GAHC010032002025

2026:GAU-AS:16714-DB

THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WA/242/2025

THE PRINCIPAL SECRETARY TO THE GOVT. OF ASSAM AND 2 ORS.
REVENUE AND DISASTER MANAGEMENT DISPUR GUWAHATI 781006

2: THE DISTRICT COMMISSIONER
IN THE DISTRICT KAMRUP
ASSAM.

3: THE CIRCLE OFFICER
NORTH GUWAHATI CIRCLE
IN THE DISTRICT OF KAMRUP
ASSA

VERSUS

ARUN SARMA AND 13 ORS
SONS OF LATE BHAGAWAN CHANDRA SARMA, RESIDENTS OF KAMAKHYA, DISTRICT- KAMRUP (METRO), GUWAHATI, ASSAM, REPRESENTED BY THEIR CONSTITUTED ATTORNEY SHRI JAGADISH SHARMA, SON OF LATE SHYAMA CHARAN SHARMA, RESIDENT OF KUMARPARA, GUWAHATI, IN THE DISTRICT OF KAMRUP (M), ASSAM THE STATE OF ASSAM.

2:RAMESWAR SARMA
S/O- LT. BHAGAWAN CHANDRA SARMA
R/O- KAMAKHYA
DIST.- KAMRUP (M)
GHY
ASSAM
REP. BY THEIR CONSTITUTED ATTORNEY SHRI JAGADISH SHARMA
S/O- LT. SHYAMA CHANRAN SHARMA
R/O- KUMARPARA
GHY
IN THE DIST.- OF KAMRUP (M)
ASSAM

3:NAGEN SARMA
S/O- LT. BHAGAWAN CHANDRA SARMA
R/O- KAMAKHYA
DIST.- KAMRUP (M)
GHY
ASSAM
REP. BY THEIR CONSTITUTED ATTORNEY SHRI JAGADISH SHARMA
S/O- LT. SHYAMA CHANRAN SHARMA
R/O- KUMARPARA
GHY
IN THE DIST.- OF KAMRUP (M)
ASSAM

4:ON THE DEATH OF BINA DEVI HER LEGAL HEIR
SMTI. SABITRI GOSWAMI
DAUGHTER IN LAW OF SMTI. BINA DEVI
AGED ABOUT 63 YEARS
R/O BRAHMIN PARA ROAD
KAMAKHYA
DISTRICT- KAMRUP (M)
GUWAHATI
ASSAM
PIN-781010.

5:ON THE DEATH OF DHIRAJ SARMA HIS LEGAL HEIR
SRI NILAY BHARADWAS S/O- LATE DHIRAJ SARMA
AGED ABOUT 25 YEARS
R/O- BRAHMIN PARA ROAD
KAMAKHYA
DISTRICT- KAMRUP (M)
GUWAHATI
ASSAM
PIN-781010.

6:GOPAL SARMA
S/O- LT. GOLAK SARMA
R/O- KAMAKHYA
DIST.- KAMRUP (M)
GHY
ASSAM
REP. BY THEIR CONSTITUTED ATTORNEY SHRI JAGADISH SHARMA
S/O- LT. SHYAMA CHANRAN SHARMA
R/O- KUMARPARA
GHY
IN THE DIST.- OF KAMRUP (M)
ASSAM

7:PRADIP SARMA
S/O- LT. GOLAK SARMA
R/O- KAMAKHYA
DIST.- KAMRUP (M)
GHY
ASSAM
REP. BY THEIR CONSTITUTED ATTORNEY SHRI JAGADISH SHARMA
S/O- LT. SHYAMA CHANRAN SHARMA
R/O- KUMARPARA
GHY
IN THE DIST.- OF KAMRUP (M)
ASSAM

8:MADHAB SARMA
S/O- LT. GOLAK SARMA
R/O- KAMAKHYA
DIST.- KAMRUP (M)
GHY
ASSAM
REP. BY THEIR CONSTITUTED ATTORNEY SHRI JAGADISH SHARMA
S/O- LT. SHYAMA CHANRAN SHARMA
R/O- KUMARPARA
GHY
IN THE DIST.- OF KAMRUP (M)
ASSAM

