



HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - C No. - 19612 of 2018

AFR

Reserved on 24.11.2025

Delivered on 25.03.2026

Kumbha Karan

.....Petitioner(s)

Versus

State of U P and 2 others

.....Respondent(s)

Counsel for Petitioner(s)	:	Dhiraj Srivastava, Raj Karan Yadav, Yadvendra Kumar Yadav
Counsel for Respondent(s)	:	C.S.C., Raj Mohan Upadhyay, Ram Raj Singh

Along with :

- | | | | |
|----|---|--------|----------------|
| 1. | Writ - C No. 8237 of 2017:
Rajendra Prasad | Versus | ...Petitioner |
| | State of U.P. and 2 others | | ...Respondents |
| 2. | Writ - C No. 8238 of 2017:
Jamuna Prasad and 3 others | Versus | ...Petitioners |
| | State of U.P. and 2 others | | ...Respondents |
| 3. | Writ - C No. 8242 of 2017:
Ramdev and 3 others | Versus | ...Petitioners |
| | State of U.P. and 2 others | | ...Respondents |
| 4. | Writ - C No. 26381 of 2017:
Brij Lal | Versus | ...Petitioner |
| | State of U.P. and 2 others | | ...Respondents |
| 5. | Writ - C No. 6765 of 2018:
Mewa Lal Yadav | Versus | ...Petitioner |
| | State of U.P and 2 Other | | ...Respondents |

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|-----|---|--------|----------------|
| | Writ - C No. 6926 of 2016:
Mahib Ulla | | ...Petitioner |
| 6. | State of U.P. and 2 others | Versus | ...Respondents |
| | Writ - C No. 6679 of 2018:
Ram Sumer | | ...Petitioner |
| 7. | State of U.P. and 3 others | Versus | ...Respondents |
| | Writ - C No. 6701 of 2018:
Ram Awadh | | ...Petitioner |
| 8. | State of U.P. and 3 others | Versus | ...Respondents |
| | Writ - C No. 11225 of 2018:
Raghvendra Kumar Yadav and 2 others | | ...Petitioners |
| 9. | State of U P and 2 others | Versus | ...Respondents |
| | Writ - C No. 11226 of 2018:
Pushpa Devi and another | | ...Petitioners |
| 10. | State of U P and 2 others | Versus | ...Respondents |
| | Writ - C No. 19678 of 2018:
Buddhan Prasad | | ...Petitioner |
| 11. | State of U P and 2 others | Versus | ...Respondents |
| | Writ - C No. 19694 of 2018:
Devendra Kumar Jaishwal | | ...Petitioner |
| 12. | State of U P and 2 others | Versus | ...Respondents |
| | Writ - C No. 19800 of 2018:
Leelawati | | ...Petitioner |
| 13. | State of U P and 2 others | Versus | ...Respondents |
| | Writ - C No. 29963 of 2018:
Ram Lakhnan | | ...Petitioner |
| 14. | State of U.P. and 2 others | Versus | ...Respondents |
| | Writ - C No. 34357 of 2018:
Kunvar Bharat Singh and 3 others | | ...Petitioners |
| 15. | State of U P and 2 others | Versus | ...Respondents |
| 16. | Writ - C No. 36216 of 2019:
Matru | | ...Petitioner |
| | | Versus | |

State of U.P. and 3 others

...Respondents

Writ - C No. 36927 of 2019:

Ram Chandra & Ors.

...Petitioner

17.

Versus

State of U.P. & others

...Respondents

Writ - C No. 13925 of 2021:

Bhanu Pratap Singh

...Petitioner

18.

Versus

State of U.P. Through Secretary Urban Land Ceiling / Avas and 3 others

...Respondents

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

(Per; Hon'ble Sudhanshu Chauhan, J.)

1. Heard Sri Raj Karan Yadav, learned counsel for the petitioner, Sri M.C. Chaturvedi, learned Senior Advocate assisted by Sri Abhinav Krishan Srivastava, learned counsel for the Prayagraj Development Authority and Sri Rajeshwar Tripathi, learned Chief Standing Counsel II for State.

2. The bunch of present writ petitions arise out of proceedings under the Urban Land (Ceiling and Regulation) Act, 1976 (hereinafter referred to as the "the Act, 1976"). The Act, 1976 was repealed by Urban Land (Ceiling and Regulation) Repeal Act, 1999 (hereinafter referred to as the "the Repeal Act, 1999") and the Repeal Act, 1999 came into force in the State of Uttar Pradesh on 18.03.1999. All the writ petitions pertain to erstwhile District-Allahabad, now Prayagraj. In view of the similitude of controversy involved and commonality of dispute, these writ petitions are being decided by this common judgment and order. Amongst this bunch of writ petitions, Writ-C No. 19612 of 2018 (Kumbha Karan Vs. State of U.P. & Ors.) is the leading case but the relevant factual aspects of all the writ petitions are being narrated briefly along with the facts of the leading case as contained hereunder ;

(3.1) Writ-C No. 19612 of 2018 (Kumbha Karan Vs. State of U.P. & Ors.)

(a) By means of this writ petition, the petitioner has prayed for the following reliefs:-

“(i) issue a writ order or direction in the nature of Mandamus directing the respondent to take necessary action and proceed as well as decide the case in pursuance of new Government order dated 29.9.2015.

(ii) issue a writ order or direction in the the nature of mandamus directing the respondents to abate the proceeding of case No.P-805/1976 (State Vs. Rishi Ram) village Katka District Allahabad under Repeal Act 1999.

(iii) Issue a writ order or direction in the nature of mandamus directing to the respondents correct the revenue records in name of petitioner.”

(b) It is stated that the father of the petitioner, Rikhi Ram had filed ceiling return under Section 6(1) registered as Ceiling Case No. P-805/1976. Thereafter without service of notice under Section 8(3), an order under Section 8 (4) was passed on 25.02.1986. A notice under Section 10(5) was issued on 02.08.1996. It has further been claimed that respondents had not taken any steps to take the possession of the land in dispute under Section 10(6) and the petitioner is in actual possession over the land in dispute. Rikhi Ram passed away leaving behind Kumbh Karan-petitioner, Jiya Lal, Kanhaiya Lal and Dharmraj, his sons and legal heirs. It is also claimed that the writ petition was being filed against the inaction of the respondents in not abiding with the directions contained in government orders moreso, government order dated 29.09.2015.

(c) It has been further claimed that one, Munnu son of Ram Khelawan, who was one of the co-tenure-holders, had filed Writ-C No. 30361 of 2010 against his land being declared surplus under the Act, 1976 and the aforesaid writ petition was allowed vide judgment and order dated 04.07.2013. It has also been stated that Writ-C No. 33320 of 2015 (Baba Lal Vs. State) was filed by another co-tenure-holder and was allowed on 19.12.2017.

(d) The respondents per contra, state that in the proceedings under Act, 1976 Rikhi Ram had filed ceiling return under Section 6(1).

Subsequently, notice under Section 8(3) dated 31.03.1985 was issued and the same was served on 14.02.1986. As no objections were filed by the original land-holder, order under Section 8(4) was passed on 25.02.1986. Subsequently, final statement under Section 9 was issued on 24.02.1987. It has further been stated that notifications under Sections 10(1) and Section 10(3) were published in the State Gazette on 14.07.1986 and on 5.7.1996 respectively. Thereafter notice under Section 10(5) for voluntary handing over the possession was issued on 02.08.1996. In pursuance thereto the land in dispute was recorded in the name of the State Government during the Fasli year 1402-1407 (corresponding to the year, 1995-2000). Further in view of the government order dated 11.12.1996 the possession of land in dispute was transferred to the erstwhile Allahabad Development Authority. The notices under Section 11 (8) of the Act, 1976 were also issued on 18.01.2008, which were duly served on Jiya Lal, son of Rikhi Ram on 18.01.2008. Baba Lal was not co-tenure holder of the petitioner as per revenue records relied by the petitioner. The vacant land has been demarcated for residential purpose in the master-plan of Allahabad. The writ petition was liable to be dismissed solely on the ground of delay having been filed after a lapse of 32 years from the date the land was declared as surplus. The proceedings under the Act, 1976 were never challenged by the original tenure-holder, Rikhi Ram. The proceedings under the Act, 1976 had attained finality before coming into force of Repeal Act, 1999.

(e) The petitioner in reply of respondents has stated that the proceedings under Section 10(4) and 10(5) of the Act, 1976 are against a dead person. The contentions of the State in respect of proceeding under the Act, 1976 and the land in dispute being recorded in the name of State are not seriously disputed but at the same time it is stated that no proceedings under Section 10(6) of the Act 1976 have taken place and the petitioner continues to remain in physical possession over the vacant land and is carrying out agricultural activities over the same. The petitioner has filed

some revenue records and photographs to establish the possession of the petitioner over the land in dispute.

(f) It is relevant to state here that the petitioner in the above background has filed a supplementary affidavit dated 03.02.2022 and brought on record the death certificate of Rikhi Ram showing his date of death as 22.03.2006 the aforesaid fact is contrary to the plea of the petitioner that Rikhi Ram had passed away during the proceeding under the Act, 1976.

(g) In order to ascertain the allegations made by the respective parties in their pleadings we had summoned the original records of the case and the facts as stated by the respondents in respect of the proceedings under the Act, 1976 are found to be largely correct. The records also reveal that no notice under Section 10(6) was issued at any point of time.

(3.2) Writ-C No. 8237 of 2017 (Late Rajendra Prasad through LRs Vs. State & Ors.)

(a) It is stated that the petitioner had filed ceiling return under Section 6(1) registered as K-2299 of 1976. Subsequently, notice under Section 8(3) was not served upon the petitioner and exparte order was passed under Section 8(4). Notice under Section 10(5) was not served upon the petitioner. It is admitted that the land is recorded in the name of State in the revenue records. However, the petitioner continues to remain in possession of the land in dispute. It is further claimed that land mafias were interfering in the possession of the petitioner alleging that the land in dispute is ceiling land. Besides, the petitioner has claimed the benefit of government order dated 29.09.2015. The ceiling return filed along with the writ petition reveals that the same has been filed by one, Rajjan @ Rajbhawan. The petitioner although has annexed the Khataunis but there are no pleadings to the effect as to which part of the land had been declared surplus and have been recorded in the name of the State and as to which part of the remaining land was recorded in the name of the petitioner. Besides, the petitioner had filed the photographs in support of his possession.

(b) The respondents in response thereto have stated that one Rajjan @ Rajbhawan had filed ceiling return and the same was registered as Ceiling Case No. K2298/1976 (State vs. Rajjan @ Rajbhawan). It is also stated that descendants of Late Rajjan @ Rajbhawan, son of Mahadev included his wife, Nirmala Devi and sons, Konark, Chanakya, Kanishka and Amit. Thus, the petitioner has nothing to do with the ceiling case. Notice under Section 8(3) was issued on 31.01.1984. However, as no objections were filed order under Section 8(4) was passed on 04.11.1985. Subsequently, final statement under Section 9 was issued. Notification under Sections 10(1) and 10(3) were published in the State Gazette on 29.05.1988 and on 14.04.1990 respectively. Notice under Section 10(5) for handing over the possession of the land in dispute on 29.09.1993. Subsequently, the land was mutated in the name of State in the revenue records and the possession was transferred to the erstwhile Allahabad Development Authority.

(3.3) Writ-C No. 8238 of 2017 (Jamuna Prasad & Ors. Vs. State of U.P. & Ors.)

(a) It is stated that Ram Jatan the original tenure holder of the land died leaving behind three sons, Jamuna Prasad-petitioner no.1, Vijay Kumar-petitioner no.2 and Sangam. Subsequently Sangam had also passed away leaving behind his widow, Smt. Vimla Devi-petitioner no.4 and minor son Niranjan Singh-petitioner no.3. Ram Jatan during his life time had filed ceiling return under Section 6(1) registered as Ceiling Case No. P-353/1976. Subsequently an ex-parte order was passed under Section 8(4) on 30.12.1985. Notice under Section 10(5) was issued on 26.12.1987 but was not served. The petitioners are still in possession of the land in dispute and no proceedings under Section 10(6) of the Act, 1976 have taken place. Reliance has also been placed upon the government order dated 29.09.2015. It is alleged that land mafia had started interfering in the possession of the petitioners. The petitioners in support of their case had filed the revenue records, electricity bills and photographs showing the geo-coordinates of the land.

(b) The contention of the respondents is that, Ram Jatan had filed a ceiling return under Section 6(1) of the Act, 1976. Notice under Section 8(3) was issued on 15.12.1985 and served on Ram Jatan on 23.12.1985. However, as no objections were filed, an order under Section 8(4) was passed on 30.12.1985. Thereafter notification under Section 10(1) and Section 10(3) were published in the State gazette on 30.12.1995 and on 7.6.1997 respectively. Notice under Section 10 (5) for handing over possession of the land was issued on 26.12.1997. In pursuance thereto, the land was recorded in the name of State in the Fasli year 1402-1407 and was transferred to the erstwhile Allahabad Development Authority. Thereafter notice under Section 11(8) for determination of compensation/Sandehya Dhanrashi was issued on 24.01.1998 and was served on Smt. Nirmala, daughter of Ram Jatan on 14.02.1998. Objections were filed against the notice under Section 11(8) by Ram Jatan on 23.02.1998 but the same were rejected on 13.08.1998. The revenue records relied upon the petitioner do not pertain to land in dispute under the Act, 1976. The writ petition has been filed after a delay of 19 years from the date of handing over the possession of the land.

(3.4) Writ-C No. 8242 of 2017 (Ramdev and others vs. State & Ors.)

(a) The writ petition has been filed by Ramdev son of Deena Nath, Amrit Lal son of Maiku Lal and Shivbaran son of Gambhir.

(b) It is stated that the father of Ramdev-petitioner no. 1, Deena Nath had filed ceiling return under Section 6(1) registered as Ceiling Case No. P-1510/1976 (State Vs. Deena Nath). Subsequently no notice was served under Section 8(3) and the order under Section 8(4) was passed on 30.10.1984. No notice under Section 10(5) was served. Deena Nath passed away leaving behind three sons namely Ramdev, Baldev and Bajrangi.

(c) It is further stated that Nanku and Hira had filed ceiling return under Section 6(1) registered as Ceiling Case No. P-1450/1976. Further,

Shivbaran-petitioner no.3, son of Gambhir had also filed ceiling return under Section 6(1). No notice under Sections 8(3) and 10(5) was served upon the petitioner no. 3.

(d) It is also stated that Maiku Lal had filed ceiling return under Section 6(1) registered as Ceiling Case No. P-1527/1976 (State Vs. Maiku Lal). No notice was served under Section 8(3) and order under Section 8(4) was passed on 23.09.1983. No notice under Section 10(5) was served.

(e) The petitioners were in possession of the vacant land. Further land mafias were interfering in the possession of the petitioners. Besides, the petitioners have claimed the benefit of government order dated 02.04.1994 in pursuance to which the proceedings under the Act, 1976 were stopped in respect of agricultural land. The petitioners in support of their contentions have filed CH Form 23 issued under Consolidation of Holdings Act, 1953, however, the same shows that the land is recorded in the name of the State-Competent Authority (Urban Ceiling). Besides, the petitioners have also filed electricity bills and photographs.

(f) The respondents in response thereto have stated that Deena Nath had filed ceiling return registered as Ceiling Case No. P-1510 of 1976. Notice under Section 8(3) was served on the original land holder, Deena Nath on 20.10.1984. However as no objections were filed, order under Section 8(4) was passed on 14.11.1984. The final statement under Section 9 was issued on 08.05.1987. Notification under Sections 10(1) and 10(3) were published in the State Gazette on 10.03.1990 and on 14.02.1996 respectively. Notice under Section 10(5) was issued on 22.04.1996 and served upon son of Deena Nath, Baldev on 23.08.1996. Subsequently, the land was mutated in the name of the State Government and possession of the land in dispute was transferred to the erstwhile Allahabad Development Authority.

