



2026:AHC:208807

A.F.R.

**HIGH COURT OF JUDICATURE AT ALLAHABAD**

**MATTERS UNDER ARTICLE 227 No. - 12514 of 2023**

Dr. Chandra Mohan Singhal and others

.....Petitioner(s)

Versus

State of U.P.

.....Respondent(s)

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**Along with :**

**1. Matters Under Article 227 No. 12515 of 2023:**

Ramesh Kumar Singhal and others

Versus

State of U.P. Thru Collector Hamirpur

**2. Matters Under Article 227 No. 12516 of 2023:**

State of U.P. Thru the Collector Hamirpur

Versus

Ramesh Kumar Singhal and others

**3. Matters Under Article 227 No. 12517 of 2023:**

State of U.P. Thru the Collector Hamirpur

Versus

Chandra Mohan Singhal

**4. Matters Under Article 227 No. 12518 of 2023:**

State of U.P. Thru the Collector Hamirpur

Versus

Ramesh Kumar Singhal and others

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|---------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------|
| Counsel for Petitioner(s) | : Imran Syed, A.k. Gupta, Ajay Kumar Singh, Ashish Kumar Singh, Dinesh Mishra, Imran Syed, Prabhat Agarwal, Sanjay Goswami A.c.s.c., Tarun Agrawal |
| Counsel for Respondent(s) | : A.k. Gupta, Ajay Kumar Singh, Ashish Kumar Singh, C.S.C., Imran Syed, Prabhat Agarwal, S.C., Tarun Agrawal                                       |

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**Reserved on 7.7.2026**

**Delivered on 5.10.2026**

**Court No. - 37**

**HON'BLE CHANDRA KUMAR RAI, J.**

1. Heard Mr. Ashish Kumar Singh, learned Senior Counsel assisted by Mr. Imran Syed, learned Counsel for the petitioner in Matter Under Article 227 No. 12514 of 2023 and Matter Under Article 227 No. 12515 of 2023 for petitioners and Mr. Manish Goel, learned Additional Advocate General assisted by Mr. Madan Mohan, learned Standing Counsel for State in the aforementioned two petitions.

2. Heard Mr. Manish Goel, learned Additional Advocate General assisted by Mr. Madan Mohan, learned Standing Counsel for petitioner/ State in Matter Under Article 227 Nos. 12516 of 2023, 12517 of 2023, 12518 of 2023 and Mr. Ashish Kumar Singh, learned Senior Counsel assisted by Mr. Imran Syed, learned Counsel for respondent in the aforementioned three petitions.

3. The aforementioned five petitions are nominated to this Court by the order of Hon'ble The Chief Justice.

4. Common question of law and facts are involved in the aforementioned five petitions, as such, all the five petitions are clubbed and heard together.

5. Brief facts of the case are that dispute relates to plot nos. 3,4,5,6,7,9 of Mohal Madan Mohan and plot nos. 16,17,18 of Mohal Lala Ram Swaroop situated in Village Meerapur Danda Tehsil and District Hamirpur hereinafter referred to as plots in dispute. The above mentioned plots in dispute were recorded in the name of predecessor of the petitioners as owners/ zamindars of " Kothi Narayan Rao". The aforementioned plots in dispute are situated adjacent to Bungalow of Collector Hamirpur and the plots in dispute were let out to State Government for raising construction of Collector Bungalow. In the revenue records, the plots in dispute

are recorded in occupancy tenancy of "Sarkar" whereas the name of petitioners' predecessors were recorded as zamindars/ landlord. The plot in dispute were initially within the limit of town area but subsequently came within municipal limit of Hamirpur from 7.7.1949. The provisions of U.P. Zamindari Abolition and Land Reforms Act, 1950 hereinafter referred to as U.P.Z.A. and L.R. Act were not applicable to the plots in dispute but subsequently on coming into force of U.P. Urban Areas Zamindari Abolition and Land Reforms Act, 1956 hereinafter referred to as U.P.U.A.Z.A. and L.R. Act, proceeding were started for demarcation of agricultural area under Chapter II of the Act accordingly plots in dispute were declared as non-agricultural plots and declaration became final vide order dated 5.9.1964. So far as the agricultural area falling in the urban area was concerned, it was demarcated and compensation roll was prepared finally in 1965 as well as compensation was paid. So far as plots in dispute were concerned, they were non-agricultural, no compensation roll was prepared nor any compensation was paid to petitioners. Plots in dispute were taken on lease for beautification of the Collector Bungalow but due to breach of terms of lease in respect to the plot in dispute, petitioners filed original suit no. 21 of 1972 on 27.1.1972, Dr. Chandra Mohan Singhal Vs. State of U.P. and original suit no. 88 of 1972 Jagdish Saran Singhal and Others Vs. State of U.P., for the relief of ejectment of State from the plots in dispute as well as rent and damages for use and occupation by the State. In the aforementioned suit, State Government filed his written statement which was verified by the then Collector Hamirpur. State of U.P. (defendants in the suit) filed an application dated 30.11.1972 raising preliminary issue, firstly as to whether the Civil Court has jurisdiction to try suit or revenue Court has jurisdiction and secondly about the valuation of the suit. Trial Court vide order dated 17.9.1973 held that Civil Court has jurisdiction to try the suit and they were correctly valued. Against the order dated 17.9.1973 State of U.P. filed civil revision Nos. 5 and 6 of 1974 which were dismissed by District Judge Hamirpur vide judgement dated 20.9.1975. Against the order of District Judge dated 20.9.1975,