9:DIPAK SARMA
S/O- LT. CHANDRA KANTA SARMA
R/O- KAMAKHYA
DIST.- KAMRUP (M)
GHY
ASSAM
REP. BY THEIR CONSTITUTED ATTORNEY SHRI JAGADISH SHARMA
S/O- LT. SHYAMA CHANRAN SHARMA
R/O- KUMARPARA
GHY
IN THE DIST.- OF KAMRUP (M)
ASSAM

10:JYOTI KANTA SARMA
S/O- LT. CHANDRA KANTA SARMA
R/O- KAMAKHYA
DIST.- KAMRUP (M)
GHY
ASSAM
REP. BY THEIR CONSTITUTED ATTORNEY SHRI JAGADISH SHARMA
S/O- LT. SHYAMA CHANRAN SHARMA
R/O- KUMARPARA

GHY
IN THE DIST.- OF KAMRUP (M)
ASSAM

11:SUSHIL KANTA SARMA
S/O- LT. CHANDRA KANTA SARMA
R/O- KAMAKHYA
DIST.- KAMRUP (M)
GHY
ASSAM
REP. BY THEIR CONSTITUTED ATTORNEY SHRI JAGADISH SHARMA
S/O- LT. SHYAMA CHANRAN SHARMA
R/O- KUMARPARA
GHY
IN THE DIST.- OF KAMRUP (M)
ASSAM

12:NIROD KANTA SARMA
S/O- LT. SURJYA KANTA SARMA
R/O- KAMAKHYA
DIST.- KAMRUP (M)
GHY
ASSAM
REP. BY THEIR CONSTITUTED ATTORNEY SHRI JAGADISH SHARMA
S/O- LT. SHYAMA CHANRAN SHARMA
R/O- KUMARPARA
GHY
IN THE DIST.- OF KAMRUP (M)
ASSAM

13:THE STATE OF ASSAM
REP. BY THE CHIEF SECRETARY
TO THE GOVT. OF ASSAM
DISPUR
GUWAHATI IN THE DISTRICT KAMRUP M ASSAM 781006.

14:THE DEPUTY SECRETARY/ADDITIONAL SECRETARY
GOVT. OF ASSAM
DISPUR
GUWAHATI
IN THE DISTRICT OF KAMRUP (M)
ASSAM
PIN- 78100

Advocate for the Petitioner : MR. RAJIB BORPUJARI, MR. A BHATTACHARYYA,MR. R BORPUJARI

Advocate for the Respondent : MR A C BORBORA (R-4,5), MR S A HUSSAIN(R-4,5),MS. N

DEY(R-4,5),BAIJOYONTA BAROOAH(R-4,5),MR. M DAS,MR S BHARALI(R-4,5),MR. B D DEKA,MR. M DAS(R-4,5),FOR CAVEATOR

– **B E F O R E** –

HON'BLE THE CHIEF JUSTICE MR. ASHUTOSH KUMAR

HON'BLE MR. JUSTICE KAUSHIK GOSWAMI

For the Appellant (s) **:** Mr. R. Borpujari, Advocate.

For the Respondent(s) **:** Mr. B. D. Deka, Advocate for respondent Nos. 1, 2, 3, 6, 7, 8, 9, 10 & 12.

: Mr. A. C. Borbora, Senior Advocate assisted by Mr. S. Bharali for respondent Nos. 4 & 5.

Date on which judgment is reserved **:** 05.11.2026.

Date of pronouncement of judgment **: 13.11.2026**

Whether the pronouncement is of the operative part of the judgment ? : **No**.

Whether the full judgment has been pronounced : **Yes**.