(g) It is further stated that father of petitioner no.2 Maiku Lal, son of Gambhir had filed ceiling return registered as Ceiling Case No. 1527 of

1976. Subsequently notice under Section 8(3) was issued on 13.03.1981 and served on Maiku Lal on 01.04.1981. However, as no objections were filed, order under Section 8(4) was passed on 23.09.1982. The final statement under Section 9 was issued on 19.08.1985 and served on Mewa Lal, son of Maiku Lal. Notification under Sections 10(1) and 10(3) were published in the State Gazette on 05.12.1987 and on 24.02.1996 respectively. Notice under Section 10(5) for handing over the possession was issued on 27.04.1996. Subsequently, the vacant land was mutated in the name of State in the revenue records and transferred to erstwhile Allahabad Development Authority.

(h) It is also stated that Nanku, Hira and Pachai, all sons of Anganu had filed ceiling return registered as Ceiling Case No. P-1460 of 1976. Subsequently notice under Section 8(3) was issued and served. As no objections were filed, order under Section 8(4) was passed on 05.10.1981. Final statement under Section 9 was issued. Notification under Sections 10(1) and 10(3) were published in the State Gazette on 14.07.1986 and on 06.07.1996 respectively. Notice under Section 10(5) was issued on 02.08.1996. The vacant land was mutated in the name of State in the revenue records and was transferred to erstwhile Allahabad Development Authority.

(I) Further Ceiling Case No. P-1510/ 1976 pertains to petitioner no. 1 and Ceiling Case No. P-1527/1976 pertains to petitioner no. 2. However, so far as Ceiling Case No. P-1450/1976 is concerned it is difficult to understand as to how the same relates to any of the petitioners nor are there any pleadings in support thereof.

(3.5) Writ-C No. 26381 of 2017 (Brij Lal Vs. State & Ors)

(a) It is stated that the grand father of the petitioner, Mahadev had filed ceiling return under Section 6(1) registered as Ceiling Case No. P-531/1976. Subsequently proceedings under Section 10(3) and Section

10(5) were completed. Mahadev died leaving behind his son, Sharda Prasad. Subsequently, Sharda Prasad also died leaving behind two sons, Indraj and Brij Lal-petitioner.

(b) It is also stated that Sahdev, son of Ramadhin, who was the brother of Mahadev had also filed ceiling return registered as Ceiling Case No. P-542/1976. Sahdev passed away prior to passing of the order under Section 8(4). Notice under Section 10(5) was issued on 14.10.1997 but was not served upon the petitioner. It is further stated that Sahdev was unmarried and after his demise, the land devolved upon Sharda Prasad, the father of the petitioner.

(c) It is stated that the possession of the vacant land continues to remain with the petitioner. The petitioner has sought relief in respect of the land involved in both the ceiling cases. The petitioner has filed revenue records but there is no pleading to the effect as to whether the records pertain to the same land, which was a part of the proceedings under the Act, 1976 or pertain to the remaining land left out of ceiling. Besides the petitioner have also filed electricity bills and photographs showing the geo-coordinates of the land.

(d) The respondents in response thereto have admitted the fact that Sahdev had filed ceiling return under Section 6(1) of the Act, 1976. Subsequently notice under Section 8(3) was issued on 22.1.1979 and served. As no objections were filed, order under Section 8(4) was passed on 22.2.1985. Thereafter final statement was issued under Section 9 on 19.6.1986. Notification under Section 10(1) and Section 10(3) were published in the State Gazette on 11.11.1995 and on 7.6.1997 respectively. Notice under Section 10(5) for handing over the possession of land was issued on 14.10.1997. Notice under Section 11(8) for Sandheya Dhanrashi/Compensation was issued on 05.02.1998 but no objection was filed. Further one of plots comprised in vacant land falls in Trivenipuram Awas Yojana, erstwhile Allahabad.

(e) Further Sharda Prasad and not Mahadev, father of Sharda Prasad had filed ceiling return under Section 6(1). Notice under Section 8(3) was issued on 25.11.1981 and was served upon the original land holder on 29.12.1981. As no objections were filed, order under Section 8(4) was issued on 01.10.1984. Subsequently final statement under Section 9 was issued and notifications under Section 10(1) and Section 10(3) were published in the State gazette on 14.07.1986 and on 04.03.1995 respectively. Thereafter notice under Section 10(5) for handing over possession was issued. The possession of the land was transferred to the erstwhile Allahabad Development Authority.

(f) It is categorically stated that two other writ petitions arising out of Ceiling Case No. P-542/1976 and Ceiling Case No. P-531/1976 have already been filed before this Court being Writ Petition No. 6765 of 2018 (Mewa Lal Yadav Vs. State of U.P. & Ors.) and Writ Petition No. 26382 of 2017 (Pramod Kumar Pandey Vs. State of U.P. & Ors.). The fact regarding filing of other writ petitions arising out of the same ceiling cases is not disputed.

(3.6) Writ C No. 6765 of 2018 (Mewa Lal Yadav v. State of U.P and others)

(a) It is stated that Mahadev the original tenure holder had filed ceiling return registered as Case No. 531/76 and Sahdev, the real brother of Mahadev had filed ceiling return registered as Case No. 542/76. Sahdev and Mahadev passed away leaving behind two sons, Brij Lal and Indraj, sons of Sharda Prasad, son of Mahadev. In the ceiling proceedings the actual possession of the property was not taken and no proceedings under Section 10 (6) had ever taken place in both the cases. The petitioner purchased Gata No. 120, measuring 419.21 sq. yards on 24.07.2004 from recorded owner, Shiv Bhan Yadav. The petitioner had submitted a map before Development Authority but the same was rejected on 28.06.2016 on the ground that the land was ceiling land. Though in the revenue records the land is recorded in the name of the State but the petitioner is in possession of the same. Purchasers of the

different areas in the same plot had filed the writ petitions, Writ-C No. 9074 of 2013 (Dr. Shyam Kartikey Dwivedi v. State of U.P. and others) and Writ C No. 17220 of 2009 (Dr. Kailash Nath Gupta and another vs. State of U.P. and others) and the same were allowed vide judgment and orders dated 15.07.2014 and 16.07.2015 respectively. The petitioner has further alleged that the land mafias were interfering in the possession and has also claimed benefit of government order dated 29.09.2015. Hence, the petitioner amongst others has sought abatement of Ceiling Case No. P-542/76, which is in respect of land of Sahdev. The petitioner although claims to be in possession of the land in dispute but has not filed any evidence in support thereof.

(b) The respondents in response thereto have stated that the original tenure holder Sahdev had filed ceiling return registered as Ceiling Case No. P-542/1976 (State v. Sahdev). Thereafter notice under Section 8(3) was issued on 22.10.1976 and served upon the land holder. As no objections were filed, order under Section 8(4) was passed on 22.02.1985. The notice along final settlement was issued on 19.06.1986 under Section 9. Notifications under Section 10 (1) and Section 10 (3) were published in the State Gazette on 11.11. 1995 and on 07.06.1997 respectively. Thereafter notice for voluntary handing over of possession under Section 10 (5) was issued on 14.10.1997. Pursuant thereto the land was recorded in the name of State and possession thereof was transferred to the erstwhile Allahabad Development Authority. It is further contended that two more writ petitions arising out of Ceiling Case No. P-542 of 1976 (State v. Sahdev) and Ceiling Case No. P-531 of 1976 bearing Writ C No. 26381 of 2017 (Brij Lal v. State of U.P. and others) and Writ C No. 26382 of 2017 (Pramod Kumar Pandey and others v. State of U.P. and others) are pending before this Court.

(3.7) Writ C No. 6926 of 2016 (Late Mohib Ullah through LRs v. State of U.P. and others)

(a) It is stated that petitioner had filed ceiling return registered as Ceiling Case No. 1095 /1976 (State v. Mohib Ullah). Notice under Section 10(5)

was issued on 28.03.1979 but not served upon the petitioner. The respondents have never taken possession of the land in dispute. It is admitted that the name of State is recorded in the revenue records. It is stated that on the basis of illegal order passed under Section 8(4) the Competent Authority has proceeded further under Section 10 (3) but the possession has not been taken under Section 10 (5) and Section 10 (6). Land mafia were interfering in the possession of the petitioner. Besides the petitioner also claims benefit of government order dated 29.09.2015. The petitioner in support of his contention that he is in possession of the land in question has filed the khasra of Fasli 1427 of Gata No. 14 M and photographs. The petitioner passed away during the pendency of the writ petition on 19.03.2017.

(b) It is pointed out that there is no effective reply on behalf of the respondents on the merits of the controversy and it is stated that the records of the concerned ceiling case are not available. However, it is contended that the facts of the present case are similar to those of others in this bunch of petitions. Further, the writ petition is liable to be dismissed solely on the ground of delay, the voluntary possession being handed over in the year 1979 and the writ petition having been filed in the year 2016 after a lapse of 37 years thereafter.

(3.8) Writ-C No. 6679 of 2018 (Ram Sumer Vs. State & Ors.)

(a) It is stated that grandfather of petitioner, Mahadev had filed ceiling return under Section 6(1) registered as Ceiling Case No. 1751/1976. An ex-parte order dated 03.11.1982 was passed under Section 8(4). Notice under Section 10(5) was issued on 13.02.1990 but no further proceedings were held under the Act, 1976 and the petitioner continues to remain in physical possession of the vacant land. It is further stated that Mahadev passed away leaving behind three sons, Hira Lal, Mohan Lal and Baccha Lal. The sole petitioner in the present writ petition is Ram Sumer, son of Hira Lal. It is also admitted that the land has been recorded in the name of State in the revenue records. Reliance has been

placed by the government order dated 09.02.2000 issued in pursuance to the Repeal Act, 1999 and the government order dated 29.09.2015. It has been stated that the petitioner had filed a representation dated 26.06.2017 before the Competent Authority along with the other co-tenure holders i.e. Mohan Lal and Baccha Lal, but the same was of no avail. Besides, the petitioner has filed Khatauni in respect of Khasra Plot No. 470M and photographs showing the geo-coordinates of the land.

(b) The respondents in response thereto have admitted the fact that the ceiling return was filed under Section 6(1) of the Act, 1976 by Mahadev. Subsequently, notice under Section 8(3) dated 31.03.1981 was served upon the original land holder, Mahadev on 22.04.1981. However, as no objections were filed, an order under Section 8(4) was passed on 03.11.1982. The final statement under Section 9 was issued on 25.01.1985 and served upon the original land holder, Mahadev. The notifications under Sections 10(1) and 10(3) were published in the State Gazette on 01.03.1986 and on 18.09.1986 respectively. Thereafter, notice under Section 10(5) was issued on 15.02.1990 and the same was served upon the original land holder on 16.02.1990. The revenue records relied upon do not pertain to the land under the Act, 1976. In pursuance thereto the land was recorded in the name of State in the revenue records and was transferred to the erstwhile Allahabad Development Authority.

(9) Writ-C No. 6701 of 2018 (Ram Awadh Vs. State & Ors.)

(a) It is stated that the father of the petitioner, Bachha Lal had filed ceiling return under Section 6(1) registered as Ceiling Case No. K-1759/1976. Subsequently without any service of notice under Section 8(3) an ex-parte order dated 05.10.1982 was passed under Section 8(4). Notice under Section 10(5) was issued on 22.05.1996 and no further proceedings under the Act, 1976 took place thereafter. The father of the petitioner died leaving behind his, wife Smt. Ram Sawari and the petitioner as his legal heirs. It is admitted that the land in dispute is

recorded in the name of State but it is also stated that the petitioner continues to remain in possession of the land in dispute. Reliance has been placed upon the government order dated 09.02.2000 and government order dated 29.09.2015. It is also stated that the petitioner has filed representation dated 20.06.2017 for correction of the revenue records. Further land mafias were interfering in the possession of the petitioner. Besides the petitioner has also relied upon the revenue records of Khasra Plot No. 663A, recorded in the name of the father of the petitioner. Further the petitioner has filed photographs showing the geo-coordinates of the land.

(b) The respondents in response thereto have admitted the fact that Bachha Lal had filed ceiling return under Section 6(1) of the Act, 1976. Subsequently, notice was issued under Section 8(3) on 19.11.1981 and was served the nephew of the original land holder, Ram Pal on 02.12.1981. As no objections were filed, an order under Section 8(4) was passed on 05.10.1982. Subsequently final statement under Section 9 was issued on 30.06.1984. Thereafter notifications under Sections 10(1) and 10(3) were published in the State Gazette on 14.07.1986 and on 23.03.1996 respectively. Notice under Section 10(5) for handing over the possession was issued on 23.05.1996. In pursuance thereto, the land was recorded in the name of State in the revenue records and was transferred to the erstwhile Allahabad Development Authority.

(3.10) Writ-C No. 11225 of 2018 (Raghvendra Kumar Yadav & Ors. Vs. State & Ors.)

(a) It is stated that Mahadev, father of the petitioner had filed ceiling return under Section 6(1) and the registered as Ceiling Case No. K2227/1976. Subsequently notice under Section 8(3) was not served and order under Section 8(4) was passed on 23.8.1982. Notice under Section 10(5) was issued on 17.12.1986 but the same was also not served upon the petitioner. Mahadev died in the year, 1982 and has been succeeded by two sons, Bhagwat Prasad and Muneem-petitioner no.3. Bhagwat

Prasad had also passed away in September, 2017 leaving behind two sons, Raghvendra Kumar-petitioner no.1 and Ajeet Kumar-petitioner no.2. Reliance has been placed on government order dated 29.9.2015. It is admitted that the land is recorded in the name of State Government in the revenue records. However, it is stated that no proceedings under Section 10 (6) have taken place and the petitioners continue to remain in possession of the land. Further land mafia tried to interfere in the possession of the petitioners over the land in dispute. Reliance is also placed on Government order dated 2.4.1994 by means of which the proceedings under the Act, 1976 in respect of agricultural land had been stopped.

(b) The respondents in reply thereto admit that the ceiling return under Section 6(1) was filed by Mahadev. Notices under Section 8(3) were issued on 4.3.1982 and duly served upon Smt. Nanki, wife of Mahadev. As no objections were filed, order under Section 8(4) was passed on 23.8.1982. The final statement was prepared under Section 9 on 10.8.1984 and served upon Bhagwat Prasad, son of Mahadev on 12.10.1984 but no objections were filed. Notification under Section 10(1) and Section 10(3) were published in the State Gazette on 16.11.1985 and on 5.4.1986 respectively. Subsequently, notice under Section 10(5) was issued on 17.12.1986 and was served upon Muneem-petitioner no.3. In pursuance thereto the land was recorded in the name of the State Government in the revenue records and transferred to the erstwhile Allahabad Development Authority.

(3.9) Writ -C No.11226 of 2018 (Pushpa Devi & Anr. Vs. State & Ors.)

(a) It is stated that the father of the petitioners, Sankhata Prasad had filed a ceiling return under Section 6(1) registered as Ceiling Case No. K-2415/1976. Subsequently an ex-parte order under Section 8(4) was passed on 23.3.1981. Notice under Section 10(5) was issued on 1.1.1996 and was not served upon the land holder. It is stated that no proceedings

under Section 10(6) had taken place and the petitioners are in physical possession of the land in dispute. Reliance has been placed on government order dated 29.9.2015 and on government order dated 2.4.1994 wherein a direction was issued to stop proceedings in respect of agricultural land.

(b) The respondents in response thereto admit that Sankatha Prasad had submitted a ceiling return under Section 6(1). Subsequently, a notice under Section 8(3) was issued on 17.5.1979. However as no objections were filed, an order dated 23.3.1981 was passed under Section 8(4). Final Statement was prepared under Section 9 and served personally on the original land holder. Thereafter notification under Section 10(1) and Section 10(3) were published in the State Gazette on 22.2.1986 and on 11.3.1985 respectively. Notice under Section 10 (5) was issued on 1.1.1996. In pursuance thereto the land in dispute was recorded in the name of State Government in the revenue records and transferred to the erstwhile Allahabad Development Authority. It is also stated that Sankhata Prasad had filed an appeal before the District Judge bearing Appeal No. 959 of 1999 (Sankatha Prasad vs. State of U.P.). The said appeal was dismissed vide order dated 27.9.2008.