State of U.P. filed a civil revision no. 2290 of 1975 and civil revision no. 2291 of 1975 before this Court which were dismissed by this Court vide judgement dated 28.1.1976. Part of the disputed plot nos. 5 and 7/2 (area 7.83 acres) was acquired under the Land Acquisition Act and compensation was paid on 15.4.1978 to the petitioners/ petitioner's predecessors of Matter Under Article 227 No. 12514 of 2023 and Matter Under Article 227 No. 12515 of 2023. The aforementioned original suits were contested and finally decided by the Trial Court vide judgement and decree dated 19.12.1977 decreeing the suit no. 21 of 1972 and 88 of 1972 for ejectment as well as arrears of rent and damages. Against the judgement and decree of Trial Court dated 19.12.1977, Jagdish Saran Singhal, father of petitioner nos. 1,2 and 3 of Matter Under Article 227 No. 12515 of 2023 put his decree in execution which was registered as execution case no. 36 of 1978. Against the judgement and decree of Trial Court dated 19.12.1977, State of U.P. filed first appeal nos. 12 and 13 of 1978 in which interim order was granted staying the execution of the decree passed in the civil suit. The aforementioned first appeals were finally dismissed by First Appellate Court vide judgement and decree dated 30.3.1980. State of U.P. filed second appeal no. 1741 of 1980 and appeal no. 1747 of 1980 before this Court without any stay application. During pendency of second appeals before this Court, the decree in original suit no. 88 of 1972 was executed and possession of disputed plot nos. 16, 17, 18 area 15.31 acre was delivered to decree holder- Jagdish Saran Singhal on 30.8.1980. State of U.P. subsequently filed a stay application in both the second appeals accordingly this Court passed an order for status quo on 10.9.1980. During pendency of aforementioned second appeal before this Court, an application was filed on behalf of Collector, Hamirpur before Sub Divisional officer for changing the revenue entries of the disputed land from "Non Agricultural" to "Agricultural" accordingly proceeding was registered as case no. 11 of 1980 Collector Vs. Sarkar. Sub Divisional Officer changed the entry of disputed plot from "Non-Agricultural plot" to "Agricultural plot" vide order dated 25.11.1980. Jagdish Saran Singhal (father of petitioner

in Matter under Article 227 No. 12515 of 2023) filed a contempt application no. 51 of 1981 in which notices were issued to the then Collector as well as Sub Divisional Officer Hamirpur. The aforementioned second appeal was heard finally by this Court and the same was dismissed by judgement and decree dated 28.5.1982 holding that land could not be held to be agricultural and the suits were rightly decreed against the State Government. Against the judgement and decree dated 28.5.1982 passed in aforementioned second appeal, State of U.P. preferred a special leave petition before the Apex Court in which leave was granted and the same were registered as civil appeal no. 8388 of 1983 and appeal no. 8389 of 1983. As soon as Jagdish Saran Singhal came to know about the order dated 25.11.1980 changing the entry from non-agricultural to agricultural, a writ petition no. 4129 of 1981 was filed before this Court which was heard and allowed by the Division Bench of this Court on 27.4.1988 holding impugned order dated 25.11.1980 as illegal and without jurisdiction as well as "Non-Agricultural" entry of the plot in question has been maintained. Against the judgement of this Court dated 27.4.1988 passed in writ petition no. 4129 of 1981, State of U.P. filed Special Leave Petition(civil) No. 3522 of 1988 before the Apex Court. The aforementioned two civil appeals as well as one special leave petition were heard by the Apex Court and the civil appeal no. 8388 of 1983, civil appeal no. 8389 of 1983, special leave petition no. 3522 of 1988 were dismissed by the Apex Court confirming the judgement and decree dated 19.12.1977 as well as the judgement dated 27.4.1988. In contempt application no. 51 of 1981, the then Collector Hamirpur, Sri S.P. Gaur has been found guilty of gross contempt of the order passed by this Court. Jagdish Saran Singhal filed an original suit no. 108 of 1991 for damages for illegal possession of plot No. 16,17,18 situated in Mohal Lala Ram Swaroop. State of U.P. filed a suit no. 44 of 1993, 45 of 1993 on 26.5.1993 against Dr. Chandra Mohan Singhal and Jagdish Saran Singhal for declaration, cancellation of the decree, mandatory injunction in respect to the plots in dispute. In the aforementioned suit, application under Order 7 Rule 11 Civil Procedure Code 1908

