



2026:AHC:191394-DB

A.F.R.

Reserved on 09.07.2026

Delivered on 14.09.2026

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - C No. - 11397 of 2024

Wood Row School Society

.....Petitioner(s)

Versus

State Of Up And 2 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Pavan Kishore, Rahul Agarwal
Counsel for Respondent(s)	:	C.S.C.

Court No. - 40

**HON'BLE SARAL SRIVASTAVA, J.
HON'BLE SUDHANSHU CHAUHAN, J.**

(Delivered by Hon'ble Sudhanshu Chauhan J.)

1. Heard Sri Rahul Agarwal, learned Senior Advocate, assisted by Sri Pavan Kishore Advocate for petitioners and Sri Mohan Srivastava for respondents.

2. The present writ petition has been filed seeking for the following reliefs :-

(A) Issue a writ, order or direction in the nature of certiorari quashing the entire proceedings under the Urban Land (Ceiling and Regulation), Act drawn against the Mohd. Kamar in Case No. 213/100/82 State of U.P. Versus Mohd. Kamar in respect of land of Gata No.367 situated in village Jagatpur Lala Begum, District Bareilly as having abated in accordance with the provisions of the The Urban Land (Ceiling and Regulation) Repeal Act, 1999.

(B) Issue a writ, order or direction in the nature of mandamus directing and commanding the respondents not to dispossess the petitioner from land Gata No.367 situated in village Jagatpur Lala Begum, District Bareilly.

(C) Issue a writ, order or direction in the nature of mandamus directing and commanding the respondents to correct the revenue records by recording the name of petitioner on land of Gata No.367 situated in village Jagatpur Lala Begum, District Bareilly.

3. The present controversy arises out of proceedings under the U.P. Urban Ceiling and Regulation Act, 1976 (hereinafter referred to as "the Act, 1976") and the land in dispute measures 4021.26 sq m, comprised in Gata No. 367, situated in Village Jagatpur Lala Begam, District Bareilly.

4. It is submitted on behalf of the petitioner that Woodrow School Society -petitioner is a society registered under the Societies Registration Act, 1860. The petitioner society is running a school by the name Woodrow Senior Secondary School, affiliated

to Central Board of Secondary Education (CBSE) since the year 1991, the school has about 3,000 students. The petitioner society, through Km Pushpa Vani, Principal, Prem Vani, President, and Gul Vani, Vice President, vide registered sale deed dated 10.11.1987, had purchased the share of Mohd Kamar in land bearing Gata No. 367, total area measuring 4 bighas 13 biswa and 13 biswansis, and land comprising Gata No. 344, total area measuring 1 bigha 9 biswa and 10 biswansis, situated in Village Jagatpur Lala Begum, Bareilly. The said sale deed was registered in the office of Sub-Registrar, Bareilly, on 20.08.1988. It is also submitted that the sale deed dated 10.11.1987 was executed after giving notices under Section 26 of the U.P. Urban Land (Ceiling and Regulation) Act, 1976 (hereinafter referred to as, "the Act 1976"), dated 26.8.1987 and 31.08.1987 respectively. Further, at the time of the execution of the sale deed, the land so purchased was recorded in the name of the seller - Mohd Kamar - in the revenue records, the petitioner, in support thereof, has relied upon the Khatauni of Fasli year 1393-1398.

5. It is further submitted that proceedings under the Act, 1976, were initiated against the original landholder, Mohd. Kamar, and registered as case number 213/100/82. Subsequently, vide an ex-parte order dated 12.07.1982, passed under Section 8(4) of the Act, 1976, 4,021.26 sq. m. of land comprised in Gata No. 367 was declared vacant surplus. However, further proceedings in the case were stayed till the final decision of the State on the application filed by the original landholder under Section 20 of the Act, 1976. Thereafter, a notice under Section 9 was issued, followed by a notification under Section 10(1) of the Act, 1976, dated 15.12.1982. Subsequently, a notification under Section 10(3) was issued on 28.12.1989. On 22.4.1993, the Lekhpal concerned had submitted a report that the application under Section 20 had been rejected by the State Government vide order dated 01.09.1983 and in pursuance thereto, a notice under Section 10(5) was issued on 22.4.1993, which was not served on the original land holder. Therefore, another notice under Section 10 (5) of the Act, 1976 dated 16.6.1993 was issued to the legal heirs of Mohd. Kamar, which was also not served upon the legal heirs. The petitioner continued to remain in possession of the land in dispute after the purchase of the same till date and was unaware about the proceedings under the Act, 1976 and it is only when the FIR was lodged on 15.02.2024 registered as Case Crime No. 0142 of 2024.

