

been taken by the principal employer from the contractor either by the deduction from any amount which was payable to the contractor or the amount paid by the principal employer would have become a debt payable by the contractor. Definitely, no order could have been passed directly asking the principal employer i.e. the petitioner for making the payment to the workmen who were employed by the contractor. Since the contractor himself had not been made a party in the proceedings before the Deputy Chief Labour Commissioner (Central), definitely no direction could be issued to the contractor and, therefore, the direction which had been issued to the principal employer could not have also been issued at all.

16. Further, the Court finds that there were various issues which had to be thrashed out before any order could be passed and a vague order could not have been passed directing the petitioner to ascertain as to who was working and who was not working.

17. The Court also holds that since the Appellate Authority was the Deputy Chief Labour Commissioner (Central) and the order was also passed by the Deputy Chief Labour Commissioner, no Appeal would lie.

18. With these observations, the writ petition stands allowed. The order dated 9.7.2021 passed by the Deputy Chief Labour Commissioner (Central) is quashed. The recovery etc. which might have been issued in pursuance of the order dated 9.7.2021 also stands quashed.

19. It shall be open for the respondent no. 2 to claim its dues under appropriate proceedings provided under the law.

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**(2022)02ILR A838**  
**ORIGINAL JURISDICTION**  
**CIVIL SIDE**  
**DATED: LUCKNOW 27.01.2022**

**BEFORE**

**THE HON'BLE DINESH KUMAR SINGH, J.**

Writ C No. 1003418 of 1980  
and other cases

**State Of U.P. & Anr.                      ...Petitioners**  
**Versus**  
**Sone Lal & Ors.                              ...Respondents**

**Counsel for the Petitioners:**  
C.S.C.

**Counsel for the Respondents:**

**A. UP Bhoodan Yagya Act, 1952 – Section 14 – Bhoodan Yagna Committee (BYC) – Power of BYC to distribute the land to landless agricultural labours – Permissibility – Committee formed in 1953 and distribution of land made in 1978, this distribution was made beyond period of three years – Validity challenged – Held, the Bhoodan Committee, Kheri did not have power to distribute the land amongst the respondents in the 1978 and, it was the Collector, who could have distributed the land if there was no notification issued under Section 4 of the Act, 1927 to constitute the land as 'reserved forest' – Held further, the respondents did not become the Bhumidhars on the basis of the alleged patta/lease in their favour. (Para 36 and 37)**

**Writ petition allowed. (E-1)**

**List of Cases cited:**

1. St. of U.P. Versus Mahant Avidh Nath; AIR 1977 All 192
2. St. of U.P. Vs Dy. Director of Consolidation & ors.; (1996) 5 SCC 194

(Delivered by Hon'ble Dinesh Kumar Singh, J.)

Plot No.75-H, having an area of 50 Ares as "reserved forest"; and

1 . This is the second round before this Court after the Supreme Court remanded the above writ petitions vide judgment and order dated 23.09.2010 setting-aside the judgment and order dated 04.02.1998 passed by this Court.

2. Challenge, in this bunch of writ petitions, is to the orders dated 28.02.1980 passed by the Forest Settlement Officer, Lakhimpur Kheri in Case No.85 of 1979 under Section 6/9 of The Indian Forest Act, 1927 (for short "Act, 1927") and dated 10.07.1980 passed by the District Judge, Kheri in Civil Misc. Appeal No.23 of 1980 whereby the petitioners' objection, in respect of land bearing Plot No.75-H, situated in Village Khairati Purwa, Pargana Ferozabad, Tehsil Nighasan, District Kheri, having an area of 50 Acres, was accepted and, it was directed to exclude the said area from the Notification dated 18.10.1952, as amended on 27.04.1960, declaring 1,343.87 Acres, including the land, bearing Plot No.75-H as "reserved forest".

3. The facts, which are necessary for deciding this bunch of writ petitions, are stated briefly hereunder:-

I. The Uttar Pradesh Zamindari Abolition and Land Reforms Act, 1950 (for short "Act, 1950") came into force in the State of Uttar Pradesh on 26.01.1951;

II. The State Government issued Notification under Section 4 of the Act, 1927, declaring an area of 1,343.87 Acres, situated in Village Khairati Purwa, Pargana Ferozabad, Tehsil Nighasan, District Kheri, including the land bearing

III. The said notification was amended on 27.04.1960 and one Mr. Shyam Lal, Deputy Collector was appointed as Forest Settlement Officer for District Kheri in exercise of powers conferred by Section 17 of the Act, 1927. The Additional Commissioner, Lucknow Division was appointed and empowered to hear appeals from the orders of the Forest Settlement Officer. The boundaries of the reserved forest so declared was also demarcated.

4. One Kunwar Shivendra Bahadur Singh was the recorded Sirdar in respect of 50 Acres land of Plot No. 75-H in Khatauni of 1361 Fasali.