hereinafter referred to as C.P.C. was filed on behalf of Dr. Chandra Mohan Singhal and Jagdish Saran Singhal. Third Additional District Judge Hamirpur rejected the aforementioned application filed under Order 7 Rule 11 C.P.C. vide order dated 27.9.1993. Against the order dated 27.9.1993, writ petition nos. 38645 of 1993 and 38647 of 1993 were filed before this Court and Division Bench of this Court vide judgement dated 29.10.1993 directed the Collector to deliver possession to petitioner within 24 hours but by the subsequent order, the earlier order dated 29.10.1993 was modified to the extent that further proceeding of the suit shall remain stayed. This Court vide order dated 23.4.1997 dismissed the aforementioned two writ petitions with liberty to petitioners to file revisions against the order rejecting the application under Order 7 Rule 11 C.P.C. In pursuance of the order dated 23.4.1997, revision no. 51 of 2002 and the revision no. 52 of 2002 were filed before this Court along with application under Section 5 of Limitation Act. The aforementioned revisions were heard and allowed vide order dated 25.7.2002 and plaint of suit nos. 44 of 1993 as well as 45 of 1993 were rejected. Recall/ review application filed against the judgement dated 25.7.2002 was rejected on 5.12.2002. State of U.P. filed Special Leave Petition Nos. 8675 of 2003, 8676 of 2003, 8922 of 2003, 8923 of 2003 before the Apex Court against the judgement/ order dated 25.7.2002 and 5.12.2002 passed in civil revision nos. 51 of 2002 and 52 of 2002. The aforementioned special leave petition were heard and dismissed on 13.10.2003 by the Apex Court. After the disposal of special leave petition by the Apex Court on 13.10.2003, the execution proceeding was proceeded and executing Court on 1.11.2003 and 24.1.2009, passed orders in execution case no. 12 of 1991 and 11 of 1991 for attachment of the car of District Magistrate/ Collector Hamirpur as well as official furniture etc. of the office of District Magistrate/ Collector Hamirpur. Against the order passed by executing Court on 1.11.2003 & 24.1.2009, State of U.P. filed revision before the revisional Court. State of U.P. further filed an application dated 21.7.2009 in original suit no. 108 of 1991 which was registered as independent Misc case no. 10/74 of 2010. State filed another

application (5Ga) dated 16.8.2010 in Misc case No. 10/74 of 2010. Against the application dated 16.8.2010, petitioners filed an objection dated 18.9.2010 on the ground that suit no. 108 of 1991 has nothing to do with the present execution case filed by petitioner hence the application is liable to be rejected. The Trial Court vide order dated 4.12.2010 rejected the application 5-Ga dated 16.8.2010 filed by state. Against the order dated 4.12.2010 and formal order dated 13.10.2010, State of U.P. preferred revision no. 2 of 2011 before the revisional Court. The aforementioned revision was allowed vide order dated 20.4.2011 hence this petition initially under Article 226 but later on converted into under Article 227 No. 12514 of 2023 for the following relief:-

***"To issue a suitable order or direction setting aside the impugned order dated 20.4.2011 passed by District Judge, Hamirpur in revision no. 2 of 2011 (State of U.P. Vs. Dr. Chandra Mohan Singhal and Others)."***

Matter under Article 227 No. 12515 of 2023 has been filed for the following relief:-

***" (i) To issue a suitable order or direction setting aside the impugned order dated 20.4.2011 passed by District Judge, Hamirpur in revision no. 3 of 2011 (State of U.P. Vs. Ramesh Kumar Singhal and Others).***

***(ii) To issue a suitable order or direction directing the Additional Civil Judge, (Senior Division) Hamirpur to decide original suit no. 108 of 1991 (J.S. Singhal Vs. State of U.P.) within time granted by this Hon'ble Court."***

State of U.P. has filed petition under Article 227 No. 12516 of 2023 for the following relief:-

***" To issue a suitable order or direction setting aside the impugned judgement and order dated 20.1.2009 passed by the Court below in Misc. Case No. 41/74 of 1991 (The State of U.P. Vs. Jagdish Sharan Singhal and Others) and 17.3.2012 passed by the Additional District and Session Judge, Court No.1***