6. The petitioner has challenged the proceedings under the Act 1976 on various grounds including the fact that the possession memo does not bear the signatures of the person delivering the possession, no entries were made in Form No. ULC 1 and Form No. ULC 3 under UP Urban Land Ceiling (Taking of Possession, Payment of Amount and Allied Matters) Directions, 1983 and the notifications under Section 10(1) and Section 10(3) were not valid in view of the fact that till 22.04.1993 the competent authority was not aware of the disposal of the application under Section 20 of the Act, 1976, vide the order dated 01.09.1983 was passed by the State

Government. Even otherwise it is contended that the petitioner was in possession of the land in dispute at the time of the enforcement of the Urban Land (Ceiling and Regulation) Repeal Act, 1999 (hereinafter referred to as, "the Repeal Act, 1999"), as such, the proceedings under the Act, 1976, stood abated, and the petitioner is entitled to remain in possession of the land in dispute.

7. Per contra, learned Standing Counsel for the State respondents that pure question of law are to be determined in the present writ petition in view of the fact that the petitioner has purchased the land in dispute by means of registered sale deed dated 10.11.1987, however, the notification under Section 10 (1) and notification under Section 10(3) were published in the State gazette on 19.10.1985 and 17.11.1990 respectively. Hence, the sale deed dated 10.11.1987 is null and void in view of the provisions of Section 10 (4) of the Act, 1976. Further the petitioner had knowledge about the proceedings under the Act, 1976 at the time of execution of the sale deed dated 10.11.1987 and as such the present writ petition is liable to be dismissed on the ground of delay as the petitioner has approached this Court only in April, 2024.

8. If we consider the submissions made by the petitioner, the sale deed was executed on 10.11.1987 while the proceedings under the Act, 1976 were pending, the Dakhalnama/possession memo under Section 10(5) was issued on 22.12.1993, the Repeal Act was enforced in the year 1999, and the present writ petition has been filed on 02.04.2024. Thus, the question of delay and laches would also arise in view of the submissions made by the petitioner.

9. We have perused the provisions of the Act, 1976 as well as those of the Repeal Act, 1999 and in view of the submissions made by the petitioner, we are of the view that the following points of determination arise and are required to be decided in the present case:-

1. The effect of Section 26 of the Act, 1976 on the sale deed dated 10.11.1987 executed in favour of the petitioner.
2. Whether the sale deed dated 10.11.1987 is valid in view of the provisions of the Act, 1976?
3. Whether the writ petition is liable to be dismissed on the grounds of delay and laches ?
4. To what reliefs is the petitioner entitled for

POINT No.1

10. The first and foremost submission on behalf of the petitioner is that the petitioner had executed the sale deed dated 10.11.1987 after giving notice under Section 26 of the Act, 1976, hence, the sale deed was a valid one. Before we advert to the factual

aspects involved in this regard, we would like to consider the provisions of Section 26 of the Act, 1976, and the same reads as under :-

"26. Notice to be given before transfer of vacant lands. (1) Notwithstanding anything contained in any other law for the time being in force, no person holding vacant land within the ceiling limit shall transfer such land by way of sale, mortgage, gift, lease or otherwise except after giving notice in writing of the intended transfer to the competent authority.

(2) Where a notice given under sub-section (1) is for the transfer of the land by way of sale, the competent authority shall have the first option to purchase such land on behalf of the State Government at a price calculated in accordance with the provisions of the Land Acquisition Act, 1894 (1 of 1894) or of any other corresponding law for the time being in force and if such option is not exercised within a period of sixty days from the date of receipt of the notice, it shall be presumed that the competent authority has no intention to purchase such land on behalf of the State Government and it shall be lawful for such person to transfer the land to whomsoever he may like:

Provided that where the competent authority exercises within the period aforesaid the option to purchase such land the execution of the sale deed shall be completed and the payment of the purchase price thereof shall be made within a period of three months from the date on which such option is exercised.