(3.12) Writ -C No.19678 of 2018 (Buddhan Prasad Vs. State)

(a) It is stated that Jokhu, Jawahir, Heera and Moti all sons of Mahadev were recorded bhumidhar of the land in dispute. Dukhharan, son of Jawahir had filed ceiling return under Section 6(1). Besides Jokhu, Moti and Heera, sons of Mahadev had also filed ceiling return under Section 6(1) registered as Ceiling Case No. P-144/76.

(b) An order under Section 8(4) was passed illegally and without jurisdiction and subsequently notification under Section 10 (3) was issued. It is further stated that the respondents had not taken possession of the land in question as provided under Section 10(5) and Section 10(6) of the Act, 1976. It is also stated that Sri Dukharan had filed Writ-

C No.68563 of 2012 and the same was allowed vide judgment and order dated 15.5.2014. Some land mafias were interfering in the possession of the petitioner over the land in dispute. The petitioner in support of his case has filed copy of the electricity bills in the name of the petitioner and some photographs of land.

(c) The respondents in response thereto state that Jokhu, Moti and Heera, all sons of Mahadev and Dukharan, son of Jawahir, both the parties had filed their ceiling return under Section 6(1) registered as Ceiling Case No. P-144/76 (State Vs. Jokhu and Ors.). Notice dated 23.3.1982 was under Section 8(3) and was served upon the wife of Dukharan in person. As no objections were filed, order was passed under Section 8(4) on 13.09.1982. Thereafter final statement under Section 9 of the Act, 1976 was issued on 25.2.1985 but no objections were filed. Notification under Section 10(1) and Section 10(3) were published in the State gazette. Subsequently notice under Section 10(5) was issued on 18.9.1992. Separate notices under Section 10(5) were served on Dukharan son of Jawahir and Jokhu, Moti and Heera, all sons of Mahadev. In pursuance thereto the name of the State was mutated in the revenue records and land was transferred to the erstwhile Allahabad Development Authority. Hence, proceedings under the Act, 1976 stood concluded. A review petition has been filed against the order dated 15.5.2014 passed in Writ-C No. 68563 of 2012.

(d) The writ petition has been filed by Buddhan Prasad, son of Jokhu. There is nothing on record to show that Jawahir was the son of Mahadev. Admittedly Dukkharan son of Jawahir and Jokhu, Heera and Moti all sons of Mahadev had filed separate ceiling returns and had been issued separate notices under Section 10(5).

(3.13) Writ-C No. 19694 of 2018 (Devendra Kumar Jaiswal Vs. State & Ors.)

(a) It is stated that the father of the petitioner, Shambhu Nath had filed a ceiling return under Section 6(1) registered as Ceiling Case No. K-2236/1976 (State Vs. Sambhu Nath). No proper notice under Section 8(3) was served and order under Section 8(4) was passed on 29.04.1985. The notice under Section 10(5) was issued on 21.08.1990 but was not served upon the original land holder. The father of the petitioner, Shambhu Nath passed away on 04.01.2006, leaving behind the petitioner as his sole legal heir. It is admitted that the vacant land is recorded in the name of State in the revenue records. It is further submitted that some land mafias started interfering in the possession of the petitioner. The petitioner in support of his contention has relied upon the government order dated 02.04.1994. Further, the petitioner in support of his case has filed revenue records for Fasli year 1415-1420 (corresponding years 2008-2013), wherein the land is recorded in the name of State, copy of electricity bills and meter sealing certificate and photographs showing the geo-coordinates of the land.

(b) The respondents in reply, state that the father of the petitioner had filed a ceiling return under Section 6(1). Thereafter, notice under Section 8(3) was issued on 22.08.1978 but the receipt of the same was refused by the original land holder on 15.10.1978. No objections were filed, order under Section 8(4) was passed on 26.03.1981. The final statement under Section 9 was issued on 04.03.1983 and sent through registered post. The objections to the same was filed by the original tenure holder on 21.03.1983. Notices in response of objections filed were issued to the original tenure holder on 07.01.1985 and on 23.01.1985 respectively. However, the original tenure holder and his representatives have not put in their appearance despite service of notice and ultimately objections were rejected on 29.04.1985. The notification under Sections 10(1) and 10(3) were published in the State Gazette on 16.11.1985 and on 20.04.1990 respectively. Subsequently, notice under Section 10(5) was issued on 21.08.1990. The name of the State was mutated in the revenue records and the vacant land was transferred to the erstwhile Allahabad

Development Authority. Notice under Section 11(8) for payment of Sandeya Dhanrashi / compensation was issued to the original land holder on 25.03.1998.

(3.14) Writ-C No. 19800 of 2018 (Late Leelawati through Lrs Vs. State & Ors.)

(a) It is stated that the petitioner had filed ceiling return under Section 6(1) registered as Ceiling Case No. K-2659/76 (State Vs. Leelawati). Subsequently no notice was issued to the petitioner under Section 8(3) and an ex-parte order was passed against the petitioner under Section 8(4) on 19.06.1981. The notice under Section 10(5) of the Act was issued on 21.03.1998 but not served. It is admitted that the land in dispute is recorded in the name of State but the petitioner continues to remain in possession of the land in dispute. The petitioner further claims the benefit of the government order dated 29.09.2015. In support of her contention that the petitioner is in possession of the land in dispute has filed copy of Khasra for the fasli year 1427 (corresponding year 2020), wherein the land in question is recorded in the name of the State, but crops of rice and wheat are being grown and photographs showing the geo-coordinates of the land.

(b) The respondents in response thereto have stated that admittedly the petitioner had filed her statement under Section 6(1). Notice under Section 8(3) was issued on 13.02.1981 and served upon the petitioner on 11.04.1981. The petitioner has filed her objections in the proceedings on 05.05.1981 but did not file any evidence in support thereof. Ultimately an order under Section 8(4) was passed by the Competent Authority on 19.06.1981. The notice under Section 9 along with the final statement was issued on 20.04.1982. Subsequently, notifications under Sections 10(1) and 10(3) were published in the State Gazette on 03.10.1993 and on 05.03.1994 respectively. Thereafter, the notice under Section 10(5) was issued on 21.03.1998. In pursuance thereto the land in dispute was

mutated in the name of the State in the revenue records and transferred to the erstwhile Allahabad Development Authority.

(3.15) Writ-C No. 29963 of 2018 (Ram Lakhan Vs. State & Ors.)

(a) It is stated that the father of the petitioner, Mewa Lal had filed ceiling return under Section 6(1) registered as Case No. 3181/1976. Mewa Lal passed away and was succeeded by four sons, Brij Lal, Ram Lakhan, Jeet Lal and Amrit Lal. The petitioner has made enquiry in the office of Competent Authority under the Act, 1976 and vide questionnaire dated 09.01.2015 it was informed that the land in dispute was not under ceiling. The petitioner is in physical possession of the land in dispute and also that the petitioner has never been served upon the order passed under Section 8(4) of the Act, 1976. The respondents have not taken possession of the land in dispute under Sections 10(5) and 10(6) of the Act, 1976. Further land mafias started interfering in the possession of the petitioner. Reliance has been placed on government order dated 02.04.1994. The petitioner in support of his contention has filed photographs showing the geo-coordinates of land.

(b) The respondents in response thereto state that Mewa Lal had filed ceiling return under Section 6(1) of the Act, 1976. Thereafter, notice under Section 8(3) was issued on 17.05.1978 and served upon the son of Mewa Lal, Brij Lal on 18.07.1979. After service of notice, Mewa Lal filed objections on 03.09.1979 but no document was submitted along with the objections. Ultimately, the Competent Authority had passed an order under Section 8(4) on 18.12.1979. Subsequently final statement under Section 9 was issued on 28.03.1980 and served upon Smt. Ramwati, daughter-in-law of Mewa Lal on 15.05.1980. As no objections were filed, notifications under Sections 10(1) and 10(3) of the Act, 1976 were published in the State Gazette on 18.07.1991 and on 21.09.1991 respectively. Thereafter, a notice under Section 10(5) was issued on 20.10.1993. Pursuant thereto, the mutation in the revenue records was made in the name of State and the land was transferred to the erstwhile Allahabad Development Authority.

(3.16) Writ-C No. 34357 of 2018. (Kunwar Bharat Singh Vs. State)

(a) It is stated that the grand father of the petitioner, Brij Mohan Singh had filed ceiling return under Section 6(1) registered as Case No. 2997/1976. The father of the petitioner passed away during the life time of Brij Mohan Singh. Thereafter Brij Bohan Singh passed away in the year 1985 and the name of the petitioner was recorded in the revenue records vide order dated 7.9.1985. It is further stated that the notice under Section 10(5) was issued on 1.6.1996 and was never served upon the petitioner. The petitioner in support of his possession over the land in question have filed Kisan Bahi dated 26.7.1997, receipts issued by the Department of Irrigation and receipts of crop insurance. The petitioner refers upon the Khasra of the Fasli year 1409 (corresponding year 2002) issued on 27.11.2001 wherein except for the land comprised in Khasra No.3, other lands are recorded in the name of State, the petitioner has also filed electricity bills in respect of tubewell installed by the petitioner and photographs of land.

(b) The respondents in response thereto admit that the ceiling return under Section 6(1) was filed by Brij Mohan Singh. Subsequently notice under Section 8(3) was issued on 14.9.1982 and served upon nephew of Brij Mohan Singh, Jai Karan Singh on 24.9.1982. However as no objections were filed, order under Section 8(4) was passed on 17.11.1982. The final statement under Section 9 issued on 12.5.1985 was tried to be served but the petitioner had refused to accept the same and an endorsement to that effect was made in the presence of witnesses. Subsequently notification under Section 10(1) and Section 10(3) were published on 22.3.1986 and on 17.2.1996 respectively. Thereafter notice under Section 10(5) was issued on 1.6.1996 and the name of the State was recorded in the Fasli year 1404-1409 (corresponding years 1997-2002). The land was transferred to the erstwhile Allahabad Development Authority. It has further been stated that in the revenue records for the Fasli year 1425-1430 (corresponding years 2018-2023) the land in

dispute was recorded in the name of Ministry of Railways , Government of India.

(3.17) Writ-C No. 36216 of 2019 (Matru Vs. State & Ors.)

(a) It is stated that Khushru Lal, Gore Lal and Manshi Lal sons of Vindeshwar and Matru-petitioner, son of Bansi Lal had filed ceiling return under Section 6(1) of the Act, 1976, registered as Ceiling Case No. 1203/1976 (State Vs. Khushru Lal and others). Notice under Section 8(3) was never served upon the petitioner and an ex-parte order was passed under Section 8(4) on 21.10.1981. It is also stated that the notice under Section 10(5) issued on 04.03.1997 was not served upon the petitioner. The petitioner in the writ petition claims the benefit of the government order dated 02.04.1994. The possession of the land in dispute was not taken under Section 10(6). Further, the petitioner claims the benefit of the government order dated 29.09.2015. In support of his case, the petitioner has filed certain revenue records but does not dispute the mutation of the land in favour of the State. The petitioner has also filed photographs showing the geo-coordinates of land in support of the contention that the petitioner is in possession thereof.

(b) The respondents in their reply admit that the petitioner along with Khushru Lal, Gore Lal and Manshi Lal have filed ceiling return under Section 6(1). The notice under Section 8(3) was issued on 24.04.1981 and served upon the petitioner. No objections were filed by the petitioner, order dated 21.10.1982 was passed under Section 8(4). The final statement under Section 9 was issued on 02.09.1985. The notifications under Sections 10(1) and 10(3) were published in the State Gazette on 18.11.1995 and on 10.08.1996 respectively. Thereafter notice under Section 10(5) was issued on 26.03.1997. Pursuant thereto the land in question was mutated in the name of the State in revenue records and transferred to the erstwhile Allahabad Development Authority.

(3.18) Writ-C No. 36927 of 2019 (Ram Chandra Vs. State & Ors.)

(a) It is stated by the petitioner that the father of the petitioner, Maiku Lal had filed ceiling return under Section 6(1) of the Act, 1976 registered as Ceiling Case No. C-717/1976. It is further stated that no notice under Section 8(3) was ever served and an ex-parte order dated 6.10.1981 was passed under Section 8(4). Thereafter a notice under Section 10(5) was issued on 14.12.1995 but the same was also not served. The petitioner also admits that out of the land declared vacant Khasra No. 471 is recorded in the name of High Court Colony. However, the petitioner claims to be in possession of the remaining land. The petitioner has placed reliance upon the government order dated 2.4.1994. It is stated that no proceedings under Section 10(6) of the Act, 1976 had taken place. The petitioner further claims benefit of government order dated 29.9.2015. The petitioner in support of his possession of the land in dispute has filed photograph showing the geo-coordinates of land.

(b) The respondents in their response admit the fact that the ceiling return was filed under Section 6(1) by the original land holder, Maiku Lal. Subsequently, notice under Section 8(3) was issued on 13.3.1981 and served in person on Maiku Lal on 7.4.1981. As no objection was filed by Maiku Lal, order under Section 8(4) was passed on 6.10.1981. Final Statement under Section 9 was issued on 7.7.1982. Thereafter notification under Section 10(1) and Section 10(3) were published in the State gazette on 10.3.1990 and on 10.12.1994 respectively. Ultimately notice under Section 10(5) was issued on 14.12.1995. Pursuant thereto the land was recorded in the name of the State in the revenue records and the land was transferred to the erstwhile Allahabad Development Authority. Thereafter the Allotment Committee constituted under the chairmanship of District Magistrate, Allahabad in its meeting dated 21.3.2015 had allotted 5131.98 square meter of land comprised in Khasra No. 471 for construction of residential complex of Allahabad High Court.

(3.19) Writ C No. 13925 of 2021 (Bhanu Pratap v. State of U.P. & Ors.)

(a) It is stated that the grandfather of the petitioner, Ram Kumar was the original land holder. The petitioner prior to filing the present writ petition along with his brothers, Indra Pratap and Vidhyacharan had filed Writ Petition No. 19264 of 2019 (Indrapal & Ors. Vs. State of U.P. & Ors.) and the same was disposed of vide the order dated 30.05.2019 directing the Competent Authority under the Act, 1976 to decide the representation of the petitioner. Consequently the Competent Authority had rejected the representation of the petitioner vide order dated 15.09.2020. Subsequently, the petitioner had filed the present writ petition against the order dated 15.09.2020.

(b) Ram Kumar had filed a ceiling return under Section 6(1) registered as Ceiling Case No. 4010 of 1976. Ram Kumar passed away leaving behind four sons, Eswardas, Parmeshwar, Lala and Budulram. Subsequently Parmeshwar died leaving behind three sons Randhir, Babuji and Ram Singh. Ram Singh passed away on 20.10.2003 leaving behind three sons, Indrapratap, Bhanu Pratap- petitioner and Vidya Charan.

(c) No notice under Section 8(3) was ever served and consequently an ex-parte order under Section 8 (4) was passed on 22.09.1984. The notice under Section 10 (5) dated 17.08.1992 was never served upon the land holders. That the petitioner is in possession of the land in dispute and no proceedings under Sections 10 (6) of the Act, 1976 had ever taken place. The petitioner claims that the land in dispute is agricultural land and claims the benefit of the government order dated 02.04.1994. Besides the petitioner in support of his case has filed the revenue records in the shape of khasra where some part of the land is recorded in the name of original land holder while remaining part of the land is recorded in the name of State. Besides the petitioner has also filed electricity bills and photographs.

