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IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

PRASHANT KUMAR MISHRA; J., N.V. ANJARIA; J.

APRIL 21, 2026.

CIVIL APPEAL NO. 4633 OF 2026 (ARISING OUT OF S.L.P. (CIVIL) NO.16855 OF 2019)

BABU SINGH versus CONSOLIDATION OFFICER AND OTHERS

Uttar Pradesh Zamindari Abolition and Land Reforms Act, 1950 – Section 132 & Section 195 – Uttar Pradesh Land Records Manual – Paragraph Ka-155-Ka – Re-categorisation of Public Utility Land – Lack of Jurisdiction of Sub-Divisional Officer / Assistant Collector - The Sub-Divisional Officer (SDO) / Assistant Collector lacks the statutory authority to alter the category of land from Category-6 (Public Utility / Communal Land) to Category-5 (Cultivable Land) under Paragraph Ka-155-Ka of the Manual - Clause (9) of Paragraph Ka-155-Ka merely prescribes the competent authority for making entries in the revenue records affecting the tenure rights and titles of already recorded *khatedars* (tenure holders) - It only contemplates a change in the classification or category of the *khata* (the tenure entry relating to the holder) and does not confer any jurisdiction to change the underlying physical or regulatory category of the land itself -The power to resume public utility land and change its classification rests solely with the State Government under Section 117(6) of the Abolition Act read with Section 77(2) of the U.P. Land Revenue Code, 2006, subject to strict statutory safeguards - Subordinate revenue authorities cannot circumvent the express prohibition of Section 132 of the Abolition Act through the administrative expedient of changing revenue entries - What cannot be done directly cannot be done indirectly (*Quando aliquid prohibetur ex directo, prohibetur et per obliquum*) - any agricultural pattas granted over public utility land on the basis of an unauthorized re-categorisation by an SDO are void ab initio. [Paras 28, 29, 30]

Public Utility and Communal Lands – Protection and Non-Diversion - Lands meant for public utility and community purposes (such as *khalihan* and pasture lands) constitute material assets of the community, essential for maintaining ecological balance and public welfare - Such lands must be zealously protected, cannot be legitimately converted for private benefits through administrative manipulations or processes, and consolidation proceedings cannot be used as a vehicle to circumvent statutory protections afforded to communal resources. [Paras 31-36]

Civil Procedure Code, 1908 – Section 11 – *Res Judicata* – Dismissal at Threshold without Adjudication on Merits - Where an earlier application for cancellation of leases/pattas under Section 198(4) of the Abolition Act was dismissed at the threshold by the revenue authority on the sole ground that the execution of the leases had not been established/proved, without entering into the validity or legality of the pattas on merits, the principle of *res judicata* has no application to subsequent proceedings - For *res judicata* to apply, the issue must have been directly and substantially in issue and finally decided on merits in the previous proceeding. [Relied on *Hinch Lal Tiwari vs. Kamala Devi and others* (2001) 6 SCC 496; *Jagpal Singh and others vs. State of Punjab and others* (2011) 11 SCC 396; Paras 34, 35, 36]

For Appellant(s): Mr. S.R. Singh, Sr. Adv. Mr. Sushant Kumar Yadav, Adv. Mr. Prateek Yadav, Adv. Mr. Mangal Prasad, Adv. Mr. Prithvi Yadav, Adv. Mr. Gaurav Lomes, Adv. Ms. Radha Rajput, Adv. Mr. Anurag Singh, Adv. Ms. Anusha Yadav, Adv. Mr. Ankur Yadav, AOR

For Respondent(s): Mr. Tanmaya Agarwal, AOR Mr. Wrick Chatterjee, Adv. Mrs. Aditi Agarwal, Adv. Mr. Udit Bhardwaj, Adv.

J U D G M E N T

PRASHANT KUMAR MISHRA, J.