(3) For the purpose of calculating the price of any vacant land under sub-section (2), it shall be deemed that a notification under sub-section (1) of section 4 of the Land Acquisition Act, 1894 (1 of 1894) or under the relevant provision of any other corresponding law for the time being in force, had been issued for the acquisition of such vacant land on the date on which the notice was given under sub-section (1) of this section."

11. At this stage, we would also take into consideration the provisions of clause (a) of Section 28 of the Act, 1976, as the same is applicable to transfers referred to in Section 26 and the same reads as under :-

"28. Regulation of registration of documents in certain cases.-Notwithstanding anything contained in any other law for the time being in force, where any document required to be registered under the provisions of clauses (a) to (e) of sub-section (1) of section 17 of the Registration Act, 1908 (16 of 1908), purports to transfer by way of sale, mortgage, gift, lease or otherwise any land or any building (including any portion thereof),-

(a) in the case of any transfer referred to in section 26, no registering officer appointed under that Act shall register any such document unless the transferor produces before such registering officer evidence to show that he has given notice of the intended transfer to the competent authority under that section and, where such transfer is by way of sale, the period of sixty days referred to in sub-section (2) of that section has elapsed;

(b) in the case of any transfer referred to in section 27, no registering officer appointed under that Act shall register any such document unless the transferor produces before such registering officer the permission in writing of the competent authority for such transfer or satisfies the registering officer that the period of sixty days referred to in sub-section (4) of that section has elapsed."

12. Hence, the provisions of Section 26 reveal that the same are applicable to transfer of vacant land within the ceiling limit. Section 4 of the Act, 1976, specifies the ceiling limit, and the same is provided under Schedule I of the Act, where the urban

agglomeration is divided into four categories viz Category A, Category B, Category C and Category D. The land in dispute is situated in District Bareilly, which falls under 'Category C' and as such, under the provisions of clause (c) of subsection (1) of Section 4 of the Act, 1976 the ceiling limit in the present case would be 1,500 sq m.

13. Now, the contention of the petitioner is that the petitioner had executed the sale deed dated 10.11.1987 after giving notices under Section 26 of the Act, 1976, dated 26.08.1987 and 31.08.1987 respectively. Further, the sale deed also mentions the notices under Section 26, dated 26.08.1987 and 31.08.1987, though it is not clear from the records whether the permission was granted or not or it was a case of deemed possession.

14. Be that as it may, the registering officer would not have registered the sale deed dated 10.11.1987 in the absence of any notice under Section 26 in view of the provisions of Section 28 of the Act, 1976. Even otherwise, the order dated 12.07.1982 passed under Section 8(4) reveals that that 1,500 sq m of land comprised in Gata no. 367 and Gata No.344 was held to be within ceiling limits, and only the remaining land measuring 4,021.26 sq m comprised in Gata No.367 was held to be vacant surplus. Thus, we are of the view that the original landholder, Mohd. Kamar, was competent to sell 1,500 sq m of land comprised in Gata No. 367 to the petitioner after applying for permission under Section 26 of the Act, 1976.

15. Thus, we are of the view that the sale deed dated 10.11.1987, out of the total land that was transferred in respect of land, which fell within the ceiling limits i.e. 1500 sq. m. is valid. In view of the provisions of Section 26 read with Section 28 of the Act, 1976.

POINT No.2

16. The crux of the contention of the petitioner is that the petitioner had executed the sale deed dated 10.11.1987 after obtaining permission under Section 26 of the Act, 1976, and the petitioner has continued to remain in possession of the land in dispute ever since. Further, as the petitioner was in possession of land in dispute at the time of enforcement of the Repeal Act 1999 and as such the proceedings under Act, 1976 stood abated, hence, the petitioner is entitled to remain in possession. Thus, it is contended that the petitioner has a valid title and possession over the land in dispute.

17. In view of the submissions so made by the petitioner, we deem it fit to advert to the provisions of the Act, 1976 in respect of transfer of land by the landholder during the pendency of the proceedings of the Act, 1976. Section 5 of the Act, 1976, pertains to transfer of vacant land. Section 5(3) of the Act, 1976, provides that no person holding vacant land in excess of the ceiling limit immediately before the commencement of this Act shall transfer any such land or part thereof by way of sale, mortgage, gift, lease, or otherwise until he has furnished a statement under Section 6

and a notification regarding the excess vacant land held by him has been published under subsection (1) of Section 10. Any such transfers made in contravention of this provision shall be deemed to be null and void.

