms and condition.

2. In that series, after complete
consideration, I have been directed to
state that for the aforesaid purpose the
Hon'ble Governor has happily granted
consent for free of cost transfer of said
land admeasuring 02.030 Hect from
Training and Technical Education
Department in favour of I.I.M. Kashipur
for establishment of Extension
Campus/Satellite Campus of I.I.M.,
Kashipur.

3. Remaining terms and conditions of above referred government order dated ¹²³ 05.03.2015 and prohibitions will remain applicable.
4. As a result of approval aforesaid at the earliest proceedings for transfer of concerned land in the name of I.I.M., Kashipur be completed at the earliest.
5. Ensure time bound compliance of the said order also acknowledge the government.

Faithfully yours,

Sd/- (Illegible)

(R.K. Sudhansu)

Secretary.

//True English Translation//

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OFFICE OF THE DISTRICT COLLECTOR, DEHRADUN

No. 926/12A-113/(2014-2017) D.L.R.C.

Date:

19 October, 2015

Sub: Regarding transfer of land admeasuring
0.5700 Hect. in village- Suddhauwala, Pargana-
Pachhawadun, Tehsil - Vikasnagar, District
Dehradun to Public Works Department for
construction of public road.

Dy. District Collector,

Vikas Nagar.

In reference to your Letter No. 790/Ra.Li.-2015
date 15 July, 2015 on aforesaid subject and in
reference to Letter No. 5265/201C.-9/15 date
13.10.2015 of Superintending Engineer, 9th
Circle, P.W.D., Dehradun under the provisions
contained in Government Order No.
111/XXVII(7)50(39)-2015/2014-Vitta (Ve.Aa-
Sa.Ni.) Anubhag -7 Date 09 July, 2015 and
Government Order No. 1887/XVIII(II)/2015-
18(169)/2015 date 30 July, 2015 land in
Khasra 761Ka/0.5700 Hect. of Khata Khatauni

No. 00047 of village Sudhauwala, Pargana
Pachhawadun, Tehsil Vikasnagar under ¹²⁵

Category 1-Ka-State Government is hereby
allotted in favour of Public Works Department,
Uttarakhand Government for construction of
Public Road with following prohibitions.

1. On the land there should not be any
religious or historical importance building.
2. The project for which land is being
transferred would be a approved and
recommended project and for which there
would be consent of the government.
3. Transferred land is if used for the purpose
different from the proposed work then for
that purpose further recommendation from
original department has to be obtained.
4. If there has not been requirement of the
land or for the period of three years the
transferred land is not being used for the

proposed work then this will automatically
stand vested in the original department. 126

5. If the land is transferred to any other person, organization, Samiti or Department for the purpose other than the purpose for which the land is being transferred then the said transfer could not be done without consent of original department.
6. After fulfillment of the purpose for which this land is being allotted if land stand remaining then the original department will have right to return it back.
7. In case of application of the Forest Conservation Act on the land in question then change of land use will be applicable until permission from the prescribed authority is not obtained under the Act.
8. The Z.A. Land in question prior to allotment the compliance of section 132 of

Zamindari Abolition and Land Reforms Act and other relevant provisions be ensured by the Dy. District Collector.

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9. In this regard compliance of order passed by the Hon'ble Supreme Court in Civil Appeal No. 1132/2011 (S.L.P (C) No. 3109/2011; Shri Jagpal Singh and Ors. Versus State of Punjab and Order dated January, 2011 passed by the Hon'ble Supreme Court in Civil Appeal No. 436/2011/SLP No. 20203/2007; State of Jharkhand & Ors. Vs. Pakur Jagaran Manch & Ors. And other relevant directions will also be ensured.

10. On completion of period of allotment or violation of any condition under aforesaid condition numbers 1 to 9 or due to any such reason, which the state government deems fit and proper, the land in question with structure vest into Revenue

Department for which no compensation will
be payable. 128

Kindly ensure further proceeding as
per rule in this regard, in light of this
order the abovementioned land be
recorded in the name of Public Works
Department, Govt. of Uttarakhand in
revenue record and ensure
acknowledgement of undersigned with the
action taken.

yours,

Faithfully

Sd/- (Illegible)

(Ravinath

Raman)

District Collector,

Dehradun.

Page No. /Even dated /2015

Copy forwarded to the following for
information and necessary action.