5. It is said that the said land was recorded as Bhumidhari of Kunwar Shivendra Bahadur Singh, who donated this land to Bhoodan Committee, Kheri and Tehsildar Nighasan passed order dated 20.10.1957, directing mutation of the said land in favour of Bhoodan Committee, Kheri.

6. The respondents claimed that they had been given this land by the Bhoodan Committee, Kheri in the year 1978 and, vide order dated 30.06.1978, the Tehsildar Nighasan had directed for recording the name of the respondents in place of Bhoodan Committee.

7. On the date, when the Notification dated 27.04.1960 was issued, the respondents had no right, title or interest over land in question inasmuch, as allegedly, they had been given the land in the year 1978 by the Bhoodan Committee, which was donated by Kunwar Shivendra

Bahadur Singh. After their names came to be recorded in the revenue record, they filed objections belatedly on 14.06.1979 against the Notification dated 27.04.1960. The respondents claimed to be Sirdar of the land in dispute and, claimed that the land was in their cultivatory possession.

8. Written reply, on behalf of the State, was filed on 21.08.1979 to the objections of the respondents, stating therein that the entire land in Village Khairati Purwa was forest land and, that notification issued under Section 4 of the Act, 1927 was legal and valid. The Forest Settlement Officer, on the basis of the pleadings, framed the following issues for decision:-

a. whether the objectors were Sirdars of the land in dispute on the basis of patta/lease granted by the Bhoodan Committee and, was it their holding?

b. whether Bhoodan Committee was competent to grant patta/lease and, whether the alleged patta/lease was valid one?

c. whether the Notification under Section 4 of the Act, 1927 in respect of the land in dispute was illegal and invalid? If yes, then its effect?

c. whether the objections are time-barred? If so, what is its effect?

9. The Forest Settlement Officer held that the land in question was recorded in the name of Bhoodan Committee vide order of Tehsildar dated 20.10.1957 and, thereafter name of Bhoodan Committee was got registered in 1362-65 Fasali. It was held that the Notification under Section 4 of the Act, 1927 came to be issued on 27.04.1960. The land was holding of

Bhoodan Committee, which had right to execute patta/lease in favour of the respondents. On the basis of the patta/lease given to the respondents by the Bhoodan Committee, the objectors became Bhumidhars of the land in dispute. It was further held that the land was initially Bhumidhari land of Kunwar Shivendra Bahadur Singh and, before the Notification issued under Section 4 of the Act, 1927, it was registered in the name of Bhoodan Committee, therefore, the Notification under Section 4 of the Act, 1927, in respect of the said land, was illegal and invalid and, the said land could not be declared as 'reserved forest'. In respect of the limitation, it was held that since the Notification under Section 20 of the Act, 1927 was not issued in respect of the Village Khairati Purwa, therefore, objections could be treated to be on time.

10. Aggrieved by the said order passed by the Forest Settlement Officer on 28.02.1980, the State preferred appeals before the District Judge, Kheri. The appellate Authority, however, vide impugned judgment and order dated 10.07.1980 dismissed the said appeals and, held that the Forest Settlement Officer rightly held that the claimants/ respondents had sufficient cause for not preferring their claims within time fixed under Section 6 and, rightly entertained the objectors' claim. It was further held that there was no material to suggest that the land was forest land or waste land in the year 1960 when the State issued notification, declaring the land as reserved forest. It was further held that till the year 1953-54, the land being Plot No.75-H, area 50 Acres was Bhumidhari of Kunwar Shivendra Bahadur Singh. He was Bhumidhar of the land in question prior to 01.07.1952 i.e. prior to the date of vesting of the land under the Act,

1950. This land was recorded in his name till 1364 Fasali and, vide order dated 20.10.1957 passed by the Tehsildar Nighasan, name of Bhoodan Committee was mutated in respect of the said land. It was further held that though no Bhoodan declaration by Kunwar Shivendra Bahadur Singh, donating the land bearing Plot No. 75-H in favour of Bhoodan Committee was filed, as required under Section 10 of The Uttar Pradesh Bhoodan Yagya Act, 1952 (for short "Act, 1952"), but the order dated 20.10.1957 of the Tehsildar, directing mutation of the land in favour of Bhoodan Committee would show that the land in question had vested in Bhoodan Committee sometimes in the year 1957 and, it had become Bhumidhar in respect of the land in question and, was entitled to grant it to land-less persons under Section 14 of the Act, 1952. This land was not forest land or waste land in the year 1960. The Notification dated 27.04.1960 issued by the State Government, declaring the land in question as reserved forest was ultra-vires of its jurisdiction, void and ineffective. The appellate Authority upheld the order passed by the Forest Settlement Officer.

11. Aggrieved by the said decisions, passed by the appellate Authority as well as Forest Settlement Officer, the present writ petitions have been filed.