JUDGMENT & ORDER (CAV)

(**K. Goswami**, J)

Heard Mr. R. Borpujari, learned Advocate for the appellants; Mr. B. D. Deka, learned Advocate for the respondent Nos. 1, 2, 3, 6, 7, 8, 9, 10 & 12 and Mr. A. C. Borbora, learned Senior Advocate assisted by Mr. S. Bharali, learned Advocate for the respondent Nos. 4 & 5.

2. By filing the present writ appeal, the appellants, namely, State of Assam through its Revenue Department have put to challenge the judgment and order dated 14.11.2024 passed by the learned Single Judge in WP(C) No. 5616/2020, whereby the writ petition filed by the writ petitioners/private respondents was disposed off, *inter alia*, by allowing the writ petitioners to continue to remain as owners of the lands in N.K. Patta No. 2 of an area comprising of 7 Bighas 2 Kathas 8 Lechas of village Dhopatari; N.K. Patta No.3 of an area comprising of 394 Bighas 0 Katha 2 Lechas under village Bon Moza as well as N.K. Patta No.9 of an area comprising of 158 Bighas 4 Kathas 18 Lechas of village Niz Sindurighopa under Mouza Sindurighopa [hereinafter referred to as the "subject land"] till such time actions are not taken in terms with the Assam Fixation of Ceiling on Land Holdings Act, 1956 (hereinafter referred to as "the 1956 Act").

3. The brief facts of the case, as set out by the writ petitioners/private respondents, are that they are the descendants of the original landowners, who held the subject lands measuring approximately 560

Bighas (one Bigha being equivalent to approximately 0.33 acres). The specific case of the writ petitioners/private respondents is that their ancestral lands were erroneously declared as ceiling surplus under the provisions of the 1956 Act, resulting in the wrongful vesting of the said lands in the Government.

It is contended that ceiling proceedings were initiated under the 1956 Act for determination and acquisition of land in excess of the permissible ceiling limit, ordinarily fixed at 50 Bighas per person, subject to the statutory provisions relating to families. In this regard, Ceiling Case No. 384/1974 and Ceiling Case No. 372/1976 (subsequently referred to as Ceiling Case No. 375/1976 in certain records, apparently due to a typographical inconsistency) were initiated. However, the first of the aforesaid ceiling proceedings was abandoned. In the subsequent proceedings, a draft statement was prepared inviting objections from the landowners, whereupon an order was passed permitting them to retain 250 Bighas and declaring the remaining 310 Bighas as ceiling surplus. However, no final statement under Section 7 of the 1956 Act is stated to be available on record.

The writ petitioners/private respondents claim that they came to learn about the aforesaid proceedings and the purported declaration of their ancestral lands as ceiling surplus only in the year 2009, upon obtaining information from the relevant land records (*Jamabandi*) and documents under the Right to Information Act. Consequently, they submitted applications under Section 7(6) of the 1956 Act in the year 2009, seeking appropriate relief. However, the said applications came to

be rejected by order dated 20.06.2013, on the ground that they were barred by limitation, having been filed beyond the prescribed period of 30 days from the publication of the final statement. The review applications preferred thereafter were also rejected by order dated 19.01.2015.

Aggrieved thereby, the writ petitioners/private respondents instituted the afore-noted writ petition, out of which the present appeal arises, seeking, *inter alia*, to set aside the purported final statement drawn up in the aforesaid ceiling proceedings, the order dated 20.06.2013 rejecting their applications under Section 7(6) of the 1956 Act, and the subsequent order dated 19.01.2015 rejecting their review applications. They also sought restoration of possession of the subject lands in their favour.