(d) The respondents in response thereto admit that Ram Kumar had filed ceiling return. Subsequently notice under Section 8(3) was issued on 30.03.1981 and was served upon the wife of original land holder on 01.09.1984. However as no objection were filed, order Section 8(4) was passed on 22.09.1984. Final Statement under Section 9 was sent to the land holder through registered post. Subsequently notifications under Section 10 (1) and Section 10 (3) were published in the state gazette on 10.03.1990 and on 01.02.1992 respectively. Notice under Section 10(5) for handing over the possession was issued on 17.08.1992. Subsequently the land in dispute was recorded in the name of State in the revenue records in the Fasli year 1398-1403 and was transferred to the erstwhile Allahabad Development Authority. In the revenue records relied upon by the petitioner the land under the Act, 1976 is recorded in the name of State.

4. For the sake of convenience the gist of all the writ petitions in this bunch are being in the chart hereinbelow :-

S.N.	W.No./Parties Name	Month & Year of filing	Dt. of order u/s 8(4)	Dt. of notice u/s 10(5)	Remarks
1.	Writ-C No. 19612 of 2018 (Kumbha Karan Vs.State)	May, 2018	25.2.1986	2.8.1996	Petitioner is one of four sons of original land holder. Notice u/s 8(3) served on 14.02.1986. Notice u/s 11(8) dated 18.1.2008 served on Jiya Lal, son of original tenure holder. Original tenure holder died on 22.03.2006.
2.	Writ-C No. 8237/2017 (Rajendra Prasad Vs. State.)	Feb. 2017	4.11.1985	29.9.1993	Ceiling return filed by Rajjan @ Rajbhawan and not petitioner. Petitioner not the son or descendant of Rajjan @ Rajbhawan
3.	Writ-C No. 8238/2017 (Jamuna Prasad & Ors. Vs. State)	Feb. 2017	30.12.85	26.12.97	Petitioners are descendants of original land-holder, Ram Jatan. Notice u/s 8(3) served on Ram Jatan on 23.12.85. Notice u/s 11(8) dt. 24.1.98 served on Smt. Nirmala D/o Ram Jatan. Objections dated 23.2.1998 filed by Ram Jatan against notice u/s 11(8). Objections rejected on 13.8.1998.
4.	Writ-C No. 8242/17 (Ram Dev & Ors. Vs. State)	Feb-2017			(a) Notice u/s 8(3) served on Deena Nath, original land holder on 20.10.1984.

	Three ceiling cases (a) Petitioner No.1- Ram Dev S/o Deena Nath. (b) Petitioner no.2- Amrit Lal S/o Maiku Lal. (c) Petitioner no.3- Shiv Baran S/o Gambhir		14.11.84 23.9.82 5.10.81	22.4.1996 27.4.1996 2.8.1996	Notice u/s 10(5) served on Baldev, S/o Deena Nath on 23.8.1996. Deena Nath had three sons, petitioner, Baldev and Bajrangi. (b) Notice u/s 8(3) was served on Maiku Lal, original land- holder on 1.4.1981. Final Statement u/s 9 served on Mewa Lal, son of Maiku Lal. (c) Shiv Baran -petitioner not related to Nanku Hira and Pachai, original land-holders.
5.	Writ-C No. 26381/2017. (Brij Lal & Ors. Vs. State) (Two ceiling cases) (a) State Vs. Mahadev. (b) State Vs. Sahdev.	May,2017	1.10.84 22.2.1985	Issued but date not mentioned 14.10.97	Grandson of Mahadev, original land-holder. Sharda Prasad, father of petitioner had filed ceiling return. Sharda Prasad had two sons, Brij Lal and Indraj. Indraj not a party in the writ. No evidence of being related to Sahdev Notice under Section 8(3) served on Sharda Prasad on 29.12.81. Two other writs arising out of the same ceiling cases
6.	Writ-C No. 6765/2018 (Mewa Lal Yadav Vs. State)	Feb, 2018	22.2.85	14.10.97	Petitioner purchased the land on 24.7.2004. Notice u/s 8(3) served. Land recorded in the name of State. Two other writ petitions arising out of same ceiling case pending.
7.	Writ-C No. 6926/2016 (Mohib Ullah Vs. State of U.P.)	Jan, 2016		28.3.79	Petition filed after 37 years from voluntary possession. Records of the case not available with the State. Land recorded in the name of State.
8.	Writ-C No. 6679/18 (Ram Sumer Vs. State)	March,18	3.11.82	15.2.1990	Grandson of original land- holder, Mahadev. Mahadev had three sons, Hira Lal, Mohan Lal and Baccha Lal. Petitioner son of Hira Lal. Notice u/s 8(3) served on Mahadev on 22.4.1981. Final Statement u/s 9 served on Mahadev. Notice u/s 10(5) served on Mahadev on 16.2.1990.
9.	Writ-C No. 6701/2018	Nov-2018	5.10.1982	23.5.1996	Son of original land-holder,

	(Ram Awadh Vs. State)				Bachha Lal. Notice u/s 8(3) served on Ram Pal, nephew of Bachha Lal on 2.12.1981.
10.	Writ-C No. 1125/2018 (Raghvendra Kumar Yadav & Ors. Vs. State)	March-2018	23.8.1982	17.12.86	Sons and grandsons of original land-holder, Mahadev. Notice u/s 9 served on Bhagwat Prasad, S/O Mahadev. Notice u/s 10(5) served on Muneem-petitioner no.3.
11.	Writ C No. 11226 of 2018 (Pushpa Devi and another v. State)	May, 2018	23.03.1981	01.01.1996	Petitioners are daughters of original land holders, Sankatha Prasad. Sankatha Prasad had filed an Appeal No. 959 of 1999 before District Judge and the same was dismissed on 27.09.2008.
12.	Writ C No. 19678 of 2018 (Buddhan Prasad v. State)	May, 2018	13.09.1982	18.09.1992	Jokhu, Moti, Heera sons of Mahadev and Dukharan son of Jawahir had filed separate ceiling returns. Petitioners is the son of Jokhu. Notice under Section 8(3) was served upon the wife of Dukharan. Notice under Section 10(5) were served upon all the original land holders.
13.	Writ C No. 19694 of 2018 (Devendra Kumar Jaiswal v. State of U.P.)	May, 2018	26.03.1981	21.08.1990	Petitioner son of original land holders Shambhu Nath. Notice under Section 8(3) refused. Objections dated 21.03.1983 filed against final statement under Section 9 filed by Shambhu Nath. Rejected on 29.04.1985.
14.	Writ C No. 19800 of 2018 (Late Leelawati v. State)	May, 2018	19.06.1981	21.03.1988	Notice under Section 8(3) served on 11.04.1981. Objections dated 05.05.1981 filed in response to notice under Section 8(3)
15.	Writ C No. 29963 of 2018 (Ram Lakhan v. State)	August, 2018	18.12.1979	20.10.1993	Petitioner is one of four sons of original land holder, Mewa lal. Notice under Section 8(3) served on 18.07.1979 on Brij Lal, son of Mewa Lal. Objections filed by Mewa Lal to notice under Section 8(3) on 03.09.1979. Final Statement under Section 9 served on Smt. Ramwati, Daughter in law of Mewa lal on 15.05.1980.
16.	Writ C No. 34357 of 2018 (Kunwar Bharat Singh v. State)	October, 2018	17.11.1982	01.06.1996	Petitioner grandson of original land holder, Brij Mohan Singh Notice under Section 8(3) served on 24.09.1982 of Jaikaran Singh, nephew of Birj Mohan Singh. Final Statement under Section 9 refused Name of Ministry of Railways,

					Government of India presently recorded in the revenue records.
17.	Writ C. No. 36216 of 2019 (Matru v. State)	19.05.2018	21.10.1982	26.03.1997	Petitioner is one of the four original land holders who had filed the ceiling return. Notice under Section 8(3) served.
18.	Writ C No. 36927 of 2019 (Ram Chandra v. State)	November, 2019	16.10.1981	14.12.1985	Petitioner son of original land holders Maiku Notice under Section 8(3) served on Maiku Lal on 07.04.1981. Part of land transferred for High Court, Colony
19.	Writ C No. 13925 of 2021	May, 2019(first writ)	22. 09.1984	17.08.1992	Grandson of original tenure holder Ram Kumar who was survived by four sons. Notice under section 8(3) served on wife of Ram Kumar on 01.09.1984.

SUBMISSIONS OF PARTIES.

5. In the light of factual aspects of the controversy detailed above the contention of the petitioners is that no notice under Section 8(3) was served upon the petitioners and as such the orders passed under Section 8(4) were not sustainable in the eyes of law. It is also stated that the notice under Section 10(5) was not served upon the petitioners. The question of voluntary hand over of possession does not arise as the notices under Section 10 (5) have not been signed by the land holders. It is the categorical case of the petitioners that no proceedings under Section 10(6) of the Act, 1976 had ever taken place and there was no forceful dispossession from the vacant land. Under the circumstances the possession of the land in dispute was never transferred from the land holders to the State and the petitioners continued to remain in possession of the vacant land. Besides no proceedings under the provisions of U.P. Urban Land Ceiling (Taking of Possession, Payment of Amount and Allied Matters) Directions, 1983 framed under Section 35 of the Act, 1976 had taken place. Under these circumstances, it is contended that the alleged possession of the State under Section 10 (5) of the Act, 1976 is merely a paper possession and not de facto possession. The petitioners in support of their case have claimed parity with the judgments passed by this Court in similar writ petitions.

6. The petitioners further claim the benefit of the government orders dated 02.09.2000 and 29.09.2015 under, which the land holders who were in possession of the land at the time of coming into force of the Repeal Act, 1999 would be entitled to benefit of Section 4 of the Repeal Act, 1999 as the proceedings under the Act, 1976 shall stand abated and such land holders were entitled to remain in possession of the vacant land. It is also urged that the State has to establish that there has been voluntary surrender of vacant land under sub-section (5) of Section 10 of the Act, 1976 and further that there has been no surrender of possession by the petitioners. The petitioners in support of their case have also relied upon the government order dated 02.04.1994 in pursuance to which proceedings under the Act, 1976 were stopped in respect of agricultural lands. The petitioners in support of their case regarding being in possession of the land have relied on revenue records, photographs allegedly of the land in dispute, electricity bills, kisan bahi and receipts of amounts paid to the Department of Irrigation.

7. The State-respondents on the other hand has contended that the proceedings had taken place in due accordance with the provisions of the Act, 1976. The original land holders were well aware of the proceedings under the Act, 1976 but had never objected to the same and in some cases where the objections were raised the same were rejected and the proceedings had attained finality. It is also contended that the land came to vest in the State after publication of notification under Section 10 (3) of the Act, 1976 and thereafter the possession of the land was taken under Section 10(5), with no objection being raised by the original land holders to handover voluntary possession of vacant land. Subsequently, the vacant land stood mutated in the name of the State (Competent Authority, Urban Ceiling). Shortly thereafter the possession of the land was transferred to the erstwhile Allahabad Development Authority, now Prayagraj Development Authority in pursuance to government order dated 11.12.1996.

8. It has been vehemently contended on behalf of the respondents that the writ petitions have been filed after a long delay of 32-35 years after the land was declared vacant surplus and after a delay of 17-19 years after coming into force of the Repeal Act, 1999. The original land holders were having knowledge about the proceedings under the Act, 1976 and original land holders having not objected to the proceedings under the Act, 1976, as such the proceedings under the Act, 1976 cannot be challenged by petitioners being the successors of the original land holders and most of them having no knowledge of the proceedings and that too after such a long lapse of time.

9. Moreover, all the successors of the original land holders had not joined as parties in the writ petitions, which itself shows that the petitioners were not in possession of the vacant land and had filed the writ petition as an afterthought claiming parity with similar orders passed by this Court.

10. It is also submitted that the revenue entries in respect of the vacant land were duly recorded in the name of the State, long time ago and the petitioners were well aware about the aforesaid fact, yet the petitioners simply chose to sit over the matter. The proceedings under the Act, 1976 stood concluded much prior to coming into force of the Repeal Act, 1999. It is further contended that the petitioners had waived their right to object to proceedings under the Act, 1976. Besides it has also been claimed that no cause of action arose for filing the writ petitions.

11. The erstwhile Allahabad Development Authority, now Prayagraj Development Authority in their submissions have supported the stand taken by the State and have stated that after the conclusion of proceedings under the Act, 1976, the possession of the land was transferred to the Authority in pursuance to the government order dated 11.02.1996. The Authority has also relied upon the government orders dated 04.03.2011 and 07.06.2011 and the letter of the Additional District Magistrate, Allahabad dated 10.12.2013 issued in pursuance thereto, calling upon the Authority to do necessary Pairvi in respect of cases

arising out of the Act, 1976. It is also submitted that the Authority is in possession of the land in dispute.

12. Hence, from the pleadings, evidences and submissions of respective parties, the position that emerges is as below:-

(i) The original land holders had due knowledge about the proceedings initiated under the Act, 1976 and notices in respect of the proceedings under the Act, 1976 were served upon them at some stage or the other.

(ii) The original tenure holders did not object to the proceedings initiated against them under the Act, 1976 and the objections filed by some at various stages were rejected.

(iii) Most of the writ petitions have been filed by the sons/ daughters/ grandchildren of the original land holders and in most of the cases all the successors of the original land-holder have not joined as a parties in the writ petition.

(iv) Notices under Section 10 (5) of the Act, 1976 were issued and vacant land/ land in dispute was recorded in the name of State i.e. Competent Authority, Urban Ceiling in the revenue records.

(v) The present set of writ petitions have been filed after a passage of 32-35 years of issuance the land being declared surplus under Section 8 (4) of the Act, 1976 and after about 17 to 20 years after coming into force of the Repeal Act, 1999.

(vi) No proceedings under Section 10(6) of the Act, 1976 were initiated by the State in any of the writ petitions.

(vii) The petitioners have not represented before the competent authorities at any point of time ventilating their grievances except for two writ petitions whereto the representations were filed belatedly in the year 2017 and in one case this Court in the year 2019 directed Competent Authority to take a decision in the matter.

Discussion and Findings.

13. Thus, the crux of the contention of petitioners is that no proceedings under Section 10(6) of the Act, 1976 were ever initiated, the possession taken by the State was only paper/ *de jure* possession and the petitioners continued to remain in possession of the vacant land/ land in dispute.

14. The respondents, per contra claim that after issuance of the notice under Section 10 (5) the possession of vacant land / land in dispute was surrendered, the name of State was mutated in the revenue records and the possession of the land was transferred to the erstwhile Allahabad Development Authority. Further the State claims that the writ petitions are liable to be rejected on the ground of delay and laches and the rights, if any, of the petitioners over the land in dispute stood waived on account of the delay.

15. In response thereto it is contended by the petitioners that petitioners have continued to remain in possession of land in dispute and are entitled for benefit of the Repeal Act, 1999 and various government orders as such there is no question of any delay in approaching this Court.

16. In this regard it is important to consider the mode of taking possession of vacant land under the Act, 1976 sub-section (5) and sub-section (6) of Section 10 are relevant in this regard and the same read as under:

“10. Acquisition of vacant land in excess of ceiling limit...(1)...

(2)...

(3)...

(4)...

(5) *Where any vacant land is vested in the State Government under sub-section (3), the competent authority may, by notice in writing, order any person who may be in possession of it to surrender or deliver possession thereof to the State Government or to any person duly authorised by the State Government in this behalf within thirty days of the service of the notice.*

(6) *If any person refuses or fails to comply with an order made under sub-section (5), the competent authority may take possession of the vacant land or cause it to be given to the concerned State Government or to any person duly authorised by such State Government in this behalf and may for that purpose use such force as may be necessary.*

Explanation- In this section, in sub-section (1) of Section 11 and in Sections 14 and 23, ‘State Government’, in relation to-

(a) any vacant land owned by the Central Government, means the Central Government

(b) any vacant land owned by any State Government and situated in Union Territory or within the local limits of a cantonment declared as such under Section 3 of the Cantonment Act, 1924 (2 of 1924), means that State Government.”