1. The Secretary, Public Works Department, Govt. of Uttarakhand,¹²⁹ Dehradun.
2. The Secretary, Revenue Department, Govt. of Uttarakhand, Dehradun.
3. The Superintending Engineer, 9th Circle, Public Works Department, Dehradun in light of his Letter No. 5265/201C-9/15 Date 13.10.2015 on above matter for information.

Sd/- (Illegible)

District

Collector, Dehradun

//TRUE ENGLISH TRANSLATION//

No.-82/XVIII(2)/2018-18(74)/2017

From:

Harbans Singh Chugh

Secretary (Incharge),

Government of Uttarakhand.

To:

The District Collector,

Dehradun, Haridwar, Nainital and Udham Singh

Nagar,

Uttarakhand.

Revenue Section -2

Dehradun, Date: 06

February, 2018

Sub: Regarding allotment of land in favour of
Akshyapatra Foundation for running of Central
Kitchen System under Mid Day Meal Scheme of
Education Department of the State.

Sir,

In the Government Order No.
392(1)XXIV(I)/2017/Na.Sri.Anu./40/2017 Date

30 June, 2017 of Education Department it has been decided to allot 2 to 2 ½ acre land, at ¹³¹ the rate of Rs. 1000/- (Rupees one thousand only) per year on lease/patta for a period of 30 years in favour of Akshya Patra Foundation under the Mid Day Meal Scheme in the State for running of Central Kitchen System In first Phase in 04 districts such as Dehradun, Haridwar, Nainital and Udham Singh Nagar.

2. In light of the said Scheme, under the scheme, in light of the decision at the Government level after complete consideration, I have been directed to state that for for allotment of land in favour of Akshay Patra Foundation to run central kitchen system in districts Dehradun, Haridwar, Nainital and Udham Singh Nagar, selected for the first phase, the District Collectors are authorized to give two to two and half acres land per kitchen on lease /patta at the rate of Rs. 1000/- (One thousand) per annum for a period of 30 years. Therefore

on behalf of the State Government the
District Collectors are authorized for ¹³²
allotment of land under the following terms
and conditions apart from the directions
contained in Government Order No.
258/16(1)/73-Rajaswa-1 Date 09.04.1984,
No. 1695/97-1-1(60)/93-280-Ra.-1 Date
12.09.1997 and No. 1115/XVIII(2)/2016-
18 (184)/2015 date 15.06.2016:

1. Lease Period will be co-terminus with the period of agreement executed between Education Department and Akashya Patra Foundation i.e. during the period of agreement between Education Department and Akshay Patra Foundation will remain effective till then the lease period will be effective.
2. First effort should be that if any land of education department remain vacant or unused then first of all the said land should be used.
3. With regard to the lease rent rates the
Government Order No..

Date 30 June, 2017 will be applicable.

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Therefore, take necessary action as per
aforesaid

Faithfully

yours,

Sd/- (Illegible)

(Harbans Singh

Chugh)

Secretary

(Incharge)

No. (1)/XVUIII(2)/2018 and Evendated.

Copy forwarded to the following for information
and necessary action:

1. Private Secretary, Chief Secretary, Govt.
of Uttarakhand.
2. Secretary, School Education, Govt. of
Uttarakhand.
3. Secretary, Gopan Vibhag, Govt. of
Uttarakhand.

4. Commissioner, Kumayun/Garhwal Division,
Uttarakhand.

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5. Commissioner and Secretary, Revenue
Board, Uttarakhand, Dehradun.

6. Director, N.I.C., Secretariate Campus,
Dehradun for uploading.

7. Guard File.

By the Order of

(J.P. Joshi)

Under

Secretary

//TRUE ENGLISH TRANSLATION//

OFFICE OF THE DISTRICT COLLECTOR, DEHRADUN

No. 178/12A-40(2017-20) D.L.R.C.

Date:

16.02.2018

Dy. District Collector,

Vikasnagar, Dehradun.

Subject: Regarding allotment of land admeasuring 0.8100 Hect. (02 acres) in mauza Suddhaunwala, Tehsil Vikas Nagar on Patta to the Akshay Patra Foundation for running of Central Kitchen System under Mid Day Meal Scheme being run by the Education Department of the State.