4. The learned Single Judge after hearing the learned counsel for the parties was pleased to dispose off the said writ petition, with the following observations and directions:

> "*(i) The impugned order dated 20.06.2013 as well as the order of rejection of the review dated 19.01.2015 are set aside and quashed.*
>
> *(ii) The petitioners herein would continue to remain the owners of the lands in N.K. Patta No. 2 of an area comprising of 7 Bighas 2 Kathas 8 Lechas of village Dhopatari; N.K. Patta No. 3 of an area comprising of 394 Bighas 0 Katha 2 Lecha under village Bon Moza as well as N. K. Patta No. 9 of and are comprising of 158 Bighas 4 Kathas 18 Lechas of village Niz Sindurighopa under Mouza Sindurighopa till such time actions are not taken in terms with the act of 1956.*
>
> *(iii) No rights stood transferred on the basis of the Ceiling Case No. 384/1974, Ceiling Case No. 375/1976 and Ceiling Case No.*

372/1976 in respect to the lands of the petitioners upon the State by virtue of Section 7 (4) of the Act of 1956. Any rights on the basis of the above proceedings created upon any other persons by the State would be a nullity in the eye of law.

(iv) Taking into account the statutory mandate of the Act of 1956, the observations so made herein as well as the findings, shall not preclude the State from taking action in terms with the Act of 1956 and the rules framed therein under.

(v) The Revenue Authorities are directed to correct the revenue records within 30 days from the date of a certified copy of the instant judgment is served upon the Respondent No. 2."

5. Situated thus, the present appeal has been preferred by the appellant/State.

6. The learned counsel appearing for the appellant/State submits that the acquisition proceedings were validly undertaken and that the challenge made by the writ petitioners/private respondents is highly belated and not maintainable. It is contended that the learned Single Judge has failed to take note of the documents evidencing handing over of possession, duly bearing the signatures of the concerned parties, and has also overlooked the unexplained delay of 33 years on the part of the writ petitioners/private respondents in challenging the acquisition proceedings, without producing any material to establish their possession over the subject land. It is further contended that the learned Single Judge has failed to consider the objection with regard to non-joinder of necessary parties, particularly the third-party occupants and auction purchasers, whose rights have already accrued in respect of the subject land. It is also submitted that the matter involves disputed questions of

fact which could not have been adjudicated in exercise of writ jurisdiction. Accordingly, it is contended that the acquisition proceedings having been carried out in accordance with the procedure prescribed under the law, the impugned judgment is liable to be set aside.

7. *Per contra,* the learned counsel appearing for the writ petitioners/private respondents submit that the learned Single Judge, having taken note of the fact that no final statement under Section 7(4) of the 1956 Act was published, has rightly held that the subject land could not have vested in the State. It is contended that in the absence of publication of the final statement as contemplated under the aforesaid provision, the writ petitioners/private respondents would continue to remain the owners of the subject land, until appropriate steps are taken in accordance with the provisions of the 1956 Act.

8. We have given our due considerations to the arguments advanced on behalf of the learned counsel for the parties and have also perused the materials available on record.

9. Since the present proceedings arise out of an intra-Court appeal, we are conscious of the settled principles that interference with the order passed by the learned Single Judge is not warranted merely because another view on the facts or law is possible. Interference would be justified only where the decision under challenge is demonstrated to be erroneous, perverse or otherwise legally unsustainable. Bearing the aforesaid principles in mind, we shall now proceed with the facts and circumstances of the present case.

10. The controversy involved in the *lis* in hand essentially revolves around the contention of the State Government that the land in question had been acquired as surplus land under the provisions of the 1956 Act. The object of the said legislation is to impose a ceiling on the extent of land that may be held by an individual or a family and to provide for the acquisition of land held in excess of the prescribed ceiling, with a view to preventing concentration of landholdings and facilitating equitable distribution of surplus land. The question that, therefore, arises for consideration is whether the land in question could have legally vested in the State Government as surplus land in the absence of completion of the statutory procedure prescribed under the 1956 Act.