***Hamirpur in revision no. 12 of 2009 (State of U.P. Vs. Ramesh Kumar Singhal)."***

Matter under Article 227 No. 12517 of 2023 has been filed by State of U.P. for the following relief:-

***" To issue a suitable order or direction setting aside the impugned judgement and order dated 1.11.2003 passed by the Court below in Execution Case No. 12 of 1991 (Chandra Mohan Singhal Vs. State of U.P.) and 17.3.2012 passed by the Additional District and Session Judge, Court No.1 Hamirpur in revision no. 19 of 2003 (State of U.P. Vs. Chandra Mohan Singhal)."***

Matter under Article 227 No. 12518 of 2023 has been filed by State of U.P. for the following relief:-

***" To issue a suitable order or direction setting aside the impugned judgement and order dated 24.1.2009 passed by the Court below in Execution Case No. 11 of 1991 (Sri Jagdish Sharan Singhal and Others Vs. State of U.P.) and 17.3.2012 passed by the Additional District and Session Judge, Court No.1 Hamirpur in revision no. 11 of 2009 (State of U.P. Vs. Sri Jagdish Sharan Singhal)."***

6. This Court entertained all the five petitions accordingly pleadings are exchanged between the parties.

7. Learned Senior Counsel for the petitioners submitted that State has raised the question of fraud which has been decided against him and the same has been confirmed up to Apex Court, as such, the same cannot be raised again and again. He submitted that provision contained under Section 44 of Indian Evidence Act and Section 4-A of Civil Procedure Code are not applicable in the facts and circumstances of instant case. He submitted that application 280 Ga filed by defendant/ State in suit no. 108 of 1991 was rightly rejected by the Trial Court but revision has been allowed setting aside the order of Trial Court and remanding the matter before

Trial Court which is total abuse of the process of law as well as contempt of the order of Apex Court. He submitted that in view of the judgement and decree passed in suit no. 21 of 1972 as well as suit no. 88 of 1972 which have been maintained up to Apex Court, the proceeding of suit no. 108 of 1991 cannot be kept pending on misconceived ground. He further submitted that plots in question were recorded in the name of predecessor of the petitioners of Matter under Article 227 Nos. 12514 of 2023 and 12515 of 2023 as owner/ zamindar and plot in question were let out to the State Government for beautification of the Collector's Bungalow. He further submitted that in the revenue record, the State was recorded in "occupancy tenancy" of "sarkar" whereas the name of predecessor of petitioners were recorded as zamindar/ landlord. He further submitted that provisions of U.P.Z.A. and L.R. Act were not applicable to the plot in question as the same were within the municipal limit of District Hamirpur w.e.f. 7.7.1949. He further submitted that agricultural area falling in urban area was demarcated and compensation role was prepared finally in 1965 accordingly compensation was paid. So far as plot in question are concerned, the same being (non-agricultural), no compensation role was prepared nor any compensation was paid to anyone. He submitted that part of plot no. 5 and 7/2 (area 7.83 acres) was acquired under the Land Acquisition Act on 23.1.1974 and compensation was paid on 15.6.1976 but area of 0.58 acre of plot no. 7 was left from acquisition. He submitted that in view of the adjudication taken place in the civil suit which has been affirmed up to Apex Court, petitioners of Matter under Article 227 No. 12514 of 2023 and 12515 of 2023 are entitled for vacant possession of land forthwith. He submitted that civil suit was not decided in ex-parte manner rather full opportunity was given to State in suit, first appeal, second appeal as well as in civil appeal/ special leave petition before the Apex Court, as such, it cannot be said that State has not contested the proceeding or State was not given opportunity before the Trial Court/ Appellate Court/ Second Appellate Court/ Apex Court. He submitted that allegation of collusion of private respondent with State authorities is totally

misconceived as there was proper adjudication of the dispute by the Court at every stage of the proceeding. He submitted that application filed by State in civil revision no. 11 of 2009 was not maintainable as neither any lis was pending before any Court nor there was any such permission for re-opening of the matter. He submitted that Matter under Article 227 Nos. 12514 of 2023 as well as 12515 of 2023 should be allowed and Matter under Article 227 Nos. 12516 of 2023, 12517 of 2023, 12518 of 2023 should be dismissed with cost. He placed reliance upon the following judgment of Apex Court as well as of Madras High Court in support of his argument:-

**"1. (2011) 10 SCC 404: State of Haryana versus Mukesh Kumar and others**

**2. 2024 INSC 875: The State of Haryana & Anr. Versus Amin Lal (Since Deceased) Through His LRS & Ors.(SLP)(C) No. 25313 of 2024 dated 19.11.2024**

