**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

WRIT - C No. - 3000053 of 2004

Babu Lal

.....Petitioner(s)

Versus

Prescribed Authority Ceilling Unnao And 2 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	G.S. Nigam, Abhisht Saran, Anoop Srivastava, Mohammad Aslam Khan, Rahul Kumar Kashyap, S.B. Singh
Counsel for Respondent(s)	:	C.S.C., Arvind Kumar Jauhari, Jyoti Prakash, O.P. Tiwari, Prabhakar Vardhan Chaudhary, Pradyumn Shukla, S.K. Singh

Court No. - 4

HON'BLE IRSHAD ALI, J.

1. Heard Sri M.A. Khan, learned Senior Counsel assisted by Sri Mohd. Aslam Khan, learned counsel for the petitioner, learned Standing Counsel for the respondent - State, Sri P.V. Chaudhary, learned counsel for respondent and Sri A.K. Jauhari, learned counsel for subsequent allottee.

2. The present writ petition has been filed for issuance of a writ in the nature of certiorari quashing the impugned order dated 30.03.1998 and 06.05.2000 passed by respondent Nos.1 & 2 contained as Annexures-1&5 to the writ petition, whereby the appellate authority affirmed the order of the prescribed authority, whereby a substantial portion of the petitioner's agricultural land has been declared surplus under the provisions of the U.P. Imposition of Ceiling on Land Holdings Act, 1960.

3. Factual matrix of the case is that the petitioner is an agriculturist and tenure-holder of agricultural land situated in Village Pyarepur, Pargana Sikandarpur Sarosi, Tehsil and District Unnao. In the year 1962, the petitioner along with eleven other agriculturists formed a co-operative farming society known as Kisan Sanyukt Sahkari Kheti Samiti Ltd. with the object of promoting joint agricultural activities. The society was duly registered on 28.01.1963 under the U.P. Co-operative Societies Act bearing Registration No.2058. Over the years, the membership of the

society increased to twenty-five members, each of whom contributed agricultural land for collective cultivation.

4. In the Khatauni pertaining to Fasli years 1397 to 1402 of Village Pyarepur, the total land of the society measuring approximately 166 Bighas, 0 Biswa and 3 Biswansi stood recorded in Khata No.260 in the name of the said co-operative society. Out of the said land, the petitioner had contributed only 26 Bighas, 18 Biswas and 15 Biswansis and had no exclusive right over the remaining land belonging to other members of the society.

5. Apart from the land contributed to the co-operative society, the petitioner held agricultural land in different Khatas, namely Khata Nos.140, 158 and 49, situated in Village Pyarepur. Certain holdings were joint holdings in which the petitioner possessed only fractional shares. The petitioner has throughout maintained that only his actual share and legally held land could be considered for the purposes of determining his ceiling area.

6. In the year 1992, the Prescribed Authority issued a notice in C.L.H. Form-3 alleging that the petitioner held 16.494 hectares of irrigated land and proposing to declare 5.194 hectares as surplus land under the Ceiling Act. The petitioner filed detailed objections controverting the allegations contained in the notice, wherein he specifically pleaded that he had three major sons, whereas only two had been treated as major by the authorities. It was further asserted that the entire land of Khata No.260 belonging to the co-operative society had been wrongly included in his personal holding and that substantial portions of his land had been erroneously treated as irrigated despite being unirrigated under the statutory criteria prescribed by law.

7. Vide order dated 27.01.1996, the Prescribed Authority rejected all the objections raised by the petitioner, treated the entire holding as irrigated and declared 5.194 hectares of land as surplus after permitting the petitioner to retain only 11.300 hectares. While passing the said order, the authority ignored the evidence relating to the age of the petitioner's third

son and failed to examine the relevant revenue records regarding the nature of the land.

8. Aggrieved by the aforesaid order, the petitioner preferred an appeal before the appellate authority, which was allowed by order dated 22.02.1997. The matter was remanded to the Prescribed Authority with directions to reconsider the case afresh in accordance with law.