- 1) Leave granted.
- 2) The *lis* at hand concerns the validity of the change in categorisation of certain land situated in District Hardoi, Uttar Pradesh, the subsequent grant of pattas in favour of the appellant and the consequential ripple of events that ensued.
- 3) The backdrop of the present dispute is that prior to 31.10.1992, the subject land in dispute was recorded in Category-6 in the khatauni in terms of paragraph A-124 of the U.P Land Records Manual¹, which classifies the lands within a village. Category-6 *inter alia* denotes barren or uncultivated land including the lands covered with water, sites, roads, buildings and other non-agricultural uses. The area in which the subject land is situated is governed by the provisions of the Uttar Pradesh Zamindari Abolition and Land Reforms Act, 1950².
- 4) Category-5 under the Manual denotes cultivable land (Krishi Yogya Bhumi) with sub-categories such as new fallow (Navin Parti/Parti Jadid), old fallow (Purani Parti/Parti Kadim), among other categories.
- 5) On 05.04.1992, the Lekhpal submitted a report stating that the Land Management Committee (Gaon Sabha) had resolved to change the category of the subject land from Category-6 to Category-5. Similar reports recommending the change were submitted by the Revenue Inspector on 12.04.1992 and the Naib Tehsildar on 16.04.1992. Based on these reports, the Tehsildar recommended to the Sub-Divisional Officer on 31.10.1992 that the land be reclassified as Category-5, and the Sub-Divisional Officer approved the said recommendation, effecting the change, leading to grant of pattas to the appellant and certain other individuals. Their names were also recorded in the relevant khatauni on basis of such pattas.
- 6) Subsequently, the village in which the subject land is situated was brought under consolidation operations through a notification issued under Section 4 of the U.P. Consolidation of Holdings Act, 2004. During the consolidation proceedings, the land settled in favour of the appellant by the lease dated 31.10.1992 was assigned a valuation, and the corresponding chaks were carved out under Section 20 of the U.P. Consolidation of Holdings Act. The appellant's name continued to be recorded in the proceedings under Section 23, and possession of the chaks was delivered on 01.07.2013. The appellant claims to have remained in continuous possession of the land since the grant of pattas and thereafter of the chaks allotted during consolidation.
- 7) After the grant of pattas, certain individuals, including one Shiv Karan, initiated proceedings under Section 198(4) of the Abolition Act, before the Collector, Hardoi, seeking cancellation of pattas issued to 68 persons, including the appellant. The Additional Collector, Hardoi, rejected these proceedings by an order dated 19.08.1994, holding that there was no *prima facie* evidence establishing execution of the pattas. A revision petition against the order dated 19.08.1994 was dismissed by the Additional Commissioner, Lucknow Division, on 04.08.1999.

¹ Hereinafter referred to as 'the Manual'

² Hereinafter referred to as 'the Abolition Act'

8) Subsequently, during consolidation proceedings, the Consolidator submitted a report dated 08.02.2016 to the Assistant Consolidation Officer, stating that the land had been recorded in 1379 Fasli as public utility land, including Khalihan and pasture land, referable to Section 132 of the Abolition Act, in respect of which pattas could not lawfully be granted. The report concluded that the appellant's name had been erroneously recorded and ought to be expunged.

9) The Assistant Consolidation Officer forwarded the said report to the Consolidation Officer on the same day i.e., 08.02.2016. In the meantime, an application under Section 198(4) of the Abolition Act was filed on 30.05.2016 by the State and the Land Management Committee before the Collector seeking cancellation of the pattas . Instead of proceeding with the said application, the District Collector referred the matter to the consolidation authorities. On the basis of such reference made under the order dated 27.10.2017, the Consolidation Officer passed an order dated 12.02.2019 expunging the name of the appellant as the bhumidhar with non-transferable rights and ordered the land to be recorded in its original khata. It is this order which came to be challenged before the High Court.

10) Upon careful consideration, the High Court dismissed the writ petition, holding the subject land as public utility land under Section 132 of Abolition Act, and that no bhumidhari rights or agricultural pattas could be granted in respect of such land . The approval granted by the Sub-Divisional Officer on 31.10.1992 re-categorising the land was without statutory authority and could not validate the pattas. The pattas were held illegal, incapable of conferring rights, and the consolidation authorities were justified in correcting the revenue records. Taking exception to the judgment passed by the High Court, the appellant now seeks refuge of this Court.