**3. CRP(NPD)NO. 745 of 1991 : V.G. Naidu@ Govindasamy Naidu Versus Pahlajraj Gangaram@ Pahlaj Rai dated 18.3.2016"**

8. On the other hand, Mr. Manish Goel, learned Additional Advocate General, assisted by Mr. Madan Mohan, learned Standing Counsel for the State, submitted that the impugned order dated 01.11.2003 and revisional order dated 17.03.2012 are fundamentally perverse, jurisdictionally flawed, and legally unsustainable. He further submitted that the Executing Court committed a patent factual error in rejecting application paper no. 52-Gha for filing supplementary objections under Section 47 of the Code of Civil Procedure, 1908 (C.P.C.), on the mistaken assumption that the original objections had already been decided, whereas they were merely dismissed in default and subsequently restored. Consequently, directing the delivery of possession while objections questioning the very maintainability of the execution remained pending is illegal. He submitted that the Revisional Court

acted in direct breach of constitutional mandates under Articles 141 and 144 of the Constitution of India by bypassing the binding order of the Hon'ble Supreme Court dated 23.02.2009, erroneously treating its explicit directives as non-binding obiter dicta, and leaving the State's application under Section 151 C.P.C. regarding systematic fraud undecided. He submitted that the Revisional Court's reliance on prior threshold rejections under Order VII, Rule 11 C.P.C. and withdrawn contempt proceedings to declare the issue of fraud "closed" is factually and legally perverse, as a technical rejection never adjudicates the underlying merits of "fraud." He further submitted that under Section 44 of the Indian Evidence Act, 1872, execution proceedings serve as a valid collateral forum to demonstrate institutional fraud and collusion involving sovereign Nazul land. He further submitted that fraud vitiates every solemn act, rendering a decree a complete nullity ab initio. He further submitted that absolute finality of litigation cannot operate as a bar of res judicata to shield a decree built upon deception. He submitted that the petition no. 12514 of 2023 as well as 12515 of 2023 should be dismissed and petition no. 12516 of 2023, 12517 of 2023, 12518 of 2023 should be allowed. He further placed reliance upon the following judgements of Hon'ble Apex Court as well as of this Court:-

***"(1) AIR 2007 SC 1546 A.V. Papayya Sastry and Others Vs. Government of A.P. and Others***

***(2) AIR 1994 SC 853 S.P. Chengalvaraya Naidu (Dead) by LRs Vs. Jagannath (Dead) by LRs and Others***

***(3) AIR 2008 SC 2139, North Eastern Railway Administration, Gorakhpur Vs. Bhagwan Das (D) by LRs***

***(4) AIR 2008 SC 563, T. Vijendradas and Others Vs. M. Subramanian and Others***

***(5) AIR 2000 SC 3272 Gram Panchayat of Village Naulakha Vs. Ujagar Singh and Others***

***(6) (1995) 1 SCC 259 Spencer & Company LTD. and Another Vs. Vishwadarshan Distributors PVT Ltd and Others***

***(7) (2020) 2 SCC 1 Kantaru Rajevaru (Sabrimala Temple Reveiw 5 J) Vs. Indian Young Lawyers Association through ITS General Secretary and Others***

***(8) AIR 1966 SC 1888 Ram Chandra Aggrawal and Another Vs. State of U.P. and Another***

***(9) 1982 (1) SCC 525 Babu Lal Vs. Hazari Lal Kishor Lal and Others***

***(10) (2000) 3 SCC 581 United India Insurance Co. Ltd. Vs. Rajendra Sing and Others.***

***(11) 1961 AIR 137 Shew Bux Mohata and Others Vs. Bengal Breweries Ltd. and Others***

***(12) AIR 1956 ALL 586 Rameshwar Nath Vs. U.P. Union Bank Limited"***

9. I have considered the arguments advanced by learned Counsel for the parties and perused the records.

10. In order to appreciate the controversy involved in the matter, first for all, the perusal of the issues framed in suit no. 88 of 1972 filed by Jagdish Saran Singhal will be relevant for perusal which are as under:-

***"1. Whether civil court has no jurisdiction to try the suit as alleged in para 4 of the W.S.?***

***2. Whether the suit is undervalued and court fee paid in insufficient?***

***3. Whether the defendant has acquired full adverse proprietary in rights over plots no. 16 and 17?***

***4. Whether the defendants have cut green trees and have dug foundation on the disputed field with new to construct pucca bungalow if so, its effect ?***

**5. Whether the defendant has started using the land in suit for a purpose inconsistent with the purpose for which it was let out, if so, its effect?**