9. After remand, the Prescribed Authority excluded the land of the co-operative society except the portion contributed by the petitioner. However, the authority again treated the petitioner's entire holding as irrigated without properly applying Section 4-A of the U.P. Imposition of Ceiling on Land Holdings Act or examining the relevant Khasra entries of Fasli years 1378, 1379 and 1380. Vide order dated 30.03.1998, the Prescribed Authority declared as much as 13.629 hectares of land as surplus while again denying the benefit available on account of the petitioner's third major son.

10. The petitioner again preferred an appeal before the appellate authority challenging the order dated 30.03.1998. However, the appellate authority dismissed the appeal without examining the documentary evidence, without recording any finding regarding the age and status of the petitioner's third son and without considering the statutory entitlement of the petitioner to retain additional land on account of the number of family members.

11. Both the Prescribed Authority as well as the appellate authority mechanically accepted the entire holding as irrigated without properly appreciating the Khasra entries of Fasli years 1378, 1379 and 1380. The authorities ignored the actual entries regarding cultivation, fallow land (Parti Jadid), absence of irrigation sources and the actual cultivated area recorded in the revenue records.

12. According to the Khasra entries relating to old Plot Nos.273 and 275 corresponding to present Plot Nos.557 and 559 of Khata No.140, substantial portions of the land were recorded as Parti Jadid during the

relevant Fasli years and no source of irrigation or double cropping was recorded. These entries clearly established that the land could not legally be treated as irrigated land under Section 4-A of the Ceiling Act.

13. Similarly, the Khasra entries relating to present Plot Nos.532-Ka, 532-Kha, 533 and 553-Kha of Khata No.158 disclosed that only limited portions of the land had seasonal crops during certain years while the remaining land continued to be recorded as Parti Jadid. In respect of some plots, the petitioner was recorded merely as an unauthorised occupant over Gaon Sabha land (Ziman-4), making such land liable to ejectment and, therefore, incapable of being treated as his permanent holding.

14. Khasra entries relating to Khata No.49 also revealed that crops were grown only intermittently and that large portions of the land remained uncultivated or recorded as Parti Jadid. No source of irrigation was recorded in the relevant years, thereby disproving the conclusion that the land was capable of yielding two crops annually.

15. The authorities completely misread the revenue records by confusing Plot No.140 with Khata No.140. On the basis of tube-wells existing over Plot No.140 belonging to the co-operative society, the authorities erroneously inferred that the petitioner's independent holdings in Khata No.140 were also irrigated. This resulted in a wholly incorrect classification of the petitioner's land.

16. The petitioner further pleaded that Plot No.557, though recorded in the revenue records with an area of 54 Bighas 18 Biswas, actually existed only to the extent of about 41 Bighas and 2 Biswas on the spot. The authorities failed to consider the actual physical extent and possession while computing the petitioner's holding.

17. The petitioner consistently asserted that there were seven members in his family and that under Section 5(3)(b) of the U.P. Imposition of Ceiling on Land Holdings Act he was entitled to additional ceiling area on account of the larger family as well as separate benefits available to his adult sons. However, both authorities failed to examine or decide this

statutory claim.

18. The petitioner had also exercised his statutory option by submitting his choice of land on 30.11.1995 indicating the land which, if necessary, could be declared surplus. Nevertheless, neither authority considered the petitioner's choice while determining the surplus land, thereby violating the mandatory provisions of the Ceiling Act.

19. The authorities further erred in holding that the co-operative society was not functioning and in treating the petitioner's contribution in the society, measuring about 8.762 hectares, as his individual holding despite the fact that the society continued to function, the lands were cultivated jointly and the produce was distributed amongst the members after meeting necessary expenses.

20. The petitioner submits that the impugned orders have been passed in complete disregard of the statutory provisions, the relevant revenue records and the evidence available on record. The authorities failed to consider the petitioner's objections, ignored the mandatory requirements of Sections 4-A and 5 of the Ceiling Act, wrongly classified unirrigated land as irrigated, and illegally declared 13.629 hectares of the petitioner's land as surplus, thereby causing grave prejudice and manifest injustice to the petitioner.