12. Initially, this Court vide judgment and order dated 04.02.1998 had dismissed the writ petitions, however, the Supreme Court vide judgment and order dated 23.09.2010 had allowed Civil Appeal Nos. 4608-4616 of 2004 and, remanded the matter to this Court for fresh decision, in accordance with law.

13. Mr. Madan Mohan Pandey, learned Additional Advocate General, assisted by Mr. H.P. Srivastava and Mr J.P.

Maurya, learned Additional Chief Standing Counsels, appearing for the petitioners-State, has submitted that the Forest Settlement Officer as well as the learned District Judge had condoned the delay of 19 years in preferring the claims by the respondents under Section 6 of the Act, 1927, which was much beyond the period of 3 months prescribed under Section 6 of the Act, 1927. No application for condonation of delay was filed by the respondents along with the claim and, without recording any cogent and credible reason of satisfaction, as required under Section-9, the objections were decided on merits in favour of the respondents. It has been further submitted that the belated claim of the respondents after 19 years from the date of the Notification under Section 4 of the Act, 1927 cannot be said to be within the reasonable period of time. It has been further submitted that it is well settled that if an interested person approaches the Court beyond reasonable period of time with inordinate and unexplained delay, the claim is to be rejected as time-barred.

14. It has been further submitted by Mr. Madan Mohan Pandey, learned Additional Advocate General, that the respondents' contention that the Notification dated 27.04.1960 was not within their knowledge, should not have been accepted inasmuch as it could not be presumed that the respondents were not aware of the proceedings of declaring the land as "reserved forest" as huge chunk of land, ad-measuring 1,343.87 Acres, was notified, including the land bearing Plot No.75-H by means of Notification dated 27.04.1960 and, the land was entrusted to the Forest Department for its management. It has also been submitted by Mr. Pandey that in 1361 Fasali the land was recorded as

"Banjar' and, it was not in cultivatory possession of Kunwar Shivendra Bahadur Singh, as held by the Forest Settlement Officer and, the appellate Authority. The land, being Banjar land, got vested in the State on the date of vesting i.e. 01.07.1952. It has been further submitted that the finding recorded by the two Authorities that the land was given to the respondents on patta/lease by Bhoodan Committee, Lakhimpur Kheri and, they acquired Bhumidhari rights over the land and were in cultivatory possession is wholly incorrect and wrong. The respondents never produced any patta/lease allegedly executed in their favour by the Bhoodan Committee, Lakhimpur Kheri. It is well settled proposition of law that entries, in revenue record, do not confer ownership and title over the land. Merely on the basis of revenue entries of the year 1978, the two authorities have accepted the claims of the respondents. After coming into force the provisions of Act, 1950, the land, which was recorded as 'Banjar' got vested in the State on 01.07.1952 and, thereafter neither Kunwar Shivendra Bahadur Singh nor Bhoodan Committee had any right for transferring this land in favour of the respondents as they had no right, title or interest over the land. It has been further submitted that by means of Notification dated 11.10.1952 issued under Section 117 of the Act, 1950, the Banjar land got vested in the Gaon-Sabha and, therefore, Bhoodan Committee did not have any right over the land to grant patta/lease in favour of the respondents and, any revenue entry made in favour of the respondents, would not confer any right in their favour.

15. By Notification dated 27.04.1960 issued under Section 4 of the Act, 1927 in respect of the land, ad-measuring 1,343.87 Acres, including the land in dispute,

became the 'reserved forest land' and two authorities have grossly erred in not taking into account the Notification dated 11.10.1952.

16. Kunwar Shivendra Bahadur Singh's Bhumidhari right might be higher right than the Sirdar/Asami, but still he was a tenure holder under the State, which was proprietor of the land in the areas in which the Act, 1950 was applied with effect from 01.07.1952. The Banjar land is the land under the management by the Gaon-Sabha and, it is State land and, therefore, declaration of the land as reserved forest by issuing Notification under Section 4 of the Act, 1927 cannot be held to be illegal or invalid.

17. It has been further submitted that the finding recorded by the Forest Settlement Officer that since Notification under Section 20 of the Act, 1927 was not issued in respect of the Village Khairati Purwa, the claim filed by the respondents under Section-6 of the Act, 1927 would be held to be within time is wholly incorrect and against the decisions in several cases.

18. The Forest Settlement Officer had ignored the provisions of Section-5 of the Act, 1927 which bars accrual of any right after issuance of notification under Section-4 of the Act, 1927 and, wrongly allowed the claims of the respondents on account of absence of Notification under Section-20 of the Act, 1927. It has been further submitted that in the Khatauni of 1360 Fasali, the land is mentioned as 'Jangle Jhadi' and, thus, it was already a forest land when the Notification dated 27.04.1960 under Section-4 of the Act, 1927 was issued by the Government, declaring the land, including the land in dispute, as 'reserved forest'.