11. Section 2 of the 1956 Act reads as under:

> "*2. Exception. (1) The provisions of this Act shall not apply to land held by State Government or the Union Government or by any local authority or by any Agriculture Farming Corporation constituted under the Assam Agricultural Farming*
>
> *Corporation Act, 1973, (Assam Act No. VIII of 1973).*
>
> *(2)(a) lands held and utilised for special cultivation of tea and purposes ancillary thereto;*
>
> *(b) land held by a mill, a factor, or a workshop, as the case may be, for the purposes of the expansion of the mill, factory or workshop, or for ancillary purposes of the mill, factory or workshop, such as setting up of schools, dispensaries and roads, but not for any other purposes,*
>
> *(c) land held by a co-operative farming society for cultivation of sugar-cane only for the purposes of feeding a co-operative sugar factory.*
>
> *Provided that if at any time, such land causes to be utilized for the purposes mentioned in the aforesaid sub-clause, the provision of this Act shall apply."*

12. Section 4 of the 1956 Act reads as under:

"*4. Ceiling an existing holding.-(1) [Notwithstanding anything to the contrary in any law, customs or agreement no person shall be entitled to hold as owner or tenant, [or mortgage in possession] land which exceed the limit of 50 bighas in the aggregate and this limit of 50 bighas shall be applicable to the aggregate of the land held individually by the members of a family or jointly by some or all the members of such a family.*

Provided that where the person holds 'orchard land' the aforementioned limit shall be increased by the actual area of the orchard subject to a maximum of 4 bighas over the limit of 50 bighas mentioned.]

(2) [Notwithstanding anything to the contrary in any law, customs or agreement, no person shall be entitled 'to hold as owner, tenant, for mortgage in possession] land, for special cultivation of tea in excess of such land as has been used for special cultivation of tea and purposes ancillary thereto on the day of commencement of the Assam fixation of Ceiling of Land Holdings, (Amendment) Act, 1970, came into force.]

Provided that the State Government may allow more lands to be held for ancillary purposes and for increase in area under special cultivation of tea in accordance with the rules may be prescribed.

Explanation.-Purposes ancillary to special cultivation shall mean the following:-

(i) land used for factory building,

(ii) land used for staff building including labour line;

(iii) land used for roads, bridges, and drains within the tea estate;

(iv) land used for nurseries including shade trees,

3[(v) land used for hospitals, dispensaries, creches, recreation centres and play;]

(vi) land used for religious institution, burial or cremation ground,

(vii) land used for any other building built by management as a statutory requirement under any law for the time being in force;

(viii) land used for seed bari,

(ix) land used as may be needed for rotational plantation to maintain the planted areas as on the commencement of this Act but not exceeding 7-1/2 per cent of the planted area,

(x) lands lying within the boundaries of the actual planted area excluding tenanted khet land, and

(xi) land used for bamboos baris but not exceeding 50 bighas.

4[(3) The Ceiling of a Co-operative Farming Society shall be the aggregate of the ceiling of its individual members of their families under sub-section (1) above:

Provided that lands held outside society by a member of a Co-operative Society or any member of his family shall also be taken into account for determining his ceiling.]

(4) No benami transfer made after the twelfth day of November 1955, shall be taken into account in determining the limit upto which the transferor shall be entitled to held under sub-section (1) above and in such case the limit and the excess land of the transferor shall be determined as if the transfer has not taken place]

1[(5) No person who holds land in excess of the limit fixed under Section 4 shall, on or after the commencement of the Assam Fixation of Ceiling of Land Holdings (Amendment) Act, 1970 (Assam Act VIII of 1971) transfer or partition any land until the land in excess of such limit is determined and possession taken over by the Collector under this Act.]

Provided that for special reasons to be recorded in writing the Collector may permit transfer or partition of the land or any portion thereof.

Explanation. In this Section the expression transfer shall have the same meaning as defined in Section 5 of the Transfer of Property Act (Central Act IV of 1882) and "partition" means any division of land by act of parties made inter vivos.