18. Further, under subsection (4) of section 10 of the Act, 1976, during the period commencing on the date of publication of the notification under subsection (1) and ending with the date specified in the declaration made under subsection (3), no person shall transfer by way of sale, mortgage, gift, lease, or otherwise any excess vacant land, including part thereof, specified in the notification aforesaid. Any such transfer made in contravention of this provision shall be deemed to be null and void.

19. Section 27 of the Act, 1976, provides that, notwithstanding anything contained in any other law for the time being in force, but subject to the provisions of subsection (3) of Section 5 and subsection (4) of Section 10, no person shall transfer by sale, mortgage, gift, lease for a period exceeding ten years, or otherwise, any urban or urbanizable land with a building (whether constructed before or after the commencement of this Act) or a portion only of such building for a period of ten years of such commencement or from the date on which the building is constructed, whichever is later, except with the previous permission in writing of the competent authority. However, we are of the view that the provisions of Section 27 of the Act, 1976, would not come in the way of the petitioner, as admittedly, by means of the registered sale deed dated 10.11.1987, vacant land had been transferred to the petitioner.

20. The petitioner in the writ petition states that the notification under Section 10(1) of the Act, 1976, was issued on 15.12.1982, and thereafter the notification under Section 10(3) of the Act, 1976 was issued on 28.12.1989. It is also admitted that the sale deed in question was executed in favour of the petitioner on 10.11.1987. Thus, it is beyond doubt that the sale deed, as per the own showing of the petitioner, was executed after the issuance of notification under Section 10(1) and prior to issuance the notification under Section 10(3). The perusal of the records further reveals that notices under Section 10(1) and Section 10(3) were published in the State Gazette on 19.10.1985 and 17.11.1990 respectively. Hence, the provision of subsection (4) of Section 10 of the Act, 1976, would be attracted in the present case.

21. The provisions of sub-section (4) of Section 10 of the Act, 1976, read as under:-

"4) During the period commencing on the date of publication of the notification under sub-section (1) and ending with the date specified in the declaration made under sub-section (3), -

(i) no person shall transfer by way of sale, mortgage, gift, lease or otherwise any excess vacant land (including any part thereof) specified in the notification aforesaid and any such transfer made in contravention of this provision shall be deemed to be null and void; and

(ii) no person shall alter or cause to be altered the use of such excess vacant land."

22. Thus, from the perusal of the provisions of the aforesaid sub section, it is evident that a transfer including sale of excess vacant land after the date of publication of the notification under sub section (1) of Section 10 and ending with the date specified in the declaration made under sub section (3) of Section 10 shall be deemed to be null and void.

23. Now the question that may arise is as to what would be the effect of the Repeal Act, 1999, enforced w.e.f. 18.03.1999 on the sale deed dated 10.11.1987, executed in favor of the petitioner. We have perused the provisions of the Repeal Act, 1999 and are of the view that the said Act is silent in respect of the transfers of vacant surplus land made during the pendency of the proceedings under the Act, 1976. In view of such circumstances, we need to consider the provisions of Section 6 of the General Clauses Act, 1897, which provides for the effect of repeal of an Act. Section 6 of the General Clauses Act, 1897, makes it apparently clear that the Repeal Act will not revive anything not in force or existing at the time at which the repeal takes effect. Nor will it affect the previous operation of the enactment or anything suffered thereunder.

24. Hence, it can be fairly held that if the transfer of surplus land by the landholder is deemed null and void by operation of law as it existed on the date of transfer under the provisions of the Act, 1976, then the Repeal Act, 1999 will not infuse life in the said lease, nor will it affect the operation of the enactment in so far as it declares the sale to be null and void. Thus, the sale deed dated 10.11.1987 executed in favour of the petitioner is hit by the provisions of Section 10(4) of the Act, 1976.

25. We find strength to the findings arrived by us in paragraphs above in the judgment of a co-ordinate Bench of this Court in the case of **Ritesh Tiwari and another v. State of UP through District Magistrate Agra, 2009 SCC Online ALL 40**, wherein it was held as under :-

"12. A bare reading of the same would establish that the transfer made by the recorded tenure holder during the period starting from to the date of publication of notification under section 10(1) and ending with the issuance of declaration under section 10(3) is rendered null and void. In the facts of the case declaration under section 10(3) has taken place in 1993. Therefore, the date of sale would fall between issuance of section 10(1) notification and section 10(3) notification rendering the sale null and void in view of section 10(4).