19. It has been further submitted by the learned Additional Advocate General that in respect of the same land, this Court vide judgment and order dated 28.07.2006 allowed Writ Petition No.4213 (M/S) of 1982 and, held that since Notification dated 27.04.1960 issued under Section-4 (1)(C) of the Act, 1927 had not been challenged by any authority, the respondents could not be held to be in authorized occupation of the land in question and, therefore, the proceedings for ejectment were perfectly legal.

20. On the other hand, Dr. R.K. Srivastava, learned counsel for the respondents, has submitted that in the present petitions, challenge has been made to the order passed by the Forest Settlement Officer, Kheri as well as to the order passed by the appellate Authority/District Judge and, therefore, the writ petitions under Article 226 of the Constitution of India are not maintainable and, the same are liable to be dismissed.

21. It is submitted that Kunwar Shivendra Bahadur Singh was recorded as Bhumidhar of land bearing Plot No. 75-H situated in Village Khairati Purwa and, he donated the said land to Bhoodan Committee, Kheri and Bhoodan Committee came to be recorded in the revenue record on the basis of the order dated 20.04.1957 passed by the Tehsildar Nighasan. The Act, 1952 has overriding effect and, its provisions will have effect notwithstanding anything contained in the Act, 1950, the Act, 1939 and the Act, 1927 or any law in the matter of donation of land to Bhoodan Committee. The Forest Settlement Officer, the Competent authority under the Act, 1927, after examining the records of the case and, the provisions of the Act, 1952 had sustained the donation of land to

Bhoodan Committee and, subsequent allotment of land to the respondents, who are agricultural labourers.

22. The orders passed by the Forest Settlement Officer and the appellate Authority i.e. the District Judge are well reasoned orders and, they need not be interfered with by this Court. It has been further submitted that the purpose of limitation is not to destroy the right of a person, it is the discretion of the Court to condone the delay, provided delay is bona fide and, not a device to defeat the right of other. The Forest Settlement Officer had given a finding that the objections were bona fide and did not smack of any manipulation. In view thereof, there is no ground to interfere in the well reasoned finding of the Forest Settlement Officer for condonation of delay in filing the objections by the respondents. Further, the Court is required to adjudicate the dispute and render substantial justice. The procedure is only hand-made to render the substantial justice. It has been further submitted that this Court in **AIR 1977 All 192 (State of U.P. Versus Mahant Avidh Nath)** has held that right to file objections could not be extinguished and, the same could be filed before the Notification is issued under Section-20 of the Act, 1927.

23. Before advertng to the submissions advanced by the learned counsel for the parties, it would be relevant to take note of the relevant provisions of the Act, 1927, Act, 1950, as well as Act, 1952.

24. Section-3 of the Act, 1927 empowers the State Government to constitute any forest land or waste land, which is the property of Government or

over which the Government has proprietary rights, or to the whole or any part of the forest produce of which the Government is entitled, a reserved forest. The provisions of Section-3 of the Act, 1927 is extracted hereunder:-

**"3. Power to reserve forests.--**

*The State Government may constitute any forest land or waste land or any other land (not being land for the time being comprised in any holding or in any village abadi) which is the property of the Government or over which the Government has proprietary rights, or to the whole or any part of the forest produce of which the Government is entitled, a reserved forest in the manner hereinafter provided.*

*Explanation.--The expression "holding" shall have the meaning assigned to it in U.P. Tenancy Act, 1939, and the expression "village abadi" shall have the meaning assigned to it in the U.P. Village Abadi Act, 1947."*

25. If the State Government decides to constitute any land as "reserved forest", it shall issue a notification in the official gazette. Section 4 of the Act, 1927 is extracted hereunder:-

**"4. Notification by [State Government].--** (1) *Whenever it has been decided to constitute any land a reserved forest, the [State Government] shall issue a notification in the Official Gazette--*

*(a) declaring that it has been decided to constitute such land a reserved forest;*

*(b) specifying, as nearly as possible, the situation and limits of such land; and*

*(c) appointing an officer (hereinafter called "the Forest Settlement-officer") to inquire into and determine the existence, nature and extent of any rights alleged to exist in favour of any person in or over any land comprised within such limits or in or over any forest-produce, and to deal with the same as provided in this Chapter.*

*Explanation.--For the purpose of clause (b), it shall be sufficient to describe the limits of the forest by roads, rivers, ridges or other well-known or readily intelligible boundaries.*

*(2) The officer appointed under clause (c) of sub-section (1) shall ordinarily be a person not holding any forest-office except that of Forest Settlement-officer.*

*(3) Nothing in this section shall prevent the [State Government] from appointing any number of officers not exceeding three, not more than one of whom shall be a person holding any forest-office except as aforesaid, to perform the duties of a Forest Settlement-officer under this Act."*

26. Section-5 of the Act, 1927 provides that after issuance of notification under section 4, no right shall be acquired in or over the land comprised in such notification, except by succession or under a grant or a contract with the Government. It, however, prohibits fresh clearing for cultivation or for any other purpose except in accordance with such rules as may be made by the State Government in this behalf.