17. The manner in which the possession can be taken under the Act, 1976 has been considered by the Apex Court in the case of **State of U.P. v. Hari Ram (2013) 4 SCC 280**, which case has been heavily relied upon by the petitioner as well. Amongst others, in respect of above sub-section(5) and sub-section (6) of Section 10 it has been held as under:

“Peaceful Dispossession

34. Sub-section (5) of Section 10, for the first time speaks of “possession” which says that where any land is vested in the State Government under sub-section (3) of Section 10, the competent authority may, by notice in writing, order any person, who may be in possession of it to surrender or transfer possession to the State Government or to any other person, duly authorised by the State Government.

35. If de facto possession has already passed on to the State Government by the two deeming provisions under sub-section (3) of Section 10, there is no necessity of using the expression, “where any land is vested” under sub-section (5) of Section 10. Surrendering or transfer of possession under sub-section (3) of Section 10 can be voluntary so that the person may get the compensation as provided under Section 11 of the Act early. Once there is no voluntary surrender or delivery of possession, necessarily the State Government has to issue notice in writing under sub-section (5) of Section 10 to surrender or deliver possession. Sub-section (5) of Section 10 visualises a situation of surrendering and delivering possession, peacefully while sub-section (6) of Section 10 contemplates a situation of forceful dispossession.

Forceful dispossession

36. The Act provides for forceful dispossession but only when a person refuses or fails to comply with an order under sub-section (5) of Section 10. Sub-section (6) of Section 10 again speaks of “possession” which says, if any person refuses or fails to comply with the order made under sub-section (5), the competent authority may take possession of the vacant land to be given to the State Government and for that purpose, force- as may be necessary- can be used. Sub-section (6), therefore, contemplates a situation of a person refusing or fails to comply with the order under sub-section (5), in the event of which the competent authority may take possession by use of force. forcible dispossession of the land, therefore, is being resorted to only in a situation which falls under sub-section (6) and not under sub-section (5) of Section 10. Sub-sections (5) and (6), therefore, take care of both the situations i.e. taking possession by giving notice, that is, “peaceful dispossession” and on failure to surrender or give delivery of possession under Section 10(5), then “forceful dispossession” under sub-section (6) of Section 10.”

18 . Hence, under the provisions of the Act, 1976 it is only if, any person refuses or fails to comply with notice issued under sub-section (5) of Section 10, the Competent Authority may take possession of the vacant land to be given to the State Government and for that purpose

force, as may be necessary, can be used by resorting to sub-section (6) of Section 10. Thus, there can be voluntary surrender of vacant land under sub-section (5) of Section 10 or forceful dispossession under sub-section (6) of Section 10 of the Act, 1976.

19. In the present case the respondents claim to have taken possession under sub-section (5) of Section 10, whereas it is the case of the petitioners that the petitioners and their predecessors were never dispossessed from the land in dispute and no measure was resorted to by the State under sub-section (6) of Section 10. Hence, by virtue of the provisions of the Repeal Act, 1999, the petitioners are entitled to remain in possession of the land in dispute as the possession taken by the State is only *de jure* possession, the petitioners in support of their case relating to possession of land in dispute have filed some revenue records, photographs of the land in dispute, electricity bills, etc.

20. As far as the revenue records are concerned, it is admitted by the petitioners in many of writ petitions that the land has been mutated in the name of State in the revenue records, moreso, the petitioners have also not disputed the aforesaid contention of the State. Moreover, there is no pleading to the effect that in the revenue records relied upon by the petitioner, the land in dispute continues to be recorded in the name of the petitioners or their predecessors. The aforesaid fact is also not discernable from the revenue records so relied upon by the petitioners. On the other hand it is the specific case of the State that the land was mutated in the name of State in the revenue records after issuance of notice under Section 10 (5) of the Act, 1976 and revenue records have also been filed in support thereof in several writ petitions.

21. The photographs relied upon by the petitioners, some showing the geo-coordinates of the land, the same cannot be said to be a proof of possession. It is not at all possible to ascertain that the photographs pertain to the land in dispute and as such cannot be a proof of whether the possession has been taken or not. Photographs can be taken also on re-entry for a short time over the land in dispute if, it continues to remain

vacant. Similar is the case of the electricity bills and receipts issued by the Department of Irrigation as there is no mention of any plot number in respect of which the same have been issued. The kisan bahis relied upon by some of the petitioners pertain to the year 1997 and would be of no assistance to the petitioners. Under the circumstances, the aforesaid documents are of little evidentiary value to prove the possession of the petitioners over the land in dispute.

22. On the other hand the respondents have relied upon the notices issued under Section 10(5), contending that the voluntary surrender or delivery of possession is one of the modes of taking possession of the land under the Act, 1996. Besides it is the specific case of the respondents that the proceedings under the Act, 1976 stood concluded prior to coming into force of the Repeal Act, 1976. It is also not disputed by the petitioners that the land in dispute has also been mutated in favour of the State in the revenue records and it is also evident that the entries have not been challenged by the petitioners or their predecessors at any point of time prior to filing of the present writ petitions, except for two petitions where belated representations in the year 2017 have been filed before the Competent Authority.

23. The respondents have also placed reliance on government order dated 11.12.1996 in pursuance to which the vacant land was transferred to erstwhile Allahabad Development Authority, the government order reads as under:-

"संख्या 2893/9--न०भू०/96/10 यू०सी०/84

प्रेषक,

अखण्ड प्रताप सिंह

प्रमुख सचिव,

उत्तर प्रदेश शासन।

सेवा में,

जिलाधिकारी, बरेली, मेरठ, सहारनपुर, देहरादून, आगरा, अलीगढ़,

वाराणसी, लखनऊ, इलाहाबाद, गोरखपुर, मुरादाबाद, कानपुर।

आवास अनुभाग-6

लखनऊ: दिनांक 11 दिसम्बर, 1996

विषय :- नगर भूमि (अधिकतम सीमा एवं विनियमन) अधिनियम, 1976 के अन्तर्गत शासन में निहित एवं कब्जे में ली गयी भूमि का निस्तारण।

महोदय,

उपर्युक्त विषय पर मुझे यह कहने का निर्देश हुआ है कि वर्तमान प्रक्रिया अनुसार नगर भूमि (अधिकतम सीमा एवं विनियमन) अधिनियम, 1976 के विभिन्न प्रावधानों के अन्तर्गत सीलिंग से अप्रभावित भूमि को कम करते हुये सीमाधिक्य भूमि की गणना सक्षम पदाधिकारियों द्वारा की जाती है और आपत्तियों के निस्तारण के पश्चात् धारा 10(3) व 10(5) के अन्तर्गत सीमाधिक्य भूमि के अन्तिम रूप में शासन में निहित हो जाने एवं कब्जा प्राप्त हो जाने पर उसको आवेदन /निस्तारण अधिनियम की धारा 23 के अधीन राज्य सरकारों द्वारा शासनादेश संख्या-559/उन्वास-109 यू०सी 82, दिनांक 27-2-1984 एवं शासनादेश संख्या - 317/9-न०भू०/96-109 यू०सी०/81, दिनांक 27-2-1996 में विहित विधि प्रक्रिया एवं शर्तों के अनुसार किया जाता है। इस शासनादेश के अनुसार सीलिंग की भूमि आवंटित करने में विकास प्राधिकरणों आवास एवं विकास परिषद और विभिन्न सरकारी विभागों/उपक्रमों को अपने कर्मचारियों के आवास आवंटन में प्राथमिकता दी जाती है। इस सम्बन्ध में शासन के संज्ञान में यह बात लायी गयी है कि धारा-10(5) के अन्तर्गत कब्जे में ली गयी काफी भूमि आवंटन हेतु अवशेष पड़ी है और ऐसी भूमि के आवेदन में अपेक्षित प्रगति नहीं हो सकी है, जिसके फलस्वरूप ऐसी भूमि के त्वरित आवंटन/निस्तारण के सम्बन्ध में सम्यक विचारोपरान्त शासन में उक्त शासनादेशों दिनांक 27.2.1984 व 27.2.1996 तथा अन्य तत्सम्बन्धी को आंशिक रूप से संशोधित करते हुये निम्न निर्णय लिये हैं :-

(1) नगर भूमि (अधिकतम सीमा एवं विनियमन) अधिनियम, 1976 को प्रावधानों के अन्तर्गत शासन में निहित समस्त सीमाधिक्य भूमि नजूल भूमि की तहत विकास प्राधिकरणों को रख-रखाव के लिये हस्तान्तरित कर दी जायेगी, जिसका उपयोग उनके द्वारा आवश्यकतानुसार शासन के निर्देशों के अनुरूप सुनिश्चित किया जायेगा, जो भूमि प्राधिकरण उत्तर प्रदेश आवास एवं विकास परिषद को अपनी योजनाओं के लिये उपयुक्त न होगी, यह भी विकास प्राधिकरणों की अभिरक्षा में ही रहेगा।

(2) अन्य सरकारी विभागों/सार्वजनिक उपकरणों को राज्य सरकार में निहित ऐसी सामाधिक्य भूमि का आवंटन शासनादेश दिनांक 27.2.1984 उल्लिखित जिलाधिकारी की अध्यक्षता में गठित समिति द्वारा अब सीधे किया जायेगा तथा आवंटित भूमि का निर्धारित भू-मूल्य जमा हो जाने पर उसका कब्जा आवंटी विभाग को जिलाधिकारी/उपाध्यक्ष विकास प्राधिकरण द्वारा सीधे दे दिया जायेगा। अतः इस कोटि में प्रकरणों का प्रस्ताव शासन को प्रेषित किये जाने की आवश्यकता नहीं होगी। यह भी स्पष्ट करना है कि यदि आवंटी विभाग द्वारा दीर्घ अवधि तक आवंटित भूमि का मूल्य सुसंगत लेखाशीर्षक में जमा नहीं किया जाता है तो ऐसे मामलों में जिलाधिकारी उसी भूमि को आवश्यकतानुसार किसी दूसरे इच्छुक विभाग के पक्ष में

भी आवंटित कर सकते हैं। ऐसी आवंटनों के लिये, शासनादेश दिनांक 27.2.1984 के अनुसार गठित आवंटन समिति के सदस्य सचिव, सम्बन्धित सक्षम प्राधिकारी के स्थान पर अब सम्बन्धित विकास प्राधिकरण के उपाध्यक्ष/सचिव होंगे जो बैठक का आयोजन करायेंगे। सक्षम प्राधिकारी नगर भूमि सीमारोपण, समिति को सदस्य की हैसियत से अपना प्रभावी सहयोग देंगे।

(3) विकास प्राधिकरणों की जो भूमि हस्तान्तरित हो जायेगी उस पर अवैध कब्जे व निर्माण हटाने की कार्यवाही सम्बन्धित विकास प्राधिकरण, द्वारा ही यथाआवश्यक जिला प्रशासन की सहायता लेकर की जायेगी।

(4) समस्त सीमाधिक्य भूमि जो विकास प्राधिकरण को हस्तान्तरित होगी, से सम्बन्धित अभिलेखों को रख-रखाव विकास प्राधिकरण द्वारा ही किया जायेगा।

(5) शासनादेश दिनांक 27.2.1984 व 27.2.1996 तथा एतदसम्बन्धी अन्य शासनादेशों में अन्य व्यवस्थायें, पूर्ववत् रहेगी। 1

2- अनुरोध है कि कृपया उपरोक्तानुसार कार्यवाही प्राथमिकता के आधार पर शीघ्र सुनिश्चित करने का कष्ट करे।

भवदीय,

अखण्ड प्रताप सिंह

प्रमुख सचिव।"

24. A perusal of the government order reveals that after publication of notification under Section 10 (3) and vesting of vacant land in the State and taking of possession under Section 10(5), substantial land whose possession had been taken under Section 10 (5) was yet to be allotted and as such the same was sought to be transferred to Development Authorities. Hence, it can be inferred the practise of taking possession of vacant land under Section 10 (5) without resorting to measures provided under Section 10 (6) of the Act, 1976 was prevalent in the State.

25. In many of the writ petitions, the petitioners themselves admit that the land in dispute has been recorded in the name of State (Competent Authority, Urban Ceiling) in the revenue records. Further the petitioners have also not disputed the contention so made by the State that the name of State was mutated in the revenue records pursuant to the notices issued under Section 10(5).

26. We are also aware that the mutation of land in revenue records does not create or extinguish the title over such land nor has it any

presumptive value on the title and the revenue entries only enable the person in whose favour mutation is ordered to pay the land revenue. But at the same time entries in revenue records raise a presumption in regard to possession, but it is beyond any doubt or dispute that such a presumption is rebuttable. The Apex Court in this regard in the case of ***State of Haryana & Anr. Vs. Amin Lal (since deceased) through his LRs & Ors.***, decided on 19.11.2024 had held as under :-

“8.2 The plaintiffs relied on jamabandi entries to establish their ownership. The jamabandi for the year 1969-70 (Exhibit P1) records the name of Shri Amin Lal as owner to the extent of half share. Revenue records are public documents maintained by government officials in the regular course of duties and carry a presumption of correctness under Section 35 of the Indian Evidence Act, 1872. While it is true that revenue entries do not by themselves confer title, they are admissible as evidence of possession and can support a claim of ownership when corroborated by other evidence.”

27. Under the circumstances on the basis of revenue entries a presumption may be drawn that the possession of the land in dispute is with the State and it is for the petitioners to rebut the presumption so made by placing evidence that the possession is with the petitioners. However, the documents relied upon by the petitioners in this regard are of little evidentiary value, for the reasons already detailed above.

28. We are well aware of the fact that it is for the State to establish that there has been voluntary surrender of land before 18.03.1999 ie. the date when the Repeal Act, 1999 came into force. The pleadings of parties, evidences on record and lackadaisical approach of the petitioners in approaching this Court definitely tilts the scale in favour of the State and a *prima facie* case is made out in this regard but it is difficult to arrive at any conclusive finding.

29. Be that as it may, we cannot ignore that the factum of possession is essentially a question of fact. Although there is no hard-and-fast rule that a question of fact cannot be determined under writ jurisdiction but in the event of a serious dispute between the parties on a question of fact and material evidences on record being insufficient/ inconclusive to enable the Court to come to a definite conclusion, a writ court ordinarily

refrains from deciding it. Hence, under the circumstances, we would advert to the question of possession in the latter part of this judgment.

30. It is stated that as far as the questions of delay and laches as well as waiver of rights to question the proceedings under the Act, 1976 are concerned, the reliefs claimed in the writ petition are relevant. Most of the writ petitions have been filed claiming reliefs similar to that claimed in in the leading writ petition, Writ C No. 19612 of 2018 (Kumbhkaran v. State of U.P. and others), relief claimed in the writ petition being already mentioned above. In most of the writ petitions reliance has been placed upon the government orders, more so government order dated 29.09.2015 giving rise to the cause of action for filing the writ petition. Further in some writ petitions it has been alleged that the land mafia were interfering in the peaceful possession of the petitioners alleging the land in dispute was ceiling land.