13. Therefore, in both the circumstances we have no hesitation to record that the transfer which have been effected by the recorded tenure holder in favour of Mayur Sahkari Awas Samiti on 20.4.1982 is deemed to be null and void by operation of law either under section 5(3) or under section 10(4) of the Act of 1976.

14. Since Mayur Sahkari Awas Samiti cannot claim any title on the basis of sale deemed to be null and void by operation of law, all subsequent purchaser of land of Khasra Plot No. 258 from Mayur Sahkari Awas Samiti cannot derive any title i.e., the

members of Mayur Sahkari Awas Samiti, M/s. Savy Homes (P) Ltd. as well as the petitioners on the strength of such sale.

15. We, therefore, hold that the learned Standing Counsel is legally justified in contending that the Writ Court may not recognise the title of the petitioners in respect of the land the transfer by sale whereof is deemed under law to be null and void.

16. At this stage we may also deal with the contention raised on behalf of the writ petitioners that since the Act of 1976 has been repealed by means of Urban Land (Ceiling and Regulation) Repeal Act, 1999, the petitioners are entitled to the relief prayed as actual possession of the surplus land in question had not been taken under section 10(6) by the State Government. Suffice is to refer to section 6 of the General Clauses Act, 1897 which deals with the consequences which follow from the repeal of a Central Act. For ready reference section 6 is being quoted herein below:

"Effect of repeal.—Where this Act, or any [Central Act] or Regulation made after the commencement of this Act, repeals any enactment hitherto made or hereafter to be made, then, unless a different intention appears, the repeal shall not—

(a) revive anything not in force or existing at the time at which the repeal takes effect; or

(b) affect the previous operation of any enactment so repealed or anything duly done or suffered thereunder; or

(c) affect any right, privilege, obligation or liability acquired, accrued or incurred under any enactment so repealed; or

(d) affect any penalty, forfeiture or punishment incurred in respect of any offence committed against any enactment so repealed; or

(e) affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid;

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed as if the repealing Act or Regulation had not been passed."

17. From a reading of section 6 of the General Clauses Act, 1897, it would be apparently clear that the Repeal Act will not revive anything not in force or existing at the time at which the repeal takes effect nor will it effect the previous operation of the enactment or anything suffered thereunder. It logically follows that if the transfer of the surplus land by the recorded tenure holder is deemed null and void by operation of law as was existing on the date of transfer then the Repeal Act will not infuse life in the said non est deed and nor will it effect the operation of the enactment in so far as it declares the said sale deed to be null and void. Consequently we arrive at a conclusion that the petitioner has no legal title over the land nor he can be permitted to question the order dated 30.3.1981 passed under the Act of 1976 against the recorded tenure holder after more than 25 years of the said order more so when he cannot represent the recorded tenure holder on the basis of a void sale deed.

18. We, therefore, uphold the contention raised on behalf of the State Government and hold that no relief can be granted to the writ petitioners in view of the transfer effect in their favour being deemed to be null and void by operation of law.

19. Writ petition lacks merit and is accordingly dismissed."

26. The judgment so passed by this Court was also upheld by the Apex Court in the case of **Ritesh Tiwari and another v. State of UP and others**, (2010) 10 SCC 677.

27. Similarly, the Apex Court in the case of **State of UP and others v. Adarsh Seva Sahkari Samiti Limited**, (2016) 12 SCC 493, while considering the provisions of Section 10 of the Act, 1976, had held as under :-

"4. We have examined this aspect. Having regard to the undisputed fact that the respondent has purchased the property from the declarant which is vested with the State Governments under Section 10(5) of the Act in terms of Section 10(3) notification, therefore, the transfer of property in favour of the respondent, who is claiming its interest in the said property is void ab initio in law. On this ground alone, the order passed by the High Court cannot be allowed to sustain.