27. One of the issues, which would be required to be considered, is that whether

the Bhoodan Committee, in whose name the land in dispute got mutated in the year 1957, could have any right to grant patta/lease over the land in favour of the respondents after issuance of the Notification Under Section-4 of the Act, 1927.

28. Sections-4, 6, 8 and 13 of the Act, 1950 are regarding vesting of estates in State and consequence of vesting, which are extracted hereunder:-

**Section 4-Vesting of estates in the State.** - (1) As soon as may be after the commencement of this Act, the State Government may, by notification, declare that, as from a [date] to be specified, all estates situate in Uttar Pradesh shall vest in the State and as from the beginning of the date so specified (hereinafter called the date of vesting), all such estates shall stand transferred to and vest, except as hereinafter provided, in the State free from all encumbrances.

(2) It shall be lawful for the State Government, if it so considers necessary, to issue, from time to time, the notification referred to in sub-section (1) in respect only of such area or areas as may be specified and all the provisions of subsection (1) shall be applicable to and in the case of every such notification.

**Section 6- Consequences of the vesting of an estate in the State.** - When the notification under Section 4 has been published in the Gazette, then, notwithstanding anything contained in any contract or document or in any other law for the time being in force and save as otherwise provided in this Act, the consequences as hereinafter set forth shall, from the beginning of the date of vesting,

*ensure in the area to which the notification relates, namely :*

*(a) all rights, title and interest of all the intermediaries-*

*(i) in every estate in such area including land (cultivable or barren), grove-land, forests whether within or outside village boundaries trees (other than trees in village abadi, holding or grove), fisheries, [\* \* \*], tanks, ponds, water-channels, ferries, pathways, abadi sites, hats, bazars and melas (other than hats, bazars and melas held upon land to which Clauses (a) to (c) of sub-section (1) of Section 18 apply; and*

*(ii) in all sub-soil in such estates including rights, if any, in mines and minerals, whether being worked or not;*

*shall cease and be vested in the State of Uttar Pradesh free from all encumbrances;*

*(b) all grants and confirmations of title of or to land in any estate so acquired, or of or to any right or privilege in respect of such land or its land revenue shall, whether liable to resumption or not, determine;*

*(c) (i) all rents, cesses, local rates and sayar in respect of any estate or holding therein for any period after the date of vesting and which, but for the acquisition would be payable to an intermediary, shall vest in and be payable to the State Government and not to the intermediary and any payment made in contravention of this clause shall not be valid discharge of the person liable to pay the same;*



(ii) where under an agreement or contract made before the date of vesting any rent, cess, local rate or sayar for any period after the said date has been paid to or compounded or released by an intermediary the same shall, notwithstanding the agreement or the contract, be re-coverable by the State Government from the intermediary and may without prejudice to any other mode of recovery, be realized by deducting the amount from the compensation money payable to such intermediary under Chapter III;

(d) all arrears of revenue, cesses or other dues in respect of any estate so acquired and due from the intermediary [or an arrear on account of tax on agricultural income assessed under the U.P. Agricultural Income Tax Act, 1948] (U.P. Act III of 1949) for any period prior to the date of vesting shall continue to be recoverable from such intermediary and may, without prejudice to any other mode of recovery, be realized by deducting the amount from the compensation money payable to such intermediary under Chapter III;

(e) all amounts ordered to be paid by an intermediary to the State Government under Sections 27 and 28 of the U.P. Encumbered Estates Act, 1934 (U.P. Act XXV of 1934) and all amounts due from him under the Land Improvement Loans Act, 1883 (U.P. Act XIX of 1883), or the Agricultural Loans, Act, 1884 (U.P. Act XIX of 1884), shall notwithstanding any thing contained in the said enactments, become due forthwith and may, without prejudice to any other mode of recovery provided therefor, be realized by deducting the amount from the compensation money

payable to such intermediary under Chapter III;

(f) the interest of the intermediary so acquired in any estate shall not be liable to attachment or sale in execution of any decree or other process of any Court, Civil or Revenue and any attachment existing at the date of vesting or any order for attachment passed before such date shall, subject to the provisions of Section 73 of the Transfer of Property Act, 1882 (IV of 1882), cease to be in force;

(g)(i) every mortgage with possession existing on any estate or part of an estate on the date immediately preceding the date of vesting shall, to the extent of the amount secured on such estate or part, be deemed, without prejudice to the rights of the State Government under Section 4, to have been substituted by a simple mortgage;