(6) If any person transfers or partitions in contravention of the provisions of sub-section (5), or

Transfer or partitions any land after the first day of April, 1970 i.e. the day on which this Amending Bill was introduced in the Assam Legislature Assembly but before the commencement of the Assam Fixation of Ceiling of Land Holdings (Amendment) Act, 1970 in anticipation of, or in order to avoid or defeat the object of the Assam Fixation of Ceiling on Land Holdings (Amendment) Act, 1970, then the area so transferred or partition shall be taken into account in calculating the area which that person is entitled to hold, and land exceeding the area so calculated shall be deemed to be in excess of the limit fixed under Section 4 notwithstanding, that the land remaining with him may not, in fact, in the excess of such limit.

If by reason of such transfer or partition the holding of that person is less than the area so calculated to be in excess of such limit, then all his land shall be deemed to be surplus land, and out of the land so transferred or partitioned and in possession of this transferred land to the extent of such deficiency shall subject to rules made in that behalf also be deemed to be surplus land notwithstanding that the holding of the transferred land may not, in fact, be in excess of the limit fixed under Section 4.

All transfers and partitions made after the first day of April 1970, i.e., the day on which this amending Bill was introduced in the Assam Legislative Assembly, but before the commencement of the [the Assam Fixation of Ceiling on Land Holdings (Amendment) Act, 1970 shall be deemed, unless the contrary is proved, to have been made in anticipation of, or in order to avoid or defeat the objects of the Assam Fixation of Ceiling on Land Holdings (Amendment) Act, 1970.]"

13. Section 5 of the 1956 Act reads as under:

"*5. Submission of return by person holding land in excess of the ceiling. Any person who, on the date of commencement of this Act, [1][* * *] holds as owner or tenant lands which in the aggregate, exceed the limit fixed under Section 4 above, shall within the prescribed period, submit to the Collector, a return giving the particular of all his lands in the prescribed form and stating therein his selection of plot or plots of land (not exceeding in the aggregate the limit fixed under Section 4 above) which*

he desires to retain under the provision of this Act."

14. Section 7 of the 1956 Act reads as under:

"*7. Submission of statement to Government.-(1) On the basis of the information given in the return under Section 5 above which shall be duly verified through such agency as may be decided by the Government or the information obtained by the Collector under Section 6 above, the Collector shall prepare a draft statement showing among other particulars, the total area of lands held by such persons the specific plots selected for retention with them, and also the land in excess of the limit fixed under Section 4 remaining after such selection.*

(2) The draft statement shall be published in the offices of the Deputy Commissioner, the Sub-divisional Officer, the Circle Sub-Deputy Collector and the Mauzadar, and a copy thereof shall be served on the person or persons concerned in the manner prescribed. Any objection received within 15^2 days of the service shall be duly considered by the Collector and after giving the objector an opportunity for hearing order shall be passed on these objection.

[The person making any such objection shall ascertain the date on which the objection will be considered and on the day fixed or on any other date to which the consideration may be postponed, the objector is absence, the Collector shall consider the objections in the absence of the objector and pass such orders as they may thinks necessary making the statement final]

(3) The draft statement shall then be made final in terms of the final orders passed under the preceeding sub-section and the Collector shall sign it and affix the date.

(4) Notwithstanding anything contained in the next sub-section, with effect from the date on which the final statement is signed by the Collector under the preceding sub-section, all rights title and interest of the person or persons whose lands are shown as excess in such statement shall stand transferred to and vest in the State Government free from all encumbrances created by such person or persons and no person shall entitled to question it in any Court.

(5) The final statement prepared under sub-section (3) above shall be published in the same manner in which a draft statement is to be published under sub-section (2) above.

"(6) Without prejudice to any action under any other provision of this Act, the State Government may, on its own motion or on application, if filed within a period of 1 (one) year from the date of publication of the final statement under sub-section (4) or from the date on which the Assam Fixation of Ceiling on Land Holdings (Amendment) Act, 1993 shall come into force, whichever is later, call for any record relating to any final statement and may pass such orders as it deems fit after giving the person or persons concerned an opportunity of being heard."