Vide the Government Order No. 392(1)XXIV(1)/2017/Na.Sel.Anu./ 40/2017 dated 30th June, 2017 of Education Department, Uttarakhand Government, under the Mid Day Meal Scheme, in the State, in the first phase for running of Central Kitchen Sysgtem in 04 districts such as Dehradun, Haridwar, Nainital and Udham Singh Nagar, it has been decided for allotment of land on lease/patta per kitchen 2 to 2 ½ acres land at the

rate of Rs. 1000/- (one thousand) for a period of 30 years for establishment of community kitchen. 136

In this reference by way of Government Order No. 82/XVIII(II)/2018-18(74)/ 2017 date 06 February, 2018 of Revenue Department, Government of Uttarakhand for running of Central Kitchen System in the districts Dehradun, Haridwar, Nainital and Udham Singh Nagar selected for first phase, for allotment of land in favour of Akshay Patra Foundation per kitchen 2 to 2 ½ acres at the rate of Rs. 1000/- (one thousand) per year for a period of 30 years the District Collectors of concerned districts have been authorized.

Therefore, in light of the provisions mentioned in the aforesaid government orders and the guidelines provided there in the government order and on the basis of proposal for making the land available by way of Letter No. 1011/P.A.-2017 Date 25th November, 2017 of the Dy. District Collector, Vikasnagar, for running of the central kitchen system under Mid Day Meal Scheme being run by the Education Department of the State, the Akshya

Patra Foundation is hereby allotted land in village
Suddhowala, Pargana Pachhawāḍun, Tehsil ¹³⁷
Vikasnagar in Khata No. 47 in Khasra No. 801 area
0.8100 Hect. (02 acres) land under following terms
and conditions apart from the guidelines provided in
the Government Order No. 258/16(1)/73-Revenue-1
date 09.05.1984 and amended Government Order
No. 1115/XVIII(II)/2016-18(184)/2015 date 15
June, 2016 at the rate of Rs. 1000/- (One thousand)
per annum on lease/patta for a period of thirty
years:-

1. The land in question will be used for the same specific work for which this approval has been granted.
2. The Pattedar will not have right to sale/lease out the land in question to any person or organization or institution or to transfer in any manner. Use of land will have to be mandatorily completed within the period of 03 years from the date of allotment otherwise allotment will automatically stand cancelled.

3. When the Patta Holder does not have requirement of the land in question then the land alongwith civil structure will returned to the Revenue Department, for which no compensation will be payable.
4. If lease/patta holder, in future, deserts/leaves the land /structure or the organization is dissolved then land with structure will vest in the State Government free from all encumbrances.
5. Lease period will be co-terminus with the period of agreement executed between the Education Department and Akshay Patra Foundation in other words till the period agreement between Education Department and Akashya Patra Foundation remain alive only till period the lease period will remain alive.
6. On completion of the period of allotment or in condition of violation of any of the terms and conditions mentioned in point 01 to 05 the land in question with civil structure will vest into Revenue Department for which no compensation will be payable.

In light of the directions in the aforesaid government order the proceeding for lease¹³⁹ deed of the above mentioned land has been completed on 12 February, 2018 in the office of Dy. Registrar, Vikas Nagar.

Therefore, in light of the directions contained in the Government of Order No. 392(1)XXIV(1)/2017/Na.Sri.Anu./40/2017 date 30 June, 2017 of Education Department, Government of Uttarakhand and Government Order No. 82/XVIII(II)/2018-18(74)/2017 date 06 February, 2018 of Revenue Department, Uttarakhand Government and on the basis of proposal for land made available vide Letter No. 1011/P.A.-2017 Date 25 November, 2017 by the Dy. District Collector, Vikasnagar the land in Khata No. 47 in Khasra No. 801 area 0.8100 Hect. (02 acre) land in village Suddhowala, Pargana Pachhawadun, Tehsil Vikas Nagar, Category -1Ka- State Government has been transferred on lease/patta for 30 years at the rate of Rs. 1000/- (one thousand) for running of central kitchen system under Mid Day Meal Scheme being run by the Education Department of the State

therefore ensure recording/mutation in the revenue
record.

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Sd/- (Illegible)

(S.A. Murugesan)

District Collector,

Dehradun.

//TRUE ENGLISH TRANSLATION//

No. - 403A/XVIII (II)/2018-02(34)/2008 T.C.

From:

Harbans Singh Chugh,

Incharge Secretary,

Government of Uttarakhand.