(ii) notwithstanding anything contained in the mortgage deed or any other agreement, the amount declared due on a simple mortgage substituted under sub-clause (i) shall carry such rate of interest and from such date as may be prescribed;

(h) no claim or liability enforceable or incurred before the date of vesting by or against such As to whether h intermediary for any money, which is charged on or is secured by mortgage of such estate or part thereof shall, except as provided in Section 73 of the Transfer of Property Act, 1882 (IV of 1882), be enforceable against his interest in the estate;

(i) all suits and proceedings of the nature to be prescribed pending in any

*Court at the date of vesting and all proceedings upon any decree or order passed in any such suit or proceeding previous to the date of vesting shall be stayed;*

*(j) all mahals and their sub-divisions existing on the date immediately preceding the date of vesting and all engagements for the payment of land revenue or rent by a proprietor, under-proprietor, sub-proprietor, co-sharer or lambardar as such shall determine and cease to be in force.*

**Section 8-Contract entered into after August 8, 1946, to become void from the date of vesting.** - Any contract for grazing or gathering of produce from land or the collection of forest produce or fish from any forest or fisheries entered As to whether into after the eighth day of August, 1946, between an intermediary and any other person in respect of any private forest, fisheries or land lying in such estate shall become void with effect from the date of vesting.

**Section 13- Estate in possession of a thekedar.** - (1) Subject to the provisions of Section 12 and sub-section (2) of this section a thekedar of an estate or share therein shall, with effect from the date of vesting, cease to have any right to hold or possess as such any land in such estate.

29. The Act, 1952, which received the assent of the President on 27.02.1953 and, was made applicable in the State of Uttar Pradesh from the date of its publication i.e. 05.03.1953, is to facilitate donation and settlement of lands in connection with the Bhoodan Yagna initiated by Sri Acharaya Vinoba Bhave. Section-3 of the Act, 1952

provides for establishment of a Bhoodan Yagna Committee for the State having perpetual succession which shall be a body corporate vested with the capacity of suing and being sued in its corporate names acquiring, holding, administering and transferring property, both movable and immovable and of entering into contracts.

30. Section-7 of the Act, 1952 provides that it shall be duty of the committee to administer all lands vested in it for the benefit of the Bhoodan Yagna.

31. Section-8 of the Act, 1952 provides that Notwithstanding anything contained in any law for the time being in force, any person, being the owner of land, may donate and grant such land to the "Bhoodan Yagna" by a declaration in writing in that behalf in the manner prescribed and, this declaration is required to be filed with the Tehsildar as soon as it is made.

32. Section-10 of the Act, 1952 again provides that notwithstanding anything contained in the U.P. Zamindari Abolition and Land Reforms Act, 1950, U.P. Tenancy Act, 1939 or any other law relating to land tenure as may be applicable, an owner shall be competent for purposes of this Act to donate the land held by him as such to the Bhoodan Yagna.

33. Section-11 of the Act, 1952 provides that any person whose interests are affected by the Bhoodan declaration made under section-8 may within thirty days of the publication of the declaration, file objections on the same before the Tehsildar. If the Tehsildar confirms the Bhoodan declaration then notwithstanding anything contained in any law for the time being in force, all the rights, title and

interest of the owner in such land shall stand transferred to and vest in the Bhoodan Committee for purposes of the Bhoodan Yagna.

34. Section-12 of the Act, 1952 provides that certain lands cannot be donated by the owner as defined in the said sections. Section-12 of the Act, 1952 is extracted hereunder:-

*"12. Notwithstanding anything contained in any law an owner shall not, for purposes of this Act, be entitled to donate the land falling in any of the following classes, namely:-*

*(a) lands which on the date of donation are recorded or by usage treated as common pasture lands, cremation or burial grounds, tank, pathway or threshing floor; and*

*(b) land in which the interest of the owner is limited to the life-time; and*

*(c) such other land as the State Government may by notification in the Gazette specify.*

35. Section-14 of the Act, 1952 empowers to Bhoodan Committee to grant lands which have vested in it to the landless agricultural labourers and grantee of the lands acquires in such lands rights and liabilities of a Bhumidhar with non-transferable rights. Sub-section (2) of Section 14 of the Act, 1952 provides that if the Committee fails to grant any land in accordance with sub-section (1) within a period of three years from the date of vesting or commencement of the Uttar Pradesh Bhoodan Yagna (Amendment) Act, 1975, whichever is later, the Collector may himself grant such land to the landless agricultural labourers in the manner prescribed and thereupon the grantee shall acquire the rights and liabilities as mentioned in sub-section (1) of Section 14 of

the Act, 1952. Section 14 of the Act, 1952 is extracted hereunder:-

***"14. Grant of land to landless persons. - [(1)] The Committee or such other authority or person as the Committee with the approval of the State Government, specify either generally or in respect of any area, may, in the manner prescribed, grant lands which have vested in it to the [landless agricultural labourers] and the grantee of the land shall-***