5. It is also brought to our notice by the learned Senior Counsel Mr. Misra that after the proceedings under Sections 10(3) and 10(5), notice and the alleged taking over possession of the land in question, the subsequent event has taken place, namely the said property has been transferred to the Lucknow Development Authority by the State Government and the Development Authority has laid a park for public under. On this, the learned Senior Counsel for the respondent submits that the said event has taken place during the pendency of the proceedings before the High Court. Though it may be the fact, subsequently, after the transfer of the property in favour of the Development Authority, the Authority has developed a park is an undisputed fact. This is also a very relevant aspect of the matter for this Court to annul the impugned judgment/order passed by the High Court.

6. In our opinion, the respondent herein has no locus standi to challenge the inaction on the part of the appellants viz. not taking possession legally strictly complying with the statutory provisions under Section 10(5) of the Act taking over possession as provided under Section 10(6) of the Act. At this juncture, this aspect need not be examined by this Court at the instance of the respondent"

28. Further, the Apex Court in **Civil Appeal No. 5102 of 2016 (State of UP and others vs. Surendra Pratap and others)**, decided on 13.05.2016, while relying upon the judgment in the case of **Adarsh Seva Sarkari Limited (supra)**, had held as under :-

"8. We have heard Mr. Irshad Ahmad, learned Additional Advocate General for the State in support of the appeal and Mr. Aarohi Bhalla, learned Advocate for respondent Nos. 1 and 2. The record indicates that notification u/s 10(3) of the Act was published in the official gazette on 29.04.1986 and an appropriate notice u/s 10(5) of the Act was issued by the Competent Authority on 31.03.1993. These aspects of the matter are not disputed by respondent Nos. 1 and 2 but in their submission, despite such notice u/s 10(5) of the Act, the possession was never taken over. The factum about taking over the possession finds clear mention in the possession certificate dated 20.08.1994. Further, the objections preferred by respondent Nos. 1 and 2 were dismissed vide order dated 30.06.1995 which order also records the fact that possession of the land already stood taken over. In the premises, all requisite actions contemplated under the Act were taken in accordance with law well before the enactment of the Repeal Act and the surplus vacant land stood vested with the State Government of which the possession was also taken over. The Writ Petition preferred in the year 2005, therefore, had no stateable claim and the High Court was completely in error in accepting the submissions advanced on behalf of respondent Nos. 1 and 2.

9. Moreover, in Civil Appeal Nos. 369-370 of 2016 (State of U.P. v. Adarsh Seva Sahakari Ltd.) decided on 19.01.2016, this Court has observed that after the vesting of the surplus land with the State Government u/s 10(5) of the Act, if any transfer of the property in question is effected, such transfer would be void ab initio and the transferee would not be entitled to challenge the alleged inaction on part of the State

Government or the Competent Authority in not taking possession in compliance with the provisions u/s 10(5) of the Act.

10. In the aforesaid circumstances, the view taken by the High Court in the instant case is completely unsustainable. This appeal is, therefore, allowed and the Writ Petition preferred by the respondent Nos. 1 and 2 herein stands dismissed with costs."

29. In view of the above, if we advert to the facts of the present case, the perusal of the order dated 12.7.1982, passed by the Competent Authority under Section 8(4) of the Act, 1976, reveals that the original landholder, Mohd Kamar, had 5,521.26 sq m. of land, comprised in Gata No. 344 and Gata No. 367, being his one-third share therein and after exempting the land measuring 1,500 sq m, which fell within the ceiling limits, an area of 4,021.26 sq m was declared as vacant surplus. Hence, in view of the provisions of sub-section (4) of Section 10 of the Act, 1976, and the law discussed above the sale deed in respect of 4,021.26 sq m. of land, which was declared vacant surplus, would be null and void.

30. Once the sale deed dated 10.11.1987 executed in favour of the petitioner in respect of 4021.26 sq m. of land i.e. land in dispute is null and void, hence, the petitioner has no right, title or interest over the same. Thus, there is no occasion for us to delve into the questions of alleged irregularities in proceedings under the Act, 1976 at the instance of the petitioner, who has no locus to question the same.

POINT No.3

31. The petitioner in paragraph no.17 the writ petition has alleged that the petitioner was unaware of the land comprised in Gata No. 367, situated in village Jagatpur Lala Begum, Bareilly, being under ceiling at any span of time and came to know only after the lodging of the aforesaid FIR. Thus, the petitioner has tried to create an impression that the petitioner, being unaware of the proceedings under the Act 1976, has approached this court shortly after the lodging of the FIR on 15.02.2024.