31. A perusal of the government order dated 29.09.2015 reveals that the same was issued after the judgment of the Apex Court in the case of ***State of U.P. v. Hariram 2013 (4) SCC 280***. Further the said government order also places reliance upon the previous government orders dated 09.02.2000, 09.08.2000 and 24.01.2001. The government order dated 29.09.2015 reads as under:-

“संख्या-2228/आठ-6-15-124...सी/13

प्रेषक,

पनधारी यादव,

सचिव

उत्तर प्रदेश, शासन।

सेवा में,

जिलाधिकारी

गोरखपुर, वाराणसी इलाहाबाद, लखनऊ,

कानपुर, आगरा, मेरठ, मुरादाबाद, अलीगढ़, बरेली, सहारनपुर।

आवास एवं शहरी नियोजन अनुभाग-6 लखनऊ: दिनांक 29 सितम्बर 2016

विषय- नगर भूमि (अधिकतम सीमा एवं विनियमन) निरसन अधिनियम, 1999 तत्कम में निर्गत शासनादेश तथा मा० उच्चतम न्यायालय के निर्णय दिनांक 11.3.2013 के संबंध में।

महोदय,

उपर्युक्त विषय पर मुझे यह कहने का निर्देश हुआ है कि भारत सरकार के अधिनियम संख्या-15/1999 दिनांक 18.3.1999 द्वारा नगर भूमि (अधिकतम सीमा एवं विनियमन) अधिनियम 1976 को निरसित करते हुए नगर भूमि (अधिकतम सीमा एवं विनियमन) निरसन अधिनियम 1999 प्राख्यापित किया गया जिसके क्रम में शासनादेश संख्या-502/9-न 0 पू0-21 यू०सी०/99, दिनांक 31.3.1999 द्वारा उक्त निरसन अधिनियम को उत्तर प्रदेश राज्य में अंगीकृत किया गया। निरसन अधिनियम 1999 की धारा-3 में यह प्राविधान है कि मूल अधिनियम का निरसन निम्नलिखित को प्रभावित नहीं करेगा-

1-(क)- धारा-10 की उपधारा (3) के अधीन किसी ऐसी रिक्त भूमि का निहित होना, जिसका कब्जा राज्य सरकार या राज्य सरकार द्वारा इस निमित्त सम्यक रूप से अधिकृत किसी व्यक्ति या सक्षम प्राधिकारी ने ले लिया है।

(ख) धारा-20 की उपधारा (1) के अधीन छूट देने संबंधी किसी आदेश या उसके अधीन की गयी किसी कार्यवाही की किसी न्यायालय के किसी निर्णय में उसके विरुद्ध किसी बात के होते हुए भी विधिमान्यता।

(ग) धारा-20 की उपधारा (1) के अधीन प्रदान की गयी छूट की शर्त के रूप में राज्य सरकार को किया गया कोई संक्षयः

(2) जहां-

(क) मूल अधिनियम की धारा-10 की उपधारा (3) के अधीन किसी भूमि को राज्य सरकार में निहित होना मानी गयी है किन्तु जिसका कब्जा राज्य सरकार या राज्य सरकार द्वारा इस निमित्त सम्यक रूप से प्राधिकृत किसी व्यक्ति या सक्षम प्राधिकारी द्वारा नहीं लिया गया और

(ख) ऐसी किसी भूमि की बाबत जिसके लिए राज्य सरकार द्वारा किसी सक्षम का संदाय कर दिया गया है तब तक प्रत्यावर्तित नहीं की जाये और जब तक कि राज्य सरकार को संदाय की गयी रकम का यदि कोई हो प्रतिदाय नहीं कर दिया जाता।

उक्त के क्रम में शासनादेश संख्या-777/9-न०भू0-135 यू०सी०/96 दिनांक 9.2.2000 का शासनादेश संख्या-1623/9-न०पू०-2000 दिनांक 9.5.2000 एवं शासनादेश संख्या-190/9-आ-6-2001 दिनांक 24.1.2001 निर्गत किये गये जिसमें मुख्य रूप से यह व्यवस्था की गयी कि मूल अधिनियम धारा 8(4) व अन्तर्गत जो भूमि रिक्त घोषित की गई थी और धारा-10 (3) के अन्तर्गत राज्य में निहित हो चुकी थी एवं धारा 10 (5) की कार्यवाही का आदेश हो चुका था, परन्तु इस भूमि पर राज्य सरकार का कब्जा प्राप्त नहीं हो सका था, ऐसी भूमि के सम्बन्ध में मूल भूधारक को अदा की गई धनराशि भूधारक द्वारा वापस करने पर भूमि मूल भूधारक का प्रत्यावर्तित की जा सकती है किन्तु अदा की गई धनराशि भू-धारक द्वारा प्राप्त न करने की दशा में भूमि पर कब्जा किये जाने के सम्बन्ध में विधि अनुसार अग्रिम कार्यवाही अमल में लायी जाये। यह भी व्यवस्था की गई कि जिस भूमि के सम्बन्ध में धारा-10(5) की कार्यवाही के उपरान्त धारा 10(6) की कार्यवाही पूर्ण हो चुकी है और भूमि पर राज्य सरकार द्वारा कब्जा लिया जा चुका है वह सरप्लस भूमि अन्तिम रूप से राज्य सरकार में निहित मानी जायेगी।

3. नगर भूमि सीमारोपण- गोरखपुर, वाराणसी, इलाहाबाद, लखनऊ, कानपुर, आगरा, मेरठ, मुरादाबाद, अलीगढ़ बरेली, सहारनपुर में लम्बित अर्बन सीलिंग प्रकरणों का समुचित रूप से निस्तारण न होने की स्थिति में भू-धारकों / वादियों द्वारा मा० उच्च न्यायालय में अधिक संख्या में रिट याचिकायें योजित की जा रही हैं। नगर बस्ती कार्यालयों द्वारा रिट याचिकाओं में विभागीय पक्ष समायान्तर्गत साक्ष्यों सहित प्रबलता से प्रस्तुत न किये जाने के कारण मा० न्यायालय द्वारा पारित आदेशों के क्रम में शासन को असमंजसपूर्ण स्थिति का सामना करना पड़ रहा है।

4. अर्बन सीलिंग के अन्य प्रकरण में राज्य सरकार द्वारा मा० उच्चतम न्यायालय नई दिल्ली में विशेष अनुमति याचिका संख्या-12960/2008 उत्तर प्रदेश राज्य बनाम हरीराम योजित की गयी। कालान्तर में अन्य जनपदों के अर्बन सीलिंग से संबंधित प्रकरणों में योजित विशेष अनुमति याचिकायें उक्त विशेष अनुमति याचिका से तलब की गयी। उक्त विशेष अनुमति याचिका संख्या 12960/2008 तथा उससे क्लब अन्य विशेष अनुमति याचिकाओं में पारित मा० उच्चतम न्यायालय के निर्णय दिनांक 11.3.2013 में अर्बन सीलिंग से सम्बन्धित प्रकरणों में मार्गदर्शक सिद्धान्त प्रतिपादित किये गये हैं। निर्णय दिनांक 11.3.2013 का महत्वपूर्ण एवं क्रियात्मक अंश निम्नवत् है-

प्रस्तर-39

The mere vesting of the land under sub-section(3) of section 10 would not confer any right on the State Government to have de-facto possession of the vacant land unless there has been a voluntary surrender of vacant land before 18.3.99. State has to established that there has been a voluntary surrender of vacant land or surrender and delivery of peaceful possession under sub-section(5) of section 10 or forceful dispossession under sub section (6) of section 10. On failure to establish any of those situations, the land owner or holder can claim the benefit of section 3 of the Repeal Act. The State Government in this appeal could not establish any of those situations and hence the High Court is right in holding that the respondent is entitled to get benefit of section 3 of the Repeal Act.

प्रस्तर-40

We, therefore find no infirmity in the judgement of the High Court and the appeal is, accordingly, dismissed so also the other appeals. No documents have been produced by the State to show that the respondents had been dispossessed before coming into force of the Repeal Act and hence, the respondents are entitled to get the benefit of section 3 of the Repeal Act. However, there will be no order...

5. नगर भूमि (अधिकतम सीमा एवं विनियमन) निरसन अधिनियम 1999 में निहित प्राविधान तथा तत्क्रम में निर्गत शासनादेश दिनांक 9.2.2000 शासनादेश दिनांक 9.8.2000 एवं शासनादेश दिनांक 24.1.2001 स्वतः स्पष्ट है। विशेष अनुमति याचिका संख्या-12960/2008 उत्तर प्रदेश राज्य बनाम हरी राम तथा उससे अन्य विशेष अनुमति याचिकाओं में पारित मा० उच्चतम न्यायालय के निर्णय दिनांक 11.3.2013 में उल्लिखित सिद्धान्त/आदेश भी स्वतः स्पष्ट है।

6. कृपया नगर भूमि (अधिकतम सीमा एवं विनियमन) निरसन अधिनियम 1999 तथा उक्त शासनादेश दिनांक 9.2.2000 शासनादेश दिनांक 9.8.2000 एवं शासनादेश दिनांक 24.1.2001 में विहित व्यवस्था विशेष अनुमति याचिका संख्या-12960/2008 उत्तर प्रदेश राज्य बनाम हरी राम में पारित मा० उच्चतम न्यायालय के निर्णय दिनांक 11.3.2013 में उल्लिखित सिद्धान्तों/आदेशों के आलोक में लम्बित प्रकरण में Legal ingredient देखते हुए आवश्यक कार्यवाही की जाये।

भवदीय
पनधारी यादव
सचिव”

32. Hence, the aforesaid government order also provides for voluntary surrender of vacant land or surrender and delivery of peaceful possession under sub-section (5) of Section 10 or forceful dispossession under sub-section (6) of Section 10, reliance being placed on para 39 of the case of Hari Ram (supra). The said government order further provides that the government orders issued in the past and the provisions of the Repeal Act, 1999 clarify this position.

33. The government order dated 29.09.2015 lays emphasis on government orders issued in this regard in the past and if, we advert to the first government order dated 09.02.2000 issued in this regard, which has also been relied upon by the petitioners in several writ petitions, the same reads as under:-

“प्रेषक,

अतुल कुमार गुप्ता,
सचिव,
उत्तर प्रदेश शासन।

सेवा में,

1. निदेशक, नगर भूमि सीमारोपण, उत्तर प्रदेश,
जवाहर भवन, लखनऊ।
2. जिलाधिकारी / सक्षम अधिकारी,
नगर भूमि सीमारोपण
लखनऊ, कानपुर, आगरा, इलाहाबाद, वाराणसी, गोरखपुर,
मुरादाबाद, बरेली, सहारनपुर, देहरादून, अलीगढ़, मेरठ।

आवास अनुभाग- 6 लखनऊ

दिनांक 09 फरवरी, 2000

विषय-नगर भूमि (अधिकतम सीमा एवं विनियमन) अधिनियम 1976 के निरसन होने के उपरान्त अवशेष लम्बित कार्यवाहियों के सम्बन्ध में।

महोदय,

उपरोक्त विषय के सम्बन्ध में मुझे यह कहने का निर्देश हुआ है कि निरसन अधिनियम 1999 की धारा-4 के अनुसार मूल अधिनियम 1976 के अन्तर्गत लम्बित वाद व अन्य विधिक कार्यवाहियां जो किसी न्यायालय, अधिकरण या किसी प्राधिकारी के समक्ष लम्बित थी उपशमित हो जायेगा लेकिन निरसन अधिनियम की धारा-4 के परन्तुक (प्रोविजो) में उल्लिखित प्राविधानों के अनुसार मूल अधिनियम की धारा 11, 12, 13, 14 से संक्षेप सभी कार्यवाहियां चालू रहेंगी एवं मूल अधिनियम की धारा-23 एवं 34 के अन्तर्गत चल रहे वादों के उपशमन हेतु सम्बन्धित सक्षम न्यायालय, अधिकरण या प्राधिकरण के संज्ञान में लाने हेतु तत्सम्बन्धित आवेदन सक्षम न्यायालय में प्रस्तुत करना होगा तभी न्यायालय कथित प्राविधान का संज्ञान लेकर वादों को उपशमित कर सकेगा।

अधिनियम की धारा 10 (3) के प्राविधानों के अन्तर्गत जो भूमि राज्य में निहित नहीं हुई है उस भूमि पर राज्य द्वारा कब्जा किये जाने का औचित्य नहीं है। भले ही इस भूमि को सरप्लस घोषित किया गया हो। मूल अधिनियम की धारा 10 (3) के अन्तर्गत राज्य निहित हो चुकी थी एवं धारा 10 (5) की कार्यवाही का आदेश हो चुका था लेकिन इस भूमि पर राज्य सरकार का कब्जा नहीं प्राप्त हो सका था इस प्रकार के प्रकरण निरसन अधिनियम की धारा 3 (2) के अनुसार यदि शासन द्वारा प्रश्रुत भूमि के बाबत भूधारक को कोई धनराशि अदा की गयी थी यदि राज्य सरकार द्वारा अदा की गई धनराशि वापस करने की दशा में भू धारक को प्रश्रुत भूमित प्रत्यावर्तित की जा सकती हैं। किन्तु अदा की गयी धनराशि भू-धारक द्वारा वापस न करने की दशा में भूमि पर कब्जा किये जाने के सम्बन्ध में विधि अनुसार अग्रिम कार्यवाही अमल में लायी जाय।

अतः न्याय विभाग के उपरोक्त अभिमत के अनुक्रम में प्रचलित वादों के उपशमन हेतु अग्रिम कार्यवाही सुनिश्चित करें। इस हेतु वस्तु स्थित सम्बन्धित न्यायालय के संज्ञान में लाने हेतु आवेदन पत्र प्रस्तुत कर दिया जाय। सभी प्रश्रुत वादों में उपशमन हेतु आवेदन दिनांक

29.02.2000 तक लगा देना चाहिए। तदुसार कार्यवाही सुनिश्चित करते हुए कृत कार्यवाही से शीघ्र शासन को सूचित करने का कष्ट करें।

भवदीय

ह० अपठनीय

(अतुल कुमार गुप्ता)”

34. Thus, the government order dated 02.09.2000 also provides that land vested in the State under Section 10 (3) of the Act, 1976 in respect of which, proceedings have also been initiated under Section 10 (5) but possession has not been taken by the State, such land would be governed by provisions of Section 3(2) of the Repeal Act, 1999.

35. We have perused the government orders dated 29.09.2015 and 02.09.2000 but feel that Section 3 and Section 4 of the Repeal Act, 1999 are themselves self explanatory and have been relied on in both the government orders and read as under:-

“3. Savings-(1) The repeal of the principal Act shall not affect-

(a) the vesting of any vacant land under sub-section (3) of Section 10, possession of which has been taken over by the State Government or any person duly authorised by the State Government in this behalf or by the competent authority;

(b) the validity of any order granting exemption under sub-section (1) of section 20 or any action taken thereunder, notwithstanding any judgment of any Court to the contrary;

(c) any payment made to the State Government as a condition for granting exemption under sub-section (I) of section 20.

(2) Where-

(a) any land is deemed to have vested in the Stage Government under sub-section (3) of Section 10 of the principal Act but possession of which has not been taken over by the State Government or any person duly authorised by the State Government in this behalf or by the competent authority; and

(b) any amount has been paid by the State Government with respect to such land, then such land shall not be restored unless the amount paid, if any, has been refunded to the State Government.

4. Abatement of legal proceedings- All proceedings relating to any order made or purported to be made under the principal Act pending immediately before the commencement of this Act, before any Court, tribunal or other authority shall abate.

Provided that this section shall not apply to the proceedings relating to section 11,12,13 and 14 of the principal Act insofar as such proceedings are relatable to the land, possession of which has been taken over by the State Government or any person duly authorised by the Stage Government in this behalf or by the competent authority.”

36. It is further pointed out here that even the government orders relied in the past lay down that after coming into force of the Repeal Act, 1999,

the land holders who were in possession of their land declared vacant under the Act, 1976 would continue to remain in possession of the same subject to the refund of any amount paid to the land holder. Thus, the government orders simply relied on the provisions of Section 3 of the Repeal Act, 1999, which clearly provides that if possession of vacant land has not been taken over by the State or by any person duly authorized by the State Government in this behalf or by the Competent Authority and the ownership of the land, if vested, in the State Government under Section 10 (3) would be required to be restored to the original land holder subject to repayment of any amount, that has been paid by the State Government with respect to such land. Further the proceedings under the Act, 1976 in respect of such vacant land would abate under Section 4 of the Act, 1976.

37. It would not be out of place to mention here that Apex Court in the case of ***Madan Swaroop Public Charitable Trust v. State of U.P (2000) 6 SCC 325***, decided on 18.01.2000 had also held that if State had not taken possession of the surplus land, the proceedings shall abate under Section 4 of the Repeal Act, 1999, implying thereby that the land holder would continue to remain in possession of such lands.