*(i) where the land is situate in any state which has vested in the State Government under and in accordance with section 4 of the U.P. Zamindari Abolition and Land Reforms Act, 1950, acquire in such land the rights and the liabilities of a [Bhumidhar with non-transferable rights] and;*

*(ii) where it is situate in any other area, acquire therein such rights and liabilities and subject to such conditions, restrictions and limitations as may be prescribed and they shall have effect, any law to the contrary notwithstanding.*

*[(2) Where the committee or other authority or person as aforesaid fails to grant any land in accordance with sub-section (1) within a period of three years from the date of vesting of such land in the committee or from the date of commencement of the Uttar Pradesh Bhoodan Yagna (Amendment) Act, 1975, whichever is later, the Collector may himself grant such land to the landless agricultural labourers in the manner prescribed, and thereupon the grantee shall acquire the rights and liabilities mentioned in sub-section (1) as if the grant were made by the committee itself.*

*(3) [\*\*\*]*

*(4) In making grant of land under this section, the committee or other authority or person as aforesaid or the Collector, as the case may be, shall observe the following principles:*

*(a) At least fifty per cent of the land available for grant shall be granted to persons belonging to the Scheduled Castes, Scheduled Tribes and persons belonging to the Kol, Pathari, Khairwar, Baiga, Dharikar, Panika and Gond Tribes and such other tribes as the State Government on the recommendation of the Committee may notify in this behalf;*

*(b) The land situate in one village shall, as far as possible, be granted to persons residing in that very village.*

*Explanation. - For the purposes of this section; the expression "land-less agricultural labourer" means a person whose main source of livelihood is agricultural labour or cultivation and who at the relevant time either holds no land or holds land not exceeding 0.40468564 hectares (one acre) in Uttar Pradesh as a bhumidhar, [\* \* \*] asami or Government lessee."*

36. The case of the respondents is that the land in dispute was donated by Kunwar Shivendra Bahadur Singh in favour of Bhoodan Committee, Kheri in the year 1957. The Committee was, therefore, required to have distributed this land in favour of landless agricultural labourers within 3 years as provided under sub-section (2) of the Act, 1939. According to the respondents, they were distributed the land by the Bhoodan Committee, Kheri in the year 1978. Considering the provisions of sub-section (2) of Section-14 of the Act, 1939, the Bhoodan Committee, Kheri did

not have power to distribute the land amongst the respondents in the 1978 and, it was the Collector, who could have distributed the land if there was no notification issued under Section-4 of the Act, 1927 to constitute the land as "reserved forest. It is important to take note of the fact that Bhoodan Committee never filed any objection to the notification issued under Section-4 of the Act, 1927 in respect of the land in question. The respondents, after they got their names mutated in the year 1978-79, came before the Forest Settlement Officer and filed objections in the year 1979. Once, it is held that the Bhoodan Committee did not have any right, title or interest over the land when allegedly the patta/lease were granted in favour of the respondents and, their objections could not have been entertained.

37. The respondents, on the basis of the alleged patta/lease in their favour, did not become the Bhumidhars and, even if it is assumed that the patta/lease, though no such patta/lease has been produced by them, was valid on the basis of which their names got mutated in the revenue record, they became only tenure holders and, proprietary rights in the lands vested in the State. The Supreme Court in **(1996) 5 SCC 194 (State of U.P. Vs. Dy. Director of Consolidation and others)** has held that a person, who was holding the land as Sirdar, was not vested with proprietary rights under the Act, 1950. He was a tenure-holder and the proprietary rights vested with the State. Paragraphs- 6, 7 and 8 of State of U.P. Vs. Dy. Director of Consolidation and others (supra), which are relevant, are extracted hereunder:-

*"6. This Court in Mahendra Lal Jaini Vs. State of U.P. dealt with an identical question. Mahendra Lal Jaini, in*

*a petition under Article 32 of the Constitution of India, contended before this Court that he being a Bhumidhar in possession, the provisions of (the Forest Act, 1927) would not apply to the said land. Repelling the contention this Court held that though Bhumidhars have higher rights than Sirdars and Asamis, they were still tenure-holders under the State which was proprietor of the land in the areas to which the Abolition Act applied. It was further held that, even if it was presumed that the petitioner Mahendra Lal Jaini was a Bhumidhar, he could not claim to be the proprietor of the land. It was held that the provisions of the Act would be applicable to the land in dispute. It would be useful to reproduce the relevant part from the judgment of this Court in Mahendra Lals case :*