15. A conjoint reading of the aforesaid provisions of the 1956 Act reveals that the legislature has prescribed a specific statutory mechanism for determination of land held in excess of the permissible ceiling and its eventual vesting in the State Government. Section 2 of the 1956 Act identifies certain categories of land which are exempted from the operation of the Act, subject to the conditions stipulated therein. Section 4 prescribes the ceiling limit of 50 Bighas in respect of the aggregate landholding of an individual and the members of his family, whether held individually or jointly, subject to the exceptions and permissible enhancements provided therein. The said provision also incorporates safeguards against transfers and partitions intended to defeat the object of the legislation. Section 5 obligates a person holding land in excess of the prescribed ceiling to submit a return before the Collector, furnishing particulars of all lands held by him and indicating the plots which he seeks to retain within the permissible ceiling limit.

Section 7 further provides for the determination of the surplus land through a prescribed procedure. Under Sub-Section (1) thereof, the

Collector is required to prepare a draft statement indicating, *inter alia*, the total extent of land held by the person concerned, the specific plots selected for retention and the land found to be in excess of the prescribed ceiling. Such draft statement is required to be served upon the person concerned, who is afforded an opportunity to submit objections under Sub-Section (2). The objections are required to be duly considered after providing an opportunity of hearing, whereupon the statement is to be finalized in accordance with the orders passed thereon. Significantly, Sub-Section (4) of Section 7 stipulates that the rights, title and interest of the person concerned in respect of the land shown as excess in the final statement shall stand transferred to and vest in the State Government, free from encumbrances, with effect from the date on which the final statement is signed by the Collector under Sub-Section (3). Pursuant to such signing, the final statement prepared thereunder is published in terms of Sub-Section (5) of Section 7 in the Office of the Deputy Commissioner, the Sub-Divisional Officer, the Circle Sub-Deputy Collector and the Mouzadar along with copy served upon the concerned persons. Thus, the statutory scheme makes it clear that the mere identification of land as surplus in a draft statement, or the passing of an order upon objections raised thereto, does not, by itself, result in the vesting of such land in the State Government. Such vesting is a statutory consequence which follows upon the finalization and signing of the final statement in the manner prescribed under Section 7 of the 1956 Act.

It is thus evident that the determination of surplus land and the

consequential divestment of the rights, title and interest of the original landholder cannot be founded merely upon an administrative decision or an entry made in the revenue records. The statutory procedure prescribed under the 1956 Act is not an empty formality but constitutes the very foundation for lawful acquisition and vesting of surplus land in the State Government. Unless the proceedings culminate in the final statement contemplated under Section 7(3), the consequence of vesting envisaged under Section 7(4) cannot ensue. Any claim of the State Government to ownership of land purportedly acquired under the 1956 Act must, therefore, be supported by demonstrable compliance with the aforesaid statutory requirement.

16. In the present case, it appears from the materials on record that certain plots of land belonging to the predecessor-in-interest of the writ petitioners/private respondents have been recorded and treated as Government land, purportedly on the premise that the same constituted surplus land liable to be acquired under the provisions of the 1956 Act. It further appears that a draft statement had been prepared, pursuant to which late Harekrishna Sharma had submitted his objections and an order was passed on 19.06.1976 in Ceiling Case No. 372/1976. However, what is conspicuously absent is the final statement contemplated under Section 7 of the 1956 Act. In fact, upon a specific query being put to the learned counsel appearing for the appellant/State, it was fairly conceded that no final statement had ever been published. Thus, notwithstanding the passing of the aforesaid order upon the objections, the statutory proceedings have not been shown to have culminated in

the finalization of the statement in the manner prescribed under Section 7 of the 1956 Act.

17. There can be no quarrel with the proposition that the preparation of a draft statement or the passing of an order upon objections raised thereto cannot, by itself, bring about the vesting of surplus land in the State Government. Sub-Section (4) of Section 7 unequivocally provides that such vesting shall take effect from the date on which the final statement is signed by the Collector under Sub-Section (3). Therefore, the statutory vesting of land in the State Government is not an automatic consequence of its identification as surplus land in the draft statement, nor can such vesting be presumed merely because the land has subsequently been reflected in the revenue records as Government land. In the absence of a final statement duly signed by the Collector in terms of Section 7(3), the essential statutory condition for vesting under Section 7(4) remains unfulfilled. Consequently, the State Government cannot claim to have acquired title over the land in question merely on the basis of the draft ceiling proceedings or the consequential revenue entries.