21. A query was made to learned counsel for the respondents that what is the material evidence that Khasra Nos.1378, 1379 & 1380 to show that land bearing at Khata No.1398 grows wheat crop?, none of the counsel for respondents are able to place any material evidence to prove that, therefore, the finding recorded in the impugned order is wholly incorrect statement and without perusing the relevant record.

22. Learned Senior Counsel for the petitioner submitted that provisions of Section 4-A was not followed while passing the impugned order by the prescribed authority on remand. No khasra of 1378, 1379 & 1380 were perused while passing the impugned order. At earlier point of time, the prescribed authority declared 5.194 hectare of land as surplus and in remand by the appellate court the prescribed authority came to the

conclusion that there are 13.629 hectare of land as surplus.

23. Submission of learned Senior Counsel for the petitioner is that the finding recorded by the prescribed authority is based on no material and without perusing the Khasras of 1378, 1379 & 1380. He submitted that while passing the impugned order by the prescribed authority as well as by the appellate court, the statement recorded of the Lekhpal that the petitioner has three sons was not taken into consideration. Only two sons have been taken into consideration, therefore, the finding returned on the point is in utter disregard of the statement recorded by the Lekhpal, which is on record as Annexure-SA2.

24. On bare perusal of the statement of Lekhpal, it is clearly evident that he has admitted that Babu Lal (petitioner) has three sons and two daughters. The statement recorded by the Lekhpal has also not been taken into consideration while passing the impugned order and no exemption has been granted by the prescribed authority as well as appellate authority, therefore, it is in violation of Section 5(3)(a) of Imposition of Ceiling on Land Holdings Act, 1960.

25. He next submitted that it is responsibility of the State to prove the provisions of Section 4-A by filing Khasras 1378, 1379 & 1380 and other relevant documents along with inspection report made by the prescribed authority on the spot. Learned Senior Counsel for the petitioner establishes that there is no inspection report of the prescribed authority in the matter in regard to visit on spot and therefore, the finding returned by the prescribed authority as well as appellate authority is wholly misconceived and is not sustainable in the eyes of law. In support of his submissions, he placed reliance upon following judgments:

a) Ram Bhajan Vs. Chief Revenue Officer / Prescribed Authority, Mirzapur and others; 2001 (92) R.D. 538.

b) Sachin Kumar Verma and others Vs. State of U.P. through Dy. Commissioner Lucknow and others; Writ C No.3000093 of 2002 decided on 07.05.2026.

26. On the other hand, learned counsel for the respondents submitted that

the orders impugned passed by the prescribed authority on 30.03.1998 as well as appellate authority dated 06.05.2000 are just and valid and do not suffer from any infirmity or illegality.

27. I have considered the submissions advanced by learned counsel for the parties and perused the material on record as well as law reports cited by learned counsel for the petitioner:

28. To resolve the controversy involved in the matter, relevant portion of the judgments relied upon by learned counsel for the petitioner are being quoted below:

a) Ram Bhajan Vs. Chief Revenue Officer (Supra):

"14. It is also settled that the allottee cannot acquire any better right than the right as exists with the State and thus the State itself having no right to the land as the same did not remain as surplus the claim of the allottee will fall short as the giver himself is not possessed to part anything to the petitioner.

16. 16. In fact the land having been given to the allottee by the Collector, the allottee cannot get any better title than the Collector was possessed, as the petitioner has stepped into the shoes of the Collector. In view of the judgment of the Prescribed Authority dated 22.5.86 the restoration of the correct entry in the revenue record and even restitution of the possession will be an automatic follow-up to which the petitioner can have no say in the matter as he has no locus standi to intervene in the matter of declaration of the land as surplus."

b) Sachin Kumar Verma and others (Supra):

"4. In view of the judgment rendered in the case of Ram Bhajan Vs. Chief Revenue Officer [2001 (92) RD 538], it has been held that land having been given to the allottee by the Collector, the allottee cannot get any better title than the Collector was possessed, as the petitioner has stepped into the shoes of the Collector. It was also held that in view of the judgment of the prescribed authority, the restoration of the correct entry in the revenue record and even restitution of the possession will be an automatic follow up to which the petitioner can have no say in the matter as he has no locus standi to intervene in the matter of declaration of land as surplus, therefore, in view of the above referred judgment, the allottee has no right to be impleaded. Accordingly, the submission of learned counsel for the applicant has no force in law,

thus, the application is hereby rejected."