32. We find the plea so raised by the petitioner to be incorrect and frivolous. The contention so raised by the petitioner is contrary to the contents of the sale deed dated 10.11.1987, a registered instrument, executed in favour of the petitioner and duly raised by the representative of the petitioner. The above said plea is also contrary to the pleas raised elsewhere in the writ petition. In the said sale deed there is a mention of the notice under Section 26, No. 866, 867, dated 26.08.1987, and another notice under Section 26, No. 894 and 893, dated 31.08.1987. The petitioner in the writ petition has also pleaded that the sale deed dated 10.11.1987 was executed after permission under Section 26 of the Act, 1976.

33. Thus, it can very well be concluded that the petitioner was well aware of the fact that proceedings under the Act, 1976 were underway in respect of the land so transferred by means of the said sale deed and even then, the petitioner had went on to purchase the land in dispute knowing fully well that the sale deed could have been executed only in respect of land which fell within ceiling limits i.e. 1500 sq. m., in

view of Section 26 and Section 10(4) of the Act, 1976. Probably it is for this reason that notices under Section 26 of the Act, 1976 have not been brought on record by the petitioner. Under the circumstances, considering the conduct of the petitioner and the attempt made by it to mislead this Court, we are of the view that this is not a fit case to exercise our extraordinary powers under Article 226 of the Constitution of India on the grounds of equity.

34. Moreover, it is stated by the petitioner that a possession memo/ dakhnama dated 22.12.1993 was issued under Section 10(5) in respect of the land in dispute, and for reasons assigned above the petitioner was also aware of the proceedings under the Act 1976 on the date of the sale deed i.e. 10.11.1987. However, the present petition has been filed in April, 2024 after a lapse of more than 37 years from the date of sale deed of the land in dispute, even though the petitioner was well aware about the proceedings under the Act, 1976. Hence, even otherwise, the present petition is liable to be dismissed on the ground of delay and laches in view of the law laid down by the Apex Court in the case of *State of Assam vs. Bhaskar Jyoti Sarma & Ors.*(2015) 5 SCC 321 and *Kapilaben Ambalal Patel & Ors. v. State of Gujarat & Anr.* (2021) 12 SCC 95 and co-ordinate Bench of this Court in *Writ-C No. 38977 of 2022 (Mithai Lal & Ors. Vs. State of U.P. & Ors.)* decided on 16.02.2023 and in *Writ-C No. 19612 of 2018 (Kumbha Karan Vs. State of U.P. & Ors.)* decided on 25.03.2026.

POINT No.4

35. From the paragraphs above it is evident that the sale deed dated 10.11.1987 executed in favour of petitioner is null and void in respect of 4021.26 sq m. of land comprised in Gata no. 367 i.e. the land in dispute.

36. The Competent Authority vide the order dated 12.07.1982 passed in Case No. 213/100/82 (State of U.P. Vs. Mohd. Kamar) had declared 4021.26 sq m. of land as vacant surplus. Hence, in view of the above so far as the relief (A) claimed in the writ petition for quashing of the proceedings of Case No. 213/100/82 is concerned, the petitioner has no right, title or interest over the land in dispute and the proceedings of Case No. 213/100/82 (State of U.P. Vs. Mohd. Kamar) were initiated against the original landholder Mohd. Kamar, hence, no relief as claimed can be granted at the instance of the petitioner.

37. Further so far as the relief (B) seeking a direction for the respondents not to dispossess the petitioner from the land in dispute and for the relief (C) to correct the revenue records by recording the name of the petitioner in respect of land in dispute are concerned, the said reliefs also cannot be granted as the sale deed dated 10.11.1987 on the basis of which the petitioner claims title and possession over the land in dispute has already been held to be null and void in respect of 4021.26 sq m. of land for the reasons assigned above. Thus, the petitioner also cannot be granted the relief (B) and relief (C) as claimed in the writ petition.

38. In view of above, the petitioner is not entitled to any of the reliefs claimed in the present writ petition.

39. Thus, the present writ petition is devoid of merits and is **dismissed**. No order as to costs.

September 14, 2026
Gaurav

(Sudhanshu Chauhan,J.) (Saral Srivastava,J.)