18. Undoubtedly, the right to property is no longer a fundamental right; nevertheless, it continues to be a valuable constitutional right guaranteed under Article 300-A of the Constitution of India and has also been recognized as a human right. [Refer: ***Tukaram Kana Joshi & Ors. -Vs- Maharashtra Industrial Development Corporation and Ors. :: (2013) 1 SCC 353***]

19. In ***Vidya Devi -Vs- State of Himachal Pradesh & Ors. :: (2020) 2 SCC 569***, the Apex Court reiterated that a person cannot be deprived of his property except by authority of law. The constitutional protection under Article 300-A, therefore, mandates that any deprivation of private property must be supported by valid legal authority and must strictly conform to the procedure prescribed by law.

20. Furthermore, in ***Kolkata Municipal Corporation and Anorhter -Vs- Bimal Kumar Shah & Ors. :: (2024) SCC OnLine 968***, the Apex Court has elaborately explained the constitutional safeguards inherent in Article 300-A and reiterated that compulsory deprivation of property must conform to the requirements of law and the procedural safeguards governing acquisition.

Applying the aforesaid principles to the facts of the present case, this Court is of the considered view that in the absence of a final statement as contemplated under Section 7 of the 1956 Act, the State has failed to establish that the land in question had legally vested in it as surplus land. The mere fact that the land has been recorded or treated as Government land, purportedly pursuant to the ceiling proceedings, cannot cure the failure to complete the mandatory statutory process. In such circumstances, the action of treating the writ petitioners/private respondents' land as Government land, without demonstrating the completion of the statutory process culminating in vesting under Section 7(4) of the 1956 Act, cannot be sustained in law.

21. In that view of the matter, when the very final statement was not

issued under Section 7(4), the subject land could not have been legally said to have vested upon the appellant/State. Hence, the question of extinguishment of the right which have not been accrued in accordance with law does not arise, for which the authorities concerned ought not to have dismissed the applications filed by the writ petitioners/private respondents under Section 7(6) of the 1956 Act on the ground of delay.

22. Adverting now to the impugned judgment under appeal, we find that the learned Single Judge had taken note of the fact that the Revenue Department had failed to produce any final statement in connection with Ceiling Case No. 375/1976. The learned Single Judge observed that in the absence of a final statement duly signed by the Collector in terms of Section 7(3) of the 1956 Act, the question of vesting of the subject land in the State Government under Section 7(4) thereof would not arise. The learned Single Judge also took note of the fact that although the Revenue Department had claimed that certain lands had been identified as ceiling surplus and that rights had subsequently been conferred upon the third parties, no such action could have been legally undertaken in the absence of vesting of the lands in the State Government in accordance with law.

23. We have carefully considered the aforesaid findings recorded by the learned Single Judge and find no reason to take a different view. The conclusion arrived at by the learned Single Judge is founded upon the plain language of Section 7(4) of the 1956 Act, which makes the vesting of the rights, title and interest in the State Government consequential upon the signing of the final statement by the Collector under Section

7(3) thereof. In the absence of such a final statement, the subject land could not have been treated as having vested in the State Government. Consequently, the State Government could not have proceeded to allot, settle or otherwise transfer the subject land in favour of any third party on the strength of the purported ceiling proceedings.

24. In view of the above, we find no legal infirmity or illegality in the judgment passed by the learned Single Judge warranting interference in the present appeal.

Resultantly, the instant appeal, being devoid of merit, stands dismissed.

25. Interim order, if any, accordingly stands vacated.

JUDGE **CHIEF JUSTICE**

Comparing Assistant

Pranab Kumar Deka

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