*"It is, however, urged on behalf of the petitioner that he claims to be the proprietor of this land as a bhumidhar because of certain provisions in the Act. There was no such proprietary right as bhumidhari right before the Abolition Act. The Abolition Act did away with all proprietary rights in the area to which it applied and created three classes of tenure by Section 129; Bhumidhar, Sirdar and Asami, which were unknown before. Thus Bhumidhar, Sirdar and Asami are all tenure-holders under the Abolition Act and they hold their tenure under the State in which the proprietary right vested under Section 6. It is true that Bhumidhars have certain wider rights in their tenures as compared to Sirdars; similarly Sirdars have wider rights as compared to asamis, but nonetheless all the three are mere tenure-holders-with varying rights - under the State which is the proprietor of the entire land in the State to which the Abolition Act applied. It is not disputed that*

*the Abolition Act applies to the land in dispute and therefore the State is the proprietor of the land in dispute and the petitioner even if he were a Bhumidhar would still be a tenure-holder..... The petitioner therefore even if he is presumed to be a Bhumidhar cannot claim to be a proprietor to whom Chap. II of the Forest Act does not apply, and therefore Chap. V-A, as originally enacted, would not apply: (See in this connection, Mst. Govindi v. State of U.P.). As we have already pointed out Sections 4 and 11 give power for determination of all rights subordinate to those of a proprietor, and as the right of the Bhumidhar is that of a tenure-holder, subordinate to the State, which is the proprietor of the land in dispute, it will be open to the Forest Settlement Officer to consider the claim made to the land in dispute by the petitioner, if he claims to be a Bhumidhar."*

*7. It is thus obvious that a person who was holding the land as Sirdar was not vested with proprietary rights under the Abolition Act. He was a tenure- holder and the proprietary rights vested with the State. The High Court, therefore, fell into patent error in assuming that by virtue of their status as Sirdars the respondents were proprietors of the land. The State being the proprietor of the land under the Abolition Act it was justified in issuing the notification under Section 4 of the Act.*

*8. The nature of the land - whether covered by Section 3 of the Act or not - could only be determined on the date of the notification under Section 4 of the Act which was issued on 29-3-1954. Neither the consolidation authorities nor the High Court have gone into the question as to what was the nature of the land on the relevant date. The consolidation authorities*

*recorded their findings in the year 1968-69. They were wholly oblivious of the nature of the land 14-15 years back in the year 1954."*

38. As mentioned above, in Khatauni of 1351 Fasali, corresponding to 1953, which was filed by the respondents before the Forest Settlement Officer, the nature of the land was mentioned as "Banjar". Once the notification under Section-4 of the Act, 1927 was issued on 27.04.1960, the land bearing Plot No.75-H had ceased to be the holding inasmuch as it had been given to Gaon-Sabha. Such land could be notified as reserved forest under Section-4 of the Act, 1927 and, thereafter the Bhoodan Committee had no right, title or interest over the land and, the said land could not be held to be holding of the Bhoodan Committee in view of provisions of Section-5 of the Act, 1927.

39. Once the notification was issued under Section-4 of the Act, 1927, no right could have been acquired in or over the land comprised in such notification except by succession or under a grant or contract in writing made or entered into by or on behalf of the Government or some person in whom such right was vested when the notification was issued. No fresh clearing for cultivation or for any other purpose could have been made.

40. In view of the aforesaid discussion, it is held that the respondents, who claimed to have been allotted patta/lease by the Bhoodan Committee in the year 1978 and their names got mutated in the year 1978, had no right, title or interest over the land in question inasmuch as after notification dated 27.04.1960 under Section-4 of the Act, 1927 was issued, the land could not have been transferred by

Bhoodan Committee in view of the bar created under Section-5 of the Act, 1927. Further, even otherwise the Bhoodan Committee ceased to have any right to transfer this land in favour of any person after three years from 1957 to 1960. Even otherwise, the land was recorded as "Banjar" in the revenue record and it got vested in the Gaon-Sabha. The two authorities have fallen in gross error of facts and law in directing to exclude the land in question bearing Plot No.75-H situated in Village Khairati Purwa, Pargana Ferozabad, Tehsil Nighasan, District Kheri from the boundaries of the reserved forest from the Notification dated 27.04.1960.

41. Thus, the writ petitions are **allowed**. Consequently, the impugned orders are quashed.

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**(2022)02ILR A851**

**ORIGINAL JURISDICTION**

**CIVIL SIDE**

**DATED: LUCKNOW 27.01.2022**

**BEFORE**

**THE HON'BLE DINESH KUMAR SINGH, J.**

Writ C No. 1003453 of 1980

&

Writ C No. 1003454 of 1980

**State Of U.P. & Anr.**

**...Petitioners**

**Versus**

**Chunnu & Ors.**

**...Respondents**

**Counsel for the Petitioners:**

C.S.C.

**Counsel for the Respondents:**

Dr. R.K. Srivastava, C.S.C.

**A. Indian Forest Act, 1927 – Section 4 – Land, in dispute, was notified under the Act – Adjudication by the Consolidation authority – Permissibility – Jurisdiction of**