38. Under the circumstances, it is difficult to understand as to how petitioners on the basis of government order dated 29.09.2015 would be able to cull out a fresh cause of action, while explaining delay in approaching this Court, there is no change in the position with the issuance of the said government order nor any fresh rights came into existence in favour of the petitioners by virtue of the same. The same position has been prevalent even prior to issuance of the aforesaid government order by virtue of provisions of Repeal Act, 1999 and provisions of previous government orders issued way back in the year, 2000. Hence, we fail to understand as to how the issuance of government order dated 29.09.2015 would be of assistance of the petitioners in explaining the delay in approaching this Court and carrying out a cause of action for filing the writ petition.

39. As far as the relief of mandamus in deciding the ceiling cases of the petitioners in pursuance of the government order dated 29.09.2015 is concerned, it is the specific case of the respondent that the proceedings under the Act, 1976 stood concluded prior to coming into force of the Repeal Act, 1999. Further the petitioners in only two writ petitions detailed above had approached the competent authority prior to approaching this Court for correction of revenue entries that too belatedly in the year 2017 and in one of the writ petitions filed in the year 2019 this Court had directed the Competent Authority under the Act, 1976 to decide the representation of the petitioners. However, in the remaining writ petitions the petitioners had not even made a representation before the Competent Authority under the Act, 1976 or before any other authority for that matter, ventilating their grievances in the past, prior to approaching this Court. Under the circumstances, it can well be concluded that the petitioners had preferred to sleep over the subject matter in dispute and did not even deem fit to approach the authorities concerned upto the year 2016-17 and even thereafter.

40. Thus, as per own showing of the petitioners, even though the petitioners became legally entitled to remain in possession of vacant land/ land in dispute when the Repeal Act, 1999 was enacted on 18.03.1999, the present writ petitions have been filed after a lapse of 17 to 20 years thereafter.

41. Similar is the situation in respect of correction of entries in the revenue records. It is not disputed by the petitioners in most of the writ petitions that the entries in the revenue records in respect of the land in dispute are in the name of the State Government and in most of the cases the entries have been recorded after the issuance of the notice under Section 10 (5) of the Act, 1976. It is also not the case of the petitioners that they were not aware of the entries made in the name of the State in the revenue records. In fact in many of the writ petitions the petitioners admit the fact that the vacant land was recorded in the name of State in the revenue records. Thus, even the said relief is being claimed after a lapse of 17 to 20 years, if not more.

42. In the above background we proceed to consider the law in respect of the issues involved in the present controversy. However, prior to advertent to the same we cannot lose sight of the fact that every judgment must be read as applicable to the facts proved or assumed to be proved, since the generality of the expression, which may be found there, are not intended to be expositions of the whole law, but governed or qualified by the particular facts of the case in which such expressions are to be found. Under the circumstances the Courts are supposed to follow the decision whose facts appear more in accordance with those of the case at hand.

43. The Apex Court in the case of ***Bharat Petroleum Company Ltd v. N.R. Vairamani***, (2004) 8 SCC 579 while holding that court should not place reliance on decisions without discussing as to how the factual situation of the case in hand fits in with the facts, situation of the decision on which reliance has been placed, had held as under:-.

“ 8. As rightly submitted by learned counsel for the appellants, provisions similar to Section 3 and 9 of the Tenants Act were not under consideration in Hindustan Petroleum case.

9. Court should not place reliance on decisions without discussing as to how the factual situation fits in with the fact situation of the decision on which reliance is placed. Observations of courts are neither to be read as Euclid's theorems nor as provisions of a statute and that too taken out of their context. These observations must be read in the context in which they appear to have been stated. Judgments of courts are not to be construed as statutes. To interpret words, phrases and provisions of a statute, it may become necessary for judges to embark into lengthy discussions but the discussions is meant to explain and not to define. Judges interpret statutes, they do not interpret judgments. They interpret words of statute; their words are not to be interpreted as statutes. In London Graving Dock Co. Ltd. v. Horton Lord Dermott observed:(All Er p. 14 C-D)

The matter cannot, of course, be settled merely by treating the ipsissima verba of Willes, J., as though they were part of an Act of Parliament and applying the rules of interpretation appropriate thereto. This is not to detract from the great weight to be given to the language actually used by that most distinguished judge,....

10. In Home Office v. Dorset Yacht Co. (All ER p. 297g-h) Lord Reid said, "Lord Atkin's speech ... is not to be treated as if it were a statutory definition. It will require qualification in new circumstances". Megarry. J. in Shepherd Homes Ltd. v. Sandham (No. 2) observed: "One must not, of course, construe even a reserved judgment of Russell, L.J. as if it were an Act of Parliament." And, in Herrington v. British Railways Board Lord Morris said: (All ER p. 761c)

"There is always peril in treating the words of a speech or a judgment as though they were words in a legislative enactment, and it is to be remembered that judicial utterances made in the setting of the facts of a particular case."

11. Circumstantial flexibility, one additional or different fact may make a world of difference between conclusions in two cases. Disposal of cases by blindly placing reliance on a decision is not proper.

12 The following words of Hidayatullah, J. in the matter of applying precedents have become locus classicus: (Abdul Kayoom v. CITS, AIR p. 688, para 19)

"19. Each case depends on its own facts and a close similarity between one case and another is not enough because even a single significant detail may alter the entire aspect, in deciding such cases, one should avoid the temptation to decide cases (as said by Cardozo) by matching the colour of one case against the colour of another. To decide therefore, on which side of the line a case falls, the broad resemblance to another case is not at all decisive."

"Precedent should be followed only so far as it marks the path of justice, but you must cut the dead wood and trim off the side branches else you will find yourself lost in thickets and branches. My plea is to keep the path to justice clear of obstructions which could impede it."

44. If we examine the facts in the case of State of **U.P. v. Hari Ram, (2013) 4 SCC 280**, we find that in the said case, proceedings were initiated under the Act, 1976 against the land holder. On 19.06.1999, the Prescribed Authority issued a notice under Section 10 (5) of the Act, 1976 directing the land holder to hand over possession of the land declared as surplus to duly authorized persons. Aggrieved by the same, the land holder had preferred an appeal under Section 33 of the Act, 1976 contending that no notice as contemplated under Section 8(3) of the Act, 1976 was served upon him. The appeal was allowed vide the judgment dated 14.12.1999 and the order dated 29.06.1981 passed under Section 8(4) of the Act, 1976 was quashed. The State being aggrieved by the order passed in appeal had challenged the same in writ petition but the writ petition was ultimately dismissed upholding the order passed in appeal. Subsequently the State had approached the Hon'ble Supreme Court. The Hon'ble Supreme Court while considering the various provisions of the Act, 1976 and the Repeal Act, 1999 had found no infirmity in the judgment of the High Court and the appeal was accordingly dismissed along with other appeals. It is pertinent to mention here that the Repeal Act, 1999 was enforced in the State of Uttar Pradesh on 18.03.1999 and the notice under Section 10(5) in the said case was issued subsequent thereto on 19.06.1999.

45. In the case of ***A.P. Electrical Equipment Corporation v. Tehsildar and others, 2025 SCOnline SC 447*** the panchnama under Section 10 (6) dated 08.02.2008 was prepared and it was contended by the State that the possession of the land was taken in pursuance thereto. However, it was the contention of the land holder (M/s A.P. Electrical Equipment Corporation) that the State had only taken symbolic possession and actual possession continued to remain with the land holder. In the meanwhile Repeal Act, 1999 was brought into force in the State of Andhra Pradesh on 22.04.2008 w.e.f. 27.03.2008. It was around the year, 2009 that the State authorities tried to take possession of the land and the land holder had challenged the said action by filing a writ petition. The writ petition so filed was ultimately allowed wherein it was held that the land holder had continued to remain in physical possession of the land in dispute. Subsequently the State had approached the Division Bench of the High Court and the appeal so filed was ultimately allowed as it was held that the learned Single Judge had erred on facts as well as in law in declaring notice dated 05.01.2008 made under Section 10(5) of the Act, 1976 as well as the panchnama dated 08.02.2008 *void ab initio* and *non est* in the eye of law. The land holder being aggrieved by the order passed in appeal had approached the Hon'ble Supreme Court and ultimately the Hon'ble Supreme Court while considering the law laid down in that regard while setting aside the order passed in appeal had upheld the judgment of the Single Judge of the High Court.

46. After the present bunch of petitions were reserved for pronouncement of judgment, the petitioners have filed a recent judgment of the Apex Court in the case of ***Dalsukhbhai Bachubhai Satasia and others v. State of Gujarat and others, AIR 2026 SC 475*** in support of the case of the petitioners.

47. The facts involved in the said case reveal that a ceiling return was filed under Section 6 (1) of the Act, 1976 by the original land holder. Subsequently in the proceedings initiated under Section 21 of the Act, 1976 and vide the order dated 18.02.1980 the Competent Authority had amongst others held that land comprised in Survey No. 339 was within

ceiling limit and as such there was no excess land being held by the family members of the original tenure holder. Thereafter a society had purchased land of Survey No. 339 at a public auction held by the Special Recovery Officer on 28.04.1981, the auction was confirmed and the name of the society was entered in the records of rights. The society obtained construction permission for constructing industrial units from the Surat Municipal Corporation. Thereafter possession receipts were issued to multiple sub plots holders-appellants, who had remained in possession of the said sub plots since the year 1983-84. The said plot holders had developed industrial units over the said land.

48. In the meanwhile on 12.10.1984 the Assistant Collector cancelled the mutation entry entered in favour of the society on the basis that the public auction dated 28.04.1981 was not conducted according to the provisions of the Act, 1976. The order so passed was challenged in appeal before the Collector but the appeal was also dismissed. Subsequently the revision filed before the Assistant Secretary, Revenue Department was also dismissed. The Government of Gujarat on 03.05.1988 exercised its power of revision under Section 34 of the Act, 1976 and set aside the order dated 18.02.1980 of the Competent Authority, passed under Section 21 of the Act, 1976 and remanded the matter back to the Competent Authority for reconsideration of the question of excess land with regard to Survey No. 339. Thereafter on 16.01.1989 the competent authority passed an order declaring that 662.18 sq. meters out of total area of 9303 sq. meters of land in Survey No. 339 as “excess land”. On 22.11.1990 a notice under Section 10(5) of the Act, 1976 was issued to the original land holder directing him to vacate and handover the possession of the excess land, pursuant thereto a Panchnama dated 21.01.1992 for taking over possession of excess land to the tune of 662.18 sq. meters was issued.

49. It is only when some of the sub-plot holders-appellants had tried to resell their sub-plots, the Competent Authority sent letters dated 20.06.2007 and 05.07.2008 refusing to grant ‘No Objection Certificates’ for the subsequent sale, on the ground that the constructed units were

situated over the alleged excess land and as the said surplus land was taken over and therefore vested in the government since 21.01.1992. It is only then the sub-plot holders- appellants, for the first time, came to know that the said property had been declared as excess land by the Competent Authority and consequently the writ petition was filed before the Gujarat High Court seeking a relief in the nature of direction to issue necessary No Objection Certificates for sale of the sub plots in the year 2009. Another writ petition was filed in the year 2010 in respect of the land use of the said sub-plots.

50. The Apex Court in the said judgment while adverting to the factual controversy involved had held as under :-

“22.....

22.1It is only when the appellants herein sought ‘No Objection Certificates’ for further sale that they became aware that ‘excess land’ was taken over by the State Government and had vested with them. Hence, they filed the Writ Petition before the High Court which was dismissed.

22.2 The fact that notice under Section 10 (5) of the ULC Act was issued to the original owners implies that the respondents were aware that the possession of the said land had to be taken in accordance with Section 10 of ULC Act. This was without ascertaining the fact that possession of the said land was with the appellants herein but no notice was issued to the appellants herein who were in actual possession of the subject land.

22.3 Applying the above settled law to the fact at hand, we find the following fact on the face of record:

a) The appellants herein in actual possession of the subplots in question at the time of the Repealing Act.

b) On 22.11.1990, a notice under Section 10(5) regarding transfer of possession to the State Government was issued to the original landowner but not the appellants herein, who were in possession of the concerned sub-plots.”

51. Hence, considering the factual aspect of the controversy involved in the said case there was no dispute regarding the fact that the appellants were in actual possession of the land at the time of the enforcement of the Repeal Act, 1999. Further the appellants came to know that their land

had been held to be excess land and taken over by the State Government for the first time only when the No Objection Certificates were refused and shortly thereafter the appellants had approached the High Court. Lastly notice under Section 10 (5) was issued to the original land holder but not to the appellants and it is also not disputed that the rights over the land in question stood transferred in favour of the appellants.

52. Thus, it is beyond doubt that the subject matter in controversy in the said case was very much different from that involved in the present proceedings as there was no dispute regarding the possession of the land at the time of enforcement of the Repeal Act, 1999 and also the question of delay in approaching the High Court was also not involved. Furthermore the sub-allottees were enjoying independent rights over the land in question and had no knowledge of proceedings under the Act, 1999. However, in the present case the notice under Section 10 (5) was issued to the original land holders, the petitioners are descendants of the original land holder and claiming their rights through the original land holders. Further the original land holders were also served with the notice at some stage or the other of the proceedings under the Act, 1976 and had also filed ceiling returns, as such it cannot be said that they had no knowledge regarding the proceedings under the Act, 1976.

53. Be that as it may the Apex Court in the said case had also observed as under:-

“20. We are inclined to agree with this view of this court in AP Electrical regarding the effect of Bhaskar Jyoti Sarma : (2015 AIR SCW 548) on the dictum in Hari Ram: (AIR 2013 SC 1793). In the former, de facto possession had actually been transferred to the State Government. Albeit , this was done by force in contravention of the requirement to mandatorily issue notice under Section 10 (5) of the ULC Act. In this regard, this Court held that if the objection regarding the non-compliance with Section 10 (5) is not made within a “reasonable time”, then the right to so object is “waived””.

54. Hence, it is evident that in all the three cases above, relied upon by the petitioners, it was held that the land holder was in possession of the vacant land at time of coming into force of the Repeal Act, 1999. Further

the question of land holder having waived their rights, in any manner, whatsoever or having approached the writ court with delay was also not a subject matter in dispute. In fact the aggrieved party had approached the High Court within the short span of time when the cause of action arose. Thus, the three judgments relied upon by the petitioners had not dealt with the question of the writ petitions being barred on account of delay and laches on the part of land holder in approaching the Court.

55. It is pointed out here that the respondents have relied upon the case, ***State of Assam v. Bhaskar Jyoti Sarma and others, 2015 (5) SCC 321.*** In that case submission was raised by the State of Assam that physical possession has been taken over by the competent authority and it was submitted on behalf of the landowner that procedure prescribed under Section 10 (5) of the Act, 1976 was not followed. It was before taking possession under Section 10 (6) of the Act, 1976, the notification under Section 10 (5) was necessary; thus no possession can be said to have taken under Section 3 of the Repeal Act, 1999. The question before the Hon'ble Supreme Court was whether actual physical possession was taken over by the competent authority. The State of Assam submitted that though possession was taken over in the year 1991, may be unilaterally and without notice to the land owner. It was urged that mere non-compliance with Section 10 (5) would be insufficient to attract the provisions of Section 3 of the Repeal Act, 1999. The Apex Court while repelling the submission of the landowner had held as under:-

“14 We say so because in the ordinary course actual physical possession can be taken from the person in occupation only after notice under Section 10(5) is issued to him to surrender such possession to the State Government, or the authorised officer or the competent authority. There is enough good sense in that procedure inasmuch as the need for using force to dispossess a person in possession should ordinarily arise only if the person concerned refuses to cooperate and surrender or deliver possession of the lands in question. That is the rationale behind Sections 10(5) and 10(6) of the Act. But what would be the position if for any reason the competent authority or the Government or the authorised officer resorts to forcible dispossession of the erstwhile owner even without exploring the possibility of a voluntary surrender or delivery of such possession on demand? Could such use of force vitiate the dispossession itself or would it only amount to an irregularity that would give rise to a cause of action for the aggrieved owner or the person in possession to seek restoration only to be dispossessed again after issuing a notice to him? It is this aspect that has to an extent bothered us.