**6. Whether the plaintiffs suit is barred by limitation?**

**7. Whether the plaintiffs are the owners of the plots in suit ?**

**8. Whether the land constructed by the defendant is an improvements, if it so, its effect?**

**9. Whether the plaintiffs suit is barred by the principle of estoppel and acquiescence as alleged in para 9 of the W.S. ?**

**10. Whether the plaintiffs notices are illegal as alleged in W.S.?**

**11. Whether the plaintiffs are entitled to arrears of rent and damages, if any ?**

**12. Whether the defendant has rendered itself liable to eviction and its tenancy in question stand forfeited?**

**13. To what relief, if any, is the plaintiffs entitled ?"**

11. In the aforementioned suit, State of U.P. through Collector Hamirpur was defendant who filed written statement and admitted that disputed plots were let out to the state.

12. Perusal of the finding recorded on issue no. 7 will also be relevant which is as under:-

**"Issue no. 7 - The plaintiffs have produced extract Khatauni 1378 F (Ex-1) Extract Khevat 1376 F (paper no. 67C1 & 68C1), copy of 1377 F (paper no. 69C1) copy of Khatauni (paper no. 70C1), copy of Khasra 1311 F(paper no. 72C1), copy of Khasra 1378 F (paper no. 74C1), copy of 1359 F(paper no. 48C1), copy of Khasra 1364 F(paper no. 51C1), copy of khasra 1359 F (Ex-A-4).**

***These papers clearly show that the plaintiffs are zamindars of the disputed lands. Baijnath Prasad DW 1 deposed that the plaintiffs are zamindars and their names are recorded in Khevat. The defendant is occupancy tenant over these plots. Jagdish***

***Saran PW 1 has stated that the plaintiffs are the son of Lala Ram Swaroop who is alive. They have partitioned there shares from there father. Thus, it is quiet certain that the plaintiffs are the owners of the disputed plots. The issue is decided in affirmative."***

13. The Trial Court ultimately decreed the plaintiff's suit with cost for ejectment of the defendant from the disputed plot, as detailed in the copy of the plaint, and for delivery of possession thereof as well as claim for recovery of rent and damages was also decreed in view of the evidence on record, vide judgement and decree dated 19.12.1977. The judgement passed by the Trial Court, after contest, has been maintained up to Apex Court.

14. The perusal of the relevant portion of the judgement passed by this Court dismissing the second appeal of State will also be relevant which is as under:-

***" 16. As pointed bout earlier appellant admitted not only that respondent was son and heir of Ram Swarup who was the proprietor and Zamindar and Mohal Madan Mohan but occupancy tenant of appellant as well. Construction of building or canal by an occupancy tenant resulted in his ejectment u/s. 172. U.P. Tenancy Act. in Sita Ram Jaiswal v. Amarnath Agrawal, (AIR 1972 SC 2389) it was held, if land had been let for an agricultural purpose and the defendants had sought to use it for totally different purposes namely, construction of building to house or bank. Such a purpose was clearly inconsistent with the purpose for which it was let out. Under S. 172, therefore, the suit for ejectment was clearly maintainable. Same is the situation in Transfer of Property Act or general law. A tenant cannot act in contravention of the purpose for which lease is granted. In case appellant claimed right to construct building it should have proved on agreement express or implied.***

***17. Argument of learned State Counsel that if land in dispute***

*was not agricultural area then provisions of U.P. Tenancy Act continued to apply and as the limitation to file suit u/s 172 was only one year the suit was barred by time cannot be countenanced for reasons more than one. Plea of limitation is not a question of law only. Appellant did not press it before lower appellate court. Then on merits also it has no legs to stand. Under S. 84 of the Act, U.P. Tenancy Act stood repealed with effect from the date of vesting. Admittedly vesting of the right and interest of intermediaries in the urban area of Hamirpur town has taken place and notification abolishing Zamindari was issued in year 1961. Demarcation of agricultural area is one thing but vesting is another. Although the latter takes place because of former but one it takes place Tenancy Act stands abolished.*

**18. For the reasons stated above these second appeals fail and are dismissed with costs."**

15. The perusal of the adjudication taken place in respect to the agricultural/ non-agricultural entry of the plot in question, the judgement of this Court dated 27.4.1988 passed in the writ petition will also be relevant which is as under:-

**"13. In the present case under the circumstances of the case we are satisfied that the impugned order was not passed in good faith rather it was passed in bad faith. The impugned order was passed in violation of principles of natural justice particularly by affording no opportunity of filing objections or hearing as contemplated by Rr. 26, 31 and 33 of the U.P. Urban Areas Zamindari Abolition and Land Reforms Rules, 1957.**

**14. There are certain exceptions no doubt to the principles of natural justice but those exceptions are not applicable in the present case. In the present case as the Sub-Divisional Demarcation Officer was going to decide the nature of the land from non-agricultural to agricultural area under the**

provisions of the Act, and this was to the prejudice of the petitioners, in that event it was obligatory on the part of the authorities concerned to have passed impugned order only after issuing notices to the petitioners and affording them an opportunity of being heard. This could have been only possible judicial way to pass impugned order but the same was not done. (See Associated Cement Companies led. V. P.N. Sharma, AIR 1965 SC 1995).