29. Having considered the rival submissions advanced by learned counsel for the parties, examined the pleadings and material brought on record, and perused the judgments relied upon by the learned Senior Counsel for the petitioner, this Court finds that the impugned orders dated 30.03.1998 passed by the Prescribed Authority and 06.05.2000 passed by the appellate authority cannot be sustained in law. Both the authorities have failed to discharge the statutory obligation cast upon them under the provisions of the U.P. Imposition of Ceiling on Land Holdings Act, 1960 while determining the surplus land of the petitioner.

30. The principal controversy in the present case relates to the determination of the nature of the petitioner's holdings as irrigated land under Section 4-A of the Act. The statutory scheme clearly requires the Prescribed Authority to record a finding on the basis of the Khasra entries of Fasli years 1378, 1379 and 1380 together with other relevant evidence regarding the existence of irrigation facilities and the capability of the land to produce at least two crops in the relevant agricultural years. Such determination cannot be founded upon presumptions or general observations.

31. In the present case, despite a specific query put by this Court, learned counsel appearing for the respondents failed to place any material from the Khasra records of Fasli years 1378, 1379 and 1380 demonstrating that the land in question satisfied the statutory requirements contained in Section 4-A of the Act. No documentary material has been produced to establish that the land consistently yielded two crops or that the requisite source of irrigation existed during the relevant period. The inability of the respondents to produce the foundational revenue records completely demolishes the basis of the findings recorded by the authorities below.

32. It further emerges from the record that the Prescribed Authority, even after remand by the appellate authority, did not examine the relevant Khasra entries before recording a finding that the entire holding was irrigated. No inspection report prepared by the Prescribed Authority has been brought on record. The finding that the entire holding was irrigated

is, therefore, unsupported by any legally admissible evidence and is liable to be characterised as a finding based on no evidence.

33. This Court also finds substance in the submission of the petitioner that the authorities have misread the revenue records by confusing Plot No.140 with Khata No.140. Merely because tube-wells existed over a plot belonging to the co-operative society, the authorities presumed that the petitioner's independent holdings situated in Khata No.140 were also irrigated. Such inference is contrary to the revenue records and reflects complete non-application of mind. A statutory determination affecting valuable agricultural holdings cannot rest upon such erroneous assumptions.

34. The Khasra entries relied upon by the petitioner further disclose that substantial portions of the land remained recorded as Parti Jadid during the relevant Fasli years and no reliable evidence exists regarding the availability of irrigation facilities or cultivation of two seasonal crops. The authorities have neither adverted to these entries nor recorded any reason for discarding them. Ignoring the primary revenue records while recording findings under Section 4-A vitiates the entire exercise undertaken by the Prescribed Authority.

35. Equally serious is the failure of both the authorities to consider the petitioner's claim regarding the composition of his family. The statement of the concerned Lekhpal, which forms part of the record, unequivocally records that the petitioner has three sons and two daughters. The said statement has neither been disputed by the respondents nor discarded for any legally sustainable reason. Nevertheless, both the Prescribed Authority and the appellate authority proceeded on the assumption that the petitioner had only two major sons and consequently denied him the statutory benefit available under Section 5(3) of the Act. Such omission amounts to complete disregard of material evidence available on record.

36. The authorities have also failed to record any finding regarding the petitioner's entitlement to additional ceiling area on account of the larger family consisting of seven members. The statutory benefit conferred under Section 5 of the Act cannot be denied without recording cogent

reasons based upon evidence. The impugned orders are conspicuously silent on this aspect and, therefore, suffer from manifest legal infirmity.