11) The learned senior counsel for the appellant submitted that the disputed land was admittedly recorded in Category-6, but its categorisation was subsequently changed to Category-5 by the Sub-Divisional Officer *vide* order dated 31.10.1992. It was contended that the High Court's view that the Sub-Divisional Officer lacked the jurisdiction to effect such change is erroneous. In support of his submission, reliance was placed on Paragraph Ka-155-Ka of the Manual, contending that the Collector is empowered to maintain the record of rights and for that purpose make necessary amendments therein. It was further urged that Section 227(4) of the U.P Land Revenue Act specifically empowers the Assistant Collector in charge of a sub-division of a district to order alteration in the annual register under Section 33 of the Act.

12) Learned senior counsel for the appellant further asserted that the proceedings initiated on the basis of the report of the consolidator dated 08.02.2016, as well as the application filed by the State of Uttar Pradesh and the Land Management committee seeking cancellation of the pattas granted in favour of the appellant, were barred by the principle of *res judicata*. It was contended that by order dated 19.08.1994, the Additional Collector, Hardoi, had rejected the application seeking cancellation of the lease granted in favour of the appellant. The revision preferred against the said order dated 19.08.1994 was rejected by the Additional Commissioner, Lucknow Division *vide* order dated 04.08.1999.

13) Conversely, the learned counsel for the respondents supported the impugned judgment and submitted that the subject land was recorded as Category-6 land which, in terms of Paragraph A-124 of the Manual, includes barren land and land covered with water, sites, roads, railways and other non-agricultural lands.

14) It was further submitted that the land in question is referable to Section 132 of the Abolition Act, which prohibits the conferment of bhumidhari rights in respect of such land. The learned counsel contended that bhumidhari rights can only accrue in respect of land that is referable to Section 117 of the Act.

15) It was also argued that the only form of patta permissible in respect of the land covered under section 132 is an Asami Patta, which is limited to a period of Five years. The pattas granted to the appellant were not Asami Pattas and, in any event, if they were to be treated as such, their tenure had long expired.

16) It was further submitted that the appellants reliance on provisions contained in Clause 9 of the Paragraph Ka-155-Ka of the Manual empowering the Assistant Collector/Sub-Divisional Officer to change the category of the land is misplaced since the said provision is applicable to existing tenure holder or Khattedars of the plot whose names have already been entered in the Revenue records.

17) In view of the aforesaid submissions, it was advanced that the Sub- Divisional Officer does not have the authority to change the category of the land from Category-6 to Category-5 and the subsequent grant of pattas on the basis of such change is illegal and *void ab initio*. On these grounds, it was submitted that the present Appeal deserves to be dismissed.

18) Heard the learned counsel for either side and perused the material on record. The only question before us is whether the High Court was correct in holding that the Sub-Divisional Officer lacked the jurisdiction to change the categorisation of the subject land and consequently rendering the patta in favour of the appellant as *void ab-initio*.

19) Before adverting to the issue of the change in categorisation of the subject land, a beneficial digression to the statutory scheme of the Abolition Act is apposite. Section 129 of the Abolition Act enumerates the classes of tenure holders recognised under the statute, namely: (i) bhumidhar with transferable rights; (ii) bhumidhar with non-transferable rights; (iii) asami; and (iv) Government lessee.

20) The mechanism for admission to the land is provided under Section 195 of the Abolition Act. The said provision stipulates that the Land Management Committee, with the previous approval of the Assistant Collector in charge of the sub-division, may admit any person as a bhumidhar with non-transferable rights to a land which is vested in the Gaon Sabha. However, such admission is with a caveat that the land must not fall within any of the categories specified under Section 132 of the Abolition Act.