15. Reverting to the next question emanating from the first one as to whether it was open to the respondents to proceed to determine nature of the land once the declaration in respect of non- agricultural area of the land has been upheld in the civil suit, which was finally decided by this court. As this Court has finally determined that the nature of the land was correctly rectified as non-agricultural area hence that position must have been honourably accepted by the State of U.P. It cannot be equated with an ordinary rectification nor State is expected to play game of hide and seek to the prejudice of persons whose rights are going to be vitally affected. It was, therefore, not justified on the part of the respondents to have passed the impugned orders declaring the land to be agricultural area and carrying out consequential changes in the relevant Khatauni without notice to the petitioners and without hearing them.

16. In view of the premises aforesaid, the impugned orders cannot be sustained. The petition succeeds and is allowed with costs. Impugned order dt. 25.11.80 and the consequential order dt. 12-12-80 (Annexures 12 and 13 to the petition) are hereby quashed."

16. Perusal of relevant portion of another judgment passed by this Court in Civil Revision No. 51 of 2002 and 52 of 2002 rejecting the plaint of suit No. 44 as well as 45 of 1993 filed by state for cancellation of judgment and decree dated 19.12.1977 will be relevant which are as under:-

"In view of this decision of the Apex court the present two suits can not be permitted to proceed. There should be some end of the litigation. They are totally false, vexatious and meritless and therefore, the plaint of both the suits are liable to be rejected.

It may also be pointed out that according to the plaint the alleged fraud was detected in the year 1980. At that time second appeals nos. 1741 and 1747 of 1980 were pending before this court. No attempt was made by the State of U.P. to bring on record the said facts.

Lastly, it has also been argued by the learned counsel for the revisionists that no details of the fraud as required under Order 6 Rule 4C.P.C. has been pleaded in the plaints and therefore, the plaints are liable to be rejected. In this Connection the learned counsel for the revisionists has referred the decision of BAL GANGADHAR TILAK AND OTHERS VS. SRI NIWAS PANDIT AND OTHER, A.I.R. 1915 P.C. PAGE 7. It was observed that :

"Under the contract law of India as well as ordinary principles, coercion, undue influence, fraud and misrepresentations are all separate and separable categories in law. It is true that they may overlap or may be combined. But in the present case it is impossible to discover what ground or grounds are really taken up. There is well known rule of pleading expressed in frequently quoted language of Lord Selborne Wallingford Vs. Mutual Society (1980) 5 A.C. 63 that "with respect to fraud if there be any principle which is perfectly well settled, it is that general allegations, however, strong may be the words in which they are stated are insufficient even to amount to an averment of fraud of which any court ought to take note.

The law of India is in no way different from this and it has been decided over and over again e.g. in Gunga Narain Gupta Vs. Tiluck Ram Chaudhary (1888) 15 Cal. 533."

Another decision referred to is BISHNUDEO NARAIN AND ANOTHER VS. SEOGANI RAI AND OTHERS, A.I.R. (38) 1951 S.C. 280, Constitution Bench has held as follows:

"It is also to be observed that no proper particulars have been furnished. Now if there is one rule which is better established than any other, it is that in cases of fraud, undue influence and coercion, the parties pleading it must set forth full particulars as laid. There can be no departure from them in evidence. General allegations are insufficient even to amount to an averment of fraud of which any court ought to take note. however strong language in which they are couched may be and same applied to undue influence and coercion."

Te perusal of the complaints show that no details of the fraud has been given not it is mentioned as to who committed fraud. For this reason also the complaint is bad under Order 6 Rule 4 C.P.C. and is liable to be rejected.

From the above discussions it is clear that both the suits nos. 44 of 1993 and 45 of 1993 have been filed facing threat of eviction in the execution of the decree of O.S. Nos. 21 of 1972 and 88 of 1972 by the District Magistrate, who could not swallow the fact that the land of his bungalow is taken forcibly under the decree of the Civil Court. It has been taken by the District Magistrate as his personal wealth and prestige and therefore, without any cause of action the above suits have been filed, which have no legs to stand. The suits are nothing but the malafide attempt to thwart the lawful proceedings of eviction and to get rid of the contempt proceedings pending in this court. The Collector, Hamirpur, who is enjoying the entire land does not want to leave possession of the land and had filed the suits on behalf of the State for his personal benefit so that he may retain the land and could also find defence for the contempt proceedings.