37. The record further establishes that the petitioner had exercised his statutory option regarding the land liable to be declared surplus by submitting his choice on 30.11.1995. The Ceiling Act obligates the authorities to consider such option while selecting surplus land. Neither the Prescribed Authority nor the appellate authority has adverted to this mandatory requirement. Failure to consider the petitioner's statutory choice renders the determination contrary to the provisions of the Act.

38. This Court also finds that the authorities initially declared only 5.194 hectares of land as surplus by order dated 27.01.1996. However, after the appellate authority remanded the matter for fresh consideration, the Prescribed Authority, instead of conflying itself to the defects pointed out in the remand order, declared as much as 13.629 hectares of land surplus. Such substantial enhancement of surplus area without any fresh evidence or additional material on record itself demonstrates that the matter was not reconsidered in accordance with law but on wholly arbitrary considerations.

39. The finding that the land belonging to the co-operative society was liable to be treated as the individual holding of the petitioner is equally unsustainable. The material on record clearly establishes that the petitioner was only one of the members of the duly registered co-operative farming society and had contributed only his share of land. The authorities themselves excluded the land of the society after remand except to the extent of the petitioner's contribution. There was, therefore, no justification for proceeding on the premise that the entire land of the society constituted the petitioner's individual holding. The finding recorded in this regard is based upon complete misappreciation of the evidence.

40. The contention advanced on behalf of the subsequent allottee seeking impleadment also deserves to be rejected. The law is well settled by the decision in the case of **Ram Bhajan Vs. Chief Revenue Officer (Supra)**, wherein it has been held that an allottee derives no better title than that

possessed by the State and cannot claim any independent right once the declaration of surplus land itself is found to be illegal. The said principle has been reiterated by this Court in the case of **Sachin Kumar Verma and others (Supra)**. Applying the aforesaid ratio to the facts of the present case, it is evident that any subsequent allotment made pursuant to an illegal declaration of surplus land cannot survive and the subsequent allottee has no enforceable right to resist restoration of the petitioner's lawful holding.

41. The judgments relied upon by the learned Senior Counsel for the petitioner fully support the proposition that statutory authorities exercising powers under the Ceiling Act are required to strictly adhere to the mandatory provisions of the Act and base their findings upon legally admissible revenue records. Since the respondents have failed to establish compliance with Section 4-A of the Act and have ignored material evidence regarding the petitioner's family composition, revenue entries and statutory entitlement, the impugned orders are rendered legally unsustainable.

42. The cumulative effect of the aforesaid discussion leaves no manner of doubt that both the prescribed authority and the appellate authority have acted in complete disregard of the statutory provisions, ignored relevant documentary evidence, misread the revenue records, failed to consider mandatory provisions of Sections 4-A and 5 of the Act, and recorded findings unsupported by any reliable evidence. Such findings are perverse, arbitrary and suffer from manifest non-application of mind, warranting interference by this Court in exercise of its extraordinary jurisdiction under Article 226 of the Constitution of India.

43. Accordingly, the writ petition succeeds and is **allowed.**

44. The impugned order dated 30.03.1998 passed by the prescribed authority and the appellate order dated 06.05.2000 affirming the same are hereby quashed.

45. The matter is remitted to the prescribed authority to reconsider the ceiling proceedings afresh strictly in accordance with law after examining the Khasra entries of Fasli years 1378, 1379 and 1380, the relevant

revenue records, the statement of the Lekhpal regarding the petitioner's family, the petitioner's statutory claim under Section 5 of the Act, his option regarding retention of land, and all other evidence produced by the parties. A fresh reasoned and speaking order shall be passed after affording due opportunity of hearing to all concerned parties, preferably within a period of six months from the date a certified copy of this judgment is produced before the authority.

46. There shall be no order as to costs.

(Irshad Ali,J.)

July 21, 2026
Adarsh K Singh