21) Section 117 of the Abolition Act provides for the vesting of certain lands, including vacant and other lands in the village, in the Gaon Sabha or other local authorities. Such lands, once vested in the Gaon Sabha, are administered by the Land Management Committee in accordance with the provisions of the Act.

22) Section 132 of the Abolition Act assumes crucial significance to the present dispute. The said provision expressly stipulates that bhumidhar rights shall not accrue in respect of certain lands. The relevant portion is reproduced herein below for ready reference :

“132. Land in which bhumidhari rights shall not accrue.—Notwithstanding anything contained in Section 131, but without prejudice to the provisions of Section 19, **bhumidhari rights shall not accrue in—**

(a) pasture lands or lands covered by water and used for the purpose of growing singhara or other produce or land in the bed of a river and used for casual or occasional cultivation;

- (b) such tracts of shifting or unstable cultivation as the State Government may specify by notification in the Gazette; and
- (c) lands declared by the State Government by notification in the Official Gazette, to be intended or set apart for taungya plantation or grove lands of a Gaon Sabha **or a Local Authority or land acquired or held for a public purpose** and in particular and without prejudice to the generality of this clause—
- (i) lands set apart for military encamping grounds;
- (ii) lands included within railway or canal boundaries;
- (iii) lands situate within the limits of any cantonment;
- (iv) lands included in sullage farms or trenching grounds belonging as such to a local authority;
- (v) lands acquired by a town improvement trust in accordance with a scheme sanctioned under Section 42 of the U.P. Town Improvement Act, 1919 (U.P. Act VII of 1919) or by a municipality for a purpose mentioned in Clause (a) or Clause (c) of Section 8 of the U.P. Municipalities Act, 1916 (U.P. Act VII of 1916); and
- (vi) lands set apart for public purposes under the U.P. Consolidation of Holdings Act, 1953 (U.P. Act V of 1954).”

(emphasis supplied)

23) It is an admitted position that the land in question was originally recorded as Category-6 land in the revenue records. This is fortified by the report of the Lekhpal as well as the revenue entries placed on record. As noted already, Paragraph A-124 of the Manual classifies Category-6 land as barren land, including land covered with water, sites, roads, railways, buildings and other lands put to non-agricultural use.

24) The report of the Consolidator dated 08.02.2016 further records that the subject land was entered in the revenue records as land meant for public utility purposes, such as khalihan and pasture land. While Category-6 may encompass various forms of non-agricultural land, the material on record clearly indicates that the subject land was specifically recorded as khalihan and pasture land, both of which are communal lands falling within the prohibitory ambit of Section 132 of the Abolition Act. A conjoint reading of Paragraph A-124 of the Manual and Section 132 of the Abolition Act makes it evident that such lands fall squarely within the class of lands excluded from the conferment of bhumidhari rights and do not fall within the category of lands contemplated under Section 117 of the Abolition Act for settlement.

25) Once the land is referable to Section 132 of the Abolition Act, bhumidhari rights cannot accrue in respect thereof. At best, such land may be temporarily settled by way of an Asami patta. *Arguendo*, even if it were assumed that a patta had been granted in favour of the appellant in respect of the subject land, the same could only have been in the nature of an Asami patta. In terms of Rule 176-A of the Uttar Pradesh Zamindari Abolition and Land Reforms Rules, 1952, the term of an Asami patta is limited to a period of only five years. Consequently, even on that assumption, the patta in favour of the appellant would stand expired upon completion of the said period.

26) We may now advert to the contention advanced by the learned senior counsel for the appellant that the categorisation of the subject land was subsequently changed from Category-6 to Category-5 by the Sub-Divisional Officer *vide* order dated 31.10.1992, and that the grant of patta in favour of the appellant was made thereafter. In support of this submission, reliance has been placed upon Paragraph Ka-155-Ka of the Uttar Pradesh Land Records Manual to contend that the Sub-Divisional Officer possessed the jurisdiction to effect such change in categorisation. The relevant provision is reproduced herein below:

“K-15-K - Competent officer to pass order:-

Any change or entry affecting the rights and titles of the Khatedar's shall be performed by virtue of an order passed by such officer, who have been mentioned against each of the following heads.