To:

The District Collector,

Dehradun.

Revenue Section -2Dehradun: Date 12 March, 2018

Sub: Regarding allotment of land to Science and
Technology Department in village Jhajhara,
Tehsil Vikas Nagar.

Sir,

Kindly take reference of your Letter No.
122/12A-29(2017-18) DL.R.C. Date 28
December, 2017 on aforesaid subject, whereby
for establishment of Science City in village
Jhajhara, Tehsil Vikas Nagar proposal for
allotment of land to Science and Technology

Department, Uttarakhand in Khata No. 1,291,
297, 435, 77, 218, 509 and 688 in Khasra No. ¹⁴²

1167Kha/0.4430,	1168Ga/0.1290,
1169Ka/0.0700,	1169Kha/0.1220,
1170Ga/0.3210,	1170Ja/0.3890,
1175Ka/0.6110,	1178Ka/0.3260,
1178Kha/0.1500	1178Ga/0.1340,
1179Ka/0.2970,	1179Kha/0.2410,
1180Ka/0.2500,	1177Da/1.2160,
1180Kha/0.0600 total area 4.7590 Hect.	

2. In view of this fact and in light of the decision taken at the level of government I have been directed to state that under provisions in the Government Order No. 260/Vitta Anubhag-3/2002 Date 15.02.02, Government Order No. 111/XXVII(7) 50(39)/2015/2014 date 09.07.2015, Government Order No. 1887/XVIII(II)/2015-18(169)/2015 date 30 July, 2015 of Finance Section-3, for establishment of "Science City" the Hon'ble Governor grants approval for allotment/transfer of land to the Science and Technology Department, Uttarakhand under the following terms conditions/prohibitions.

(1) On the land there should not be any religious or historical importance structure. 193

(2), The project for which land is being transferred should be an approved project and for this consent of government has been obtained.


(3) If the transferred land is used for the purpose different from for the proposed activity then for that purpose fresh approval has to be obtained from the original department.

(4) If there has not been further requirement of land or the transferred land has not been taken into use for the proposed activity for a period of 3 years then the same will automatically vest into the original department.

(5) The land cannot be transferred to any other person, institution, Samiti or department for the purpose other than the purpose for which land is being transferred

without consent of the original
department.

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- (6) After fulfillment of requirement for which the land is being allotted, if land remains then the original department will have right to return it back.
 - (7) In case of application of provision of Forest Conservation Act on the land in question, change of land use for non forest activities will be applicable only when under the said Act permission is being obtained from the prescribed authority under the said Act.
 - (8) Prior to allotment of land compliance of Section 132 of Zamindari Abolition and Land Reforms Act and other relevant provisions will be ensured by the District Collector.
 - (9) In this regard compliance of order passed by the Hon'ble Supreme Court passed in Civil Appeal No. 1132/2011 (S.L.P.)/(C) No. 3109/2011 Shri Jagpal Singh and Ors. Versus State of Punjab and Ors. And other relevant directions have to be ensured.

(10) On completion of the period of allotment or
due to violation of any of the aforesaid¹⁴⁵
conditions at Sl. Nos. 01 to 09, the land in
question alongwith structure will vest into
the Revenue Department, for which no
compensation will be payable.

Kindly in this regard ensure further action
as per rule and copy of order issued at the
level of District in light of government
order may kindly be made available to the
Government.

Faithfully

yours,

Sd/- (Illegible)

(Harbans Singh


Chugh)

Incharge

Secretary.

No. /XVIII(II)/2018, even dated.

Copy forwarded to the following for Information
and necessary action:

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1. Principal Secretary/Secretary, Science and Technology Department, Govt. of Uttarakhand. 146
 2. Principal Secretary, Finance Department, Government of Uttarakhand.
 3. Director, National Information Science Center, Secretariat Campus, Dehradun.
 4. Private Secretary, Addl. Chief Secretary, Hon'ble Chief Minister, Govt. of Uttarakhand.
 5. Commissioner and Secretary, Revenue Board, Uttarakhand, Dehradun.
 6. Commissioner, Garhwal Division, Paudi.
 7. Director, N.I.C., Secretariat, Dehradun.
 8. Guard File.

By the Order of

(Krishna Singh)

Jt. Secretary.

//TRUE ENGLISH TRANSLATION//