Accordingly, both the revisions are allowed with costs and

**plaint of both the suits nos. 44 of 1993 and 45 of 1993 are rejected under Order 7 Rule 11 C.P.C.**

**Dated. 25.7.2002**

**Sd/- B.K. Rath, J."**

17. Considering the adjudication taken place in respect to the civil suit and nature of the entry of the plot as agricultural/ non-agricultural, the question arises as to whether the State can raise objection that earlier judgement and decree passed in the suit proceeding as well as in the writ petition with respect to the nature of the entry of the plot in question are collusive and cannot be relied upon.

18. In order to answer the abovementioned controversy as raised by State, the adjudication taken place from Trial Court up to Apex Court fully demonstrate that State was given full opportunity to file written statement before the Trial Court as well as adduce evidence before the Trial Court. The judgements from Trial Court to Apex Court further demonstrate that at every stage, State was given opportunity through Counsel/special Counsel to argue the matter, as such, it cannot be said that the judgement was passed on the basis of collusion between the plaintiff of the suit and State authorities.

19. It is material to mention that controversy raised by the plaintiff of the two suits who are petitioners in Matter under Article 227 No. 12514 of 2023 and Matter under Article 227 No. 12515 of 2023 has been adjudicated by the Trial Court in the original suit, First Appellate Court in first appeal, second Appellate Court (High Court) in second appeal by passing well reasoned judgement, as such, it cannot be said that State was not given opportunity to contest the proceeding in proper manner. The Apex Court has dismissed the special leave petition/ appeal filed by State against the judgement/ decree passed in the suit proceeding initiated by plaintiff.

20. The instant case is not in one of those case in which in writ petition, any order has been passed by the Court against the State in absence of any counter affidavit by State or without any opportunity of hearing to the State rather the controversy was adjudicated in the suit proceeding after filing of written statement, framing all issues, giving opportunity to the parties to lead evidence in the suit proceeding. It is further material to mention that judgement of the Trial Court was further maintained by the First Appellate Court as well as by this Court in the second appeal by passing the detailed judgement on merit, as such, the objection cannot be raised by State that they have not been given opportunity to contest the proceeding in proper manner.

21. Considering the aforementioned facts and circumstances of the case, it is fully demonstrated that there is no illegality in the exercise of jurisdiction by the Trial Court while deciding the suit no. 21 of 1972 and original suit no. 88 of 1972 and answer to the query as mentioned in paragraph no.17 of this judgment is that judgment and decree passed in suit no. 21 of 1972, suit no. 88 of 1972 as well as in writ petition no. 4129 of 1981 which have been maintained up to Apex Court are not collusive and have binding effect.

22. Considering the aforementioned facts and circumstances of the case, there is no illegality in the order dated 4.12.2010/ 13.12.2010 passed by Additional Civil Judge (Senior Division) Hamirpur by which application 5-C filed by State in Misc. Case No.10/74/10 has been rejected but the revisional Court vide impugned order dated 20.4.2011 has allowed the revision no. 2 of 2011 filed by State as well as revision no. 3 of 2011 filed by State which are liable to be set aside and the same are hereby set aside. The Matter under Article 227 No. 12514 of 2023 and Matter under Article 227 No. 12515 of 2023 are accordingly **allowed**. It is directed that pending suit no. 108 of 1991 shall be decided in accordance with law expeditiously preferably within period of 4 months.

23. So far as the impugned orders passed in Matter under Article

227 No. 12516, 12517 and 12518 of 2023 are concerned, there is no illegality in the impugned orders passed in the pending execution proceeding as the judgement and decree passed in the original suit has been affirmed up to Apex Court, as such, raising the objection in the execution proceeding that decree passed by Trial Court which has been affirmed up to Apex Court is the result of collusion between the plaintiff and State authorities cannot be accepted in any manner.

24. Considering the aforementioned facts and circumstances of the case, Matter under Article 227 No 12516 of 2023, Matter under Article 227 No 12517 of 2023 and Matter under Article 227 No 12518 of 2023 are liable to be **dismissed** and the same are hereby **dismissed**. It is directed that executing court shall decide the pending execution proceeding arising out of suit no. 21 of 1972 and suit no. 88 of 1972 expeditiously preferably within period of 3 months from the date of production of certified copy of this order.

25. No order as to costs.

(Chandra Kumar Rai,J.)

**October 5, 2026**

Vandana Y.