1.	Entry pertaining to undisputed succession rights	Bhulekh Inspector or Tehsildar
2.	Entry pertaining to new Khatedars based upon the lease executed by the Land Management Committee.	Bhulekh Inspector
3.	Entry in cases of transfer by the Bhumidhar having transferable rights.	Tehsildar
4.	Entry in case of surrender	Tehsildar
5.	Entries in case of desertion.	Tehsildar
6.	Disputed cases of succession	Tehsildar
7.	Entry regarding change in malgujari or lagan.	Tehsildar
8.	Land related to Kachhar which has been included in village, its numbering and recording and entries related to water flow.	Assistant officer of the In charge Pargana
9.	Entries pertaining to transfer of land from one class/category of Khata to another category/class of Khata.	Assistant Collector
10.	Entry regarding, new Khatedars without registered lease	
11.	Entries of new Khatedars on the basis of other registered lease deed other than the lease executed by the land management committee.	Tehsildar
12.	Any other changes or transaction affecting the rights and titles which do not fall under column no 1 to 11.	In charge officer of Pargana/Assistant Collector

2. Intimation of orders passed pertaining to column no 1 to 2 shall be provided to the Lekhpal by the Bhulekh Inspector whereas intimation pertaining to column no 3 to 12 shall be given by the Registrar (Revenue Inspector).”

27) The U.P Land Records Manual is a collection of rules framed under Section 234 of the U.P Land Revenue Act,1901 as well as the instructions issued by the State Government in relation to various matters. In essence, the Manual provides the rules and procedures for preparation and maintenance of land records.

28) At first blush, the submission advanced by the learned senior counsel for the appellant appears attractive. However, upon a closer scrutiny, the contention does not merit acceptance. A bare perusal of Paragraph Ka-155Ka of the Manual would reveal that the said provision merely prescribes the competent authority for effecting entries in the revenue records affecting the rights and titles of the khatedars. In particular, clause (9) thereof, which provides for entries pertaining to transfer of land from one class/category of khata to another category/class of khata, which cannot be construed as conferring jurisdiction upon the Assistant Collector or the Sub-Divisional Officer to alter the category of the land itself in the revenue records. The provision only contemplates a change in the nature or category of the khata, that is, the tenure entry relating to the holder and not a change in the category of the land. The principal objective of the provision is to rectify or alter administrative anomalies in the classification of khata. Khata classifies the type of tenure holder as observed under Section 129 of the Abolition Act. It is also to be noted that the provision applies to any entries affecting the rights and titles of khatedars who have already been recorded in the revenue records and has no application to the change of category of the land whatsoever. Thus, the reliance placed upon paragraph Ka-155-Ka

to justify the re-categorisation of land from Category-6 to Category-5 is clearly misconceived and untenable in law.

29) Even otherwise, the Abolition Act, does not confer any authority upon the Sub-Divisional Officer to alter the category of land so as to bring it outside the prohibitory ambit of Section 132. The only mechanism contemplated by the Abolition Act for any conversion of land category is found in Section 117(6), which empowers the State Government—and the State Government alone—to resume land from the Gaon Sabha and make a fresh declaration vesting such land in a local authority. While this provision does not expressly authorize an alteration in the category of the land, such power can be inferred when read conjointly with Section 77(2) of the U.P. Land Revenue Code, 2006, which explicitly permits the State Government to change the class of public utility land in exceptional cases and only subject to stringent safeguards: recording reasons in writing, reserving equivalent land for the same purpose, and considering location and public utility value. This deliberate restriction to the State Government alone demonstrates the legislative recognition that no subordinate revenue authority possesses such power. The critical principle of statutory interpretation—that what cannot be done directly cannot be done indirectly (*Quando aliquid prohibetur ex directo, prohibetur et per obliquum*)—is fundamental here. Section 132 of the Abolition Act, expressly prohibits the conferment of bhumidhari rights in respect of public utility lands, including pasture lands and khalian. If the submissions advanced on behalf of the appellant were to be accepted, it would permit subordinate officers to circumvent this express prohibition through the simple expedient of re-categorising land in revenue entries, thereby defeating the legislative intent entirely. Such an interpretation must be rejected as it would render the statutory prohibition nugatory and enable indirectly what the statute forbids directly.

30) Now that it is cogent that the Sub-Divisional Officer's action of altering the category of the subject land was undertaken without jurisdiction, the legal consequences necessarily follow. The grant of patta in favour of the appellant is inextricably founded upon this invalid re-categorisation. The land continues to retain its original character as Category-6 land, falling in the class of lands referable to Section 132 of the Abolition Act. Since it is established that no bhumidhari rights accrue in respect of such lands, the pattas granted in favour of the appellant cannot be sustained and are treated to be *void ab initio*.

31) The aforesaid conclusion is further echoed by the observations of this Court in ***Hinch Lal Tiwari vs. Kamala Devi and others***³, wherein it was emphasised that the lands meant for public utility and community purposes must be zealously protected and cannot be diverted for public use. This Court underscored that such resources constitute material assets of the community and are essentially for maintaining ecological balance and public welfare.

32) This principle was further reiterated in ***Jagpal Singh and others vs. State of Punjab and others***⁴ wherein it was observed that land recorded for public utility purposes must not be allowed to be allotted to private individuals, notwithstanding any intervening administrative process or orders. This Court recognised that public utility land cannot be legitimately converted for private benefits through administrative manipulation, and that consolidation proceedings themselves cannot be employed as a vehicle to circumvent statutory protections afforded to communal resources. The present case exemplifies precisely such an attempt wherein the subject land, despite its character as Khalian and pasture land meant for public utility, was sought to be diverted through an invalid re-

³ (2001) 6 SCC 496 (para 13)

⁴ (2011) 11 SCC 396 (paras 18 to 21)

categorisation. Such diversion of public utility land through administrative processes cannot be countenanced by law.

33) We shall now advert to the second limb of the submission advanced on behalf of the appellant, namely that the proceedings initiated on the basis of the report of the Consolidator dated 08.02.2016, as well as the application filed by the State of Uttar Pradesh and the Land Management Committee seeking cancellation of the pattas granted in favour of the appellants, were barred by the principle of *res judicata*, in view of the earlier proceedings instituted under Section 198(4) of the Abolition Act, before the Additional Collector, Hardoi. It was urged that the said proceedings culminated into an order dated 19.08.1994 rejecting the application seeking cancellation of the pattas, and that the revision preferred against the said order was dismissed by the Additional Commissioner, Lucknow Division, on 04.08.1999.

34) A perusal of the order dated 19.08.1994 passed by the Additional Collector, however, makes it abundantly clear that the said authority declined to proceed with the application on the premise that there was no material on record to establish the execution of any lease in favour of the concerned persons including the appellant. The Additional Collector specifically recorded that there was no *prima facie* evidence available on record to prove that the pattas in respect of the land in question had been executed. Consequently, the authority held that unless the existence of the lease itself was proved, the question of considering cancellation thereof did not arise.

35) Thus, the earlier proceedings were not adjudicated on the validity or legality of the pattas on merits. The application was dismissed at the threshold on the ground that the execution of the pattas had not been established. The revision preferred against the said order was also dismissed without entering into the merits of the matter, merely observing that no irregularity appeared in the order passed by the Additional Collector.

36) In such circumstances, it cannot be said that the issue relating to the validity of the pattas granted in favour of the appellant was directly and substantially in issue and finally decided in the earlier proceedings. Since the existence and legality of the pattas were never adjudicated on merits, the principle of *res judicata* would have no application to the facts of the present case.

37) As it manifests from the above discussion, we find no patent illegality in the impugned judgment, and thus, it requires no interference. Accordingly, the Civil Appeal is *sans merit* and stands dismissed.

38) No orders as to costs.