15. The High Court has held that the alleged dispossession was not preceded by any notice under Section 10(5) of the Act. Assuming that to be the case all that it would mean is that on 7-12-1991 when the erstwhile owner was dispossessed from the land in question, he could have made a grievance based on Section 10(5) and even sought restoration of possession to him no matter he would upon such restoration once again be liable to be evicted under Sections 10(5) and 10(6) of the Act upon his failure to deliver or surrender such possession. In reality therefore unless there was something that was inherently wrong so as to affect the very process of taking over such as the identity of the land or the boundaries thereof or any other circumstance of a similar nature going to the root of the matter hence requiring an adjudication, a person who had lost his land by reason of the same being declared surplus under Section 10(3) would not consider it worthwhile to agitate the violation of Section 10(5) for he can well understand that even when the Court may uphold his contention that the procedure ought to be followed as prescribed, it may still be not enough for him to retain the land for the authorities could the very next day dispossess him from the same by simply serving a notice under Section 10(5). It would, in that view, be an academic exercise for any owner or person in possession to find fault with his dispossession on the ground that no notice under Section 10(5) had been served upon him.

16. The issue can be viewed from another angle also. Assuming that a person in possession could make a grievance, no matter without much gain in the ultimate analysis, the question is whether such grievance could be made long after the alleged violation of Section 10(5). If actual physical possession was taken over from the erstwhile landowner on 7-12-1991 as is alleged in the present case any grievance based on Section 10(5) ought to have been made within a reasonable time of such dispossession. If the owner did not do so, forcible taking over of possession would acquire legitimacy by sheer lapse of time. In any such situation the owner or the person in possession must be deemed to have waived his right under Section 10(5) of the Act. Any other view would, in our opinion, give a licence to a litigant to make a grievance not because he has suffered any real prejudice that needs to be redressed but only because the fortuitous circumstance of a Repeal Act tempted him to raise the issue regarding his dispossession being in violation of the prescribed procedure.

17 Reliance was placed by the respondents upon the decision of this Court in Hari Ram case. That decision does not, in our view, lend much assistance to the respondents. We say so, because this Court was in Hari Ram case considering whether the word "may" appearing in Section 10(5) gave to the competent authority the discretion to issue or not to issue a notice before taking physical possession of the land in question under Section 10(6). The question whether breach of Section 10(5) and possible dispossession without notice would vitiate the act of dispossession itself or render it non est in the eye of the law did not fall for consideration in that case. In our opinion, what Section 10(5) prescribes is an ordinary and logical course of action that ought to be followed before the authorities decided to use force to dispossess the occupant under Section 10(6). In the case at hand if the appellant's version regarding dispossession of the erstwhile owner in December 1991 is correct, the fact that such dispossession was without a notice under Section 10(5) will be of no consequence and would not vitiate or obliterate the act of taking possession for the purposes of Section 3 of the Repeal Act. That is because Bhabadeb Sarma, erstwhile owner, had not made any grievance based on breach of Section 10(5) at any stage during his lifetime implying thereby that he had waived his right to do so."

56. The aforesaid judgment of the Supreme Court in the case of **State of Assam v. Bhaskar Jyoti Sarma and others** has also been relied upon by a Co-ordinate Bench of this Court in the case of **Shiv Ram Singh v.**

State of U.P. and others, 2015 SCC Online All 8853 wherein this Court while dismissing the writ petition on the ground of delay and laches had held as under:-

“10. We must also advert to another aspect of the matter particularly. having regard to the recent decision of the Supreme Court in Bhaskar Jyoti Sarma (supra). The petitioner moved the first writ petition in 2002 nearly three years after the Repeal Act had come into force. After the earlier writ petition was disposed of by directing the District Magistrate to pass an order on the representation of the petitioner, an order was passed by the District Magistrate on 10 May 2007. The petitioner thereafter waited for a period of over two years until the present writ petition was filed in July, 2009. If the petitioner had been dispossessed of the land without due notice under section 10(5), such a grievance could have been raised at the relevant time. As a matter of fact, it has been the case of the State all along that a notice under section 10(5) was, in fact, issued in the present case which would be borne out from the original file which has been produced before the Court. The issue is whether such a grievance could be made long after, before the Court. The petitioner had waited for nearly three years after the Repeal Act came into force to file the first writ petition and thereafter for a period of over two years after the disposal of the representation despite the finding of the District Magistrate that possession was taken over on 25 June, 1993. In our view, such a belated challenge should not, in any event, be entertained. However, we would hasten to add that this is quite apart from the fact that we have, independent of this finding, held that possession was in fact taken over prior to 18 March, 1999 consequent upon which the petitioner would not be entitled to the benefit of the Repeal Act.”

57. It is also pertinent to mention here that the law laid down by the Hon’ble Supreme Court in the case of *State of Assam v. Bhaskar Jyoti Sarma and others* came up for consideration of a Constitution Bench of the Hon’ble Supreme Court in the case of ***Indore Development Authority v. Manohar Lal, (2020) 8 SCC 129***, although the question involved in the said case pertained to interpretation of Section 24 of the Right to Fair Compensation and Transparency and Land Acquisition, Rehabilitation and Resettlement Act, 2013, the Apex Court while considering paras 15 to 17 of the judgment in the case of ***State of Assam v. Bhaskar Jyoti Sarma and others (supra)*** had held as under:-

“ This Court held that provisions of the Repeal Act could not be extended in such a case where possession has been taken without following the procedure, and the landowner cannot retain the land. This Court also observed that once possession has been taken over in the year 1991, any grievance as to non-compliance of Section 10 (5) ought to have been made within a reasonable time of such dispossession. By sheer lapse of time, the possession would acquire legitimacy. Thus, the owner or the person in possession must be deemed to have waived his right under Section 10 (5) of the Act. This Court also observed that only because of the fortuitous circumstances of a Repeal Act, which confers regarding his dispossession, being in violation of the prescribed procedure. It is clear from the aforesaid decision that such claim cannot be entertained, and any such dispute raised belatedly was repelled by this Court.”.

58. In this regard, the Apex Court in the case of ***Kapilaben Ambalal Patel and others v. State of Gujarat and others, 2021 (12) SCC 95*** where the writ petition had been filed after a lapse of 14 years from taking of possession of the land from the land holders. The Hon'ble Supreme Court while upholding the judgment of the Division Bench of the High Court, *inter alia* dismissing the writ petition on the ground of delay had held as under:-

“17. The Division Bench, in our opinion, therefore, was right in concluding that the writ petition filed by the appellants after lapse of 14 year was hopelessly barred by delay and suffered from laches. We are in agreement with the said view taken by the High Court in the peculiar facts of the present case.

18. Strikingly, in this appeal by special leave, a vague ground has been raised to challenge the said conclusion of the Division Bench. Further, no substantial question of law has been formulated in the appeal by special leave in that regard. Furthermore, in the grounds all that is asserted is that the High Court erred in holding that there was delay of 14 years in filing of writ petition and in not appreciating that the notice under Section 10 (5) of the 1976 Act, dated 23.1.1986, was not served upon Ambalal Parsottambhai Patel as he had already expired on 31.12.1985 and the notice sent to him was returned back on 2.2.1986 unserved with remark “said owner has expired”. Further, the legal heirs of Ambalal Parsottambhai Patel ought to have been served with the said notice. From the factual matrix already stated hitherto, these ground, in our opinion, are of no avail to the appellants. It is manifest from the acknowledgement produced by the respondent-State that the first notice under Section 10(5) issued to Ambalal Parsottambhai Patel was duly served on 26.12.1985. By the time second notice under Section 10(5) was issued on 23.1.1986, Ambalal Parsottambhai Patel had died (on 31.12.1985). The second notice was also issued to others, namely Bhikhabhai Manganbhai Patel, Natvarbhai Bhailabhai Patel and Jayantibhai Babarabhai Patel. Be that as it may, we are not inclined to reverse the conclusion recorded by the Division Bench of the High Court that the writ petition filed by the appellants was hopelessly delayed and suffered from laches. That is possible view in the facts of the present case.

19. The respondents had additionally relied on the decision of this Court in Larsen & Turbo Ltd (supra), wherein the Court adverted to the exposition in Balwant Narayan Bhagde vs. M.D. Bhagwat & Ors, Balmokand Khatri Educational and Industrial Trust vs. State of Punjab and Tamil Nadu Housing Board vs. A. Viswam (Dead) by Lrs. Regarding the settled legal position that it is difficult to take physical possession of the land under compulsory acquisition. Further, that the normal mode of taking possession is drafting the Panchnama in the presence of Panchas and taking possession and giving delivery to the beneficiaries is accepted mode of taking possession of the land. Subsequent thereto, the retention of possession would tantamount only to illegal or unlawful possession. Reliance is also placed on paragraphs 14 to 16 of the Bhaskar Jyoti Sarma (supra). However, it is not necessary for us to dilate on these aspects having agreed with the conclusion recorded by the Division Bench of the High Court that the writ petition filed in the year 2001 by the appellants with limited relief of questioning the Possession Panchnama dated 20.3. 1986, suffered from laches. The Division Bench of the High Court noted that the learned single Judge completely glossed over this crucial aspect of the matter, and we find no reason to depart from that conclusion .”

59. It is further pointed out that as far as the question of delay in filing of writ petition is concerned, the Apex Court in the case of ***Marinmoy***

Maity v. Chhanda Koley and others, (2024) 15 SCC 215, which case although does not relate to proceedings under the Act, 1976 had held as under :-

“9. Having heard rival contentions raised and on perusal of the facts obtained in the present case, we are of the considered view that writ petitioner ought to have been non-suited or in other words writ petition ought to have been dismissed on the ground of delay and laches itself. An applicant who approaches the court belatedly or in other words sleeps over his rights for a considerable period of time, wakes up from his deep slumber ought not to be granted the extraordinary relief by the writ courts. This Court time and again has held that delay defeats equity. Delay or laches is one of the factors which should be born in mind by the High Court while exercising discretionary powers under Article 226 of the Constitution of India. In a given case, the High Court may refuse to invoke its extraordinary powers if laxity on the part of the applicant to assert his right has allowed the cause of action to drift away and attempts are made subsequently to rekindle the lapsed cause of action.

10. The discretion to be exercised would be with care and caution. If the delay which has occasioned in approaching the writ court is explained which would appeal to the conscience of the court, in such circumstances it cannot be gainsaid by the contesting party that for all times to come the delay is not to be condoned. There may be myriad circumstances which gives rise to the invoking of the extraordinary jurisdiction and it all depends on facts and circumstances of each case, same cannot be described in a straight jacket formula with mathematical precision. The ultimate discretion to be exercised by the writ court depends upon the facts that it has to travel or the terrain in which the facts have travelled.

11. For filing of a writ petition, there is no doubt that no fixed period of limitation is prescribed. However, when the extraordinary jurisdiction of the writ court is involved, it has to be seen as to whether within a reasonable time same has been invoked and even submitting of memorials would not revive the dead cause of action of resurrect the cause of action which has had a natural death. In such circumstances on the ground of delay and laches alone, the appeal ought to be dismissed or the applicant ought to be non-suited. If it is found that the writ petitioner is guilty of delay and laches, the High Court ought to dismiss the petition on that sole ground itself, in as much as the writ courts are not to indulge in permitting such indolent litigant to take advantage of his own wrong. It is true that there cannot be any waiver of fundamental right but while exercising discretionary jurisdiction under Article 226, the High Court will have to necessarily take into consideration the delay and laches on the part of the applicant in approaching a writ court.....”

60. It is also pertinent to mention here that a Co-ordinate Bench of this Court in **Writ C No. 38977 of 2022 (Mithai Lal and others v. State of U.P and others)**, where the relief of abatement of proceedings under the Act, 1976 and correction of revenue records was sought on the ground that the petitioners were in possession of land in question and no proceedings under Section 10 (6) of the Act, 1976 had been initiated, had went on to dismiss the writ petition on the ground of delay vide judgment and order dated 16.02.2023 where in it was held as under:-

*“19. For the reasons aforesaid and also in view of the law laid down by Hon’ble Supreme Court in the case of **Bhaskar Jyoti Sharma (supra)**, **Kapilaben Ambalal Patel (supra)** and a coordinate Bench decision of this Court in the case of **Shiv Ram Singh (supra)**, we do not find any merit in the writ petition. This writ petition is also highly time barred and no reason for the inordinate delay has been given in the writ petition.*

*20. Consequently, the writ petition is **dismissed**. ”*

61. A similar view was also taken this Court in **Writ C No. 32784 of 2023 (Ram Raj and others v. State of U.P. and others)** decided on 31.10.2023 where the writ petition was filed after a lapse of about 42 years from the date the land was declared surplus and the Court went on to dismiss the writ petition on the ground of delay and in **Writ C No. 29968 of 2018 (Ganga Singh v. State of U.P. and others)** decided on 05.09.2018 where writ petition was filed almost after 33 years of taking over of the possession and was dismissed on the ground of delay.

62. As far as the question of the petitioners claiming parity with the judgments passed in the case of other similarly situated land holders is concerned, we are of the view that the petitioners would not be entitled to any parity as the petitioners have acquiesced to the action taken by the respondents. Further the aspects of the controversy engaging the attention of this Court were not considered in the said judgments. Moreover, the allegation that the petitioners are in possession of the land in dispute is being strongly objected to by the respondents, which was not so in the judgements relied, claiming parity. In this regard we further rely upon the judgment of Hon’ble Supreme Court in the case of **M/s Shoeline v. Commissioner of Service Tax (2017) 16 SCC 104** wherein, it was held as under:-

“9. From the aforesaid narration of facts, one thing is clear. The Joint Commissioner had passed the orders on 27-2-2008. No statutory appeal was preferred by the appellant challenging that order. The writ petition was filed only in March 2012. During this period, the appellant was also making payment towards service tax demanded by the respondents without challenging the order. The appellant now wants to take advantage of other litigation pending in respect of same subject-matter. When the appellant had not challenged the demand and was merely sitting on the fence, watching the proceedings in other similar cases, the decision in those cases cannot furnish any cause of action to g the appellant to file the writ petition. The law on this behalf is crystal clear.

10. In *State of U.P. v. Arvind Kumar Srivastava*, the moot question which requires determination is as to whether in the given case, approach of the Tribunal and the High Court was correct in extending the benefit of earlier judgment of the Tribunal, which had attained finality as it was affirmed till the a Supreme Court. This Court held that: (SCC p. 364, para 23)

"23.... The respondents before us did not challenge these cancellation orders till the year 1996 i.e. for a period of 9 years. It means that they had accepted the cancellation of their appointments. They woke up in the year 1996 only after finding that some other persons whose appointment orders were also cancelled got the relief. By that time, nine years had passed. The earlier judgment had granted the relief to the parties before the Court. It would also be pertinent to highlight that these respondents have not joined service nor working like the employees who succeeded in earlier case before the Tribunal. As of today, 27 years have passed after the issuance of cancellation orders. Therefore, not only was there unexplained delay and laches in filing the claim petition after a period of 9 years, it would be totally unjust to direct the appellants to give them appointment as of today i.e. after a period of 27 years when most of these respondents would be almost 50 years of age or above."

11. In *Rup Diamonds v. Union of India*, the petitioner, a recognised Export House for the purposes of EXIM Policy 1982-1983 was not granted facility of import of certain items even though it had discharged export obligation. The petitioners, however, did nothing and claimed the above facility more than four years after discharge of the export obligation and after five years of the expiry of the license. Since in similar cases, such facility was granted pursuant to the orders passed by the High Court of Bombay that the petitioners made an application in the year 1986, which was rejected by the department. The petitioners thereafter approached the Supreme Court under Article 32 of the Constitution after one year of rejection. Dismissing the petition, this Court observed: (*Rup Diamonds cases*, SCC p. 360, para 8)

"8. Petitioners are re-agitating claims which they had not pursued for several years. Petitioners were not vigilant but were content to be dormant and chose to sit on the fence till somebody else's case came to be decided. Their case cannot be considered on the analogy of one where a law had been declared unconstitutional and void by a court, so as to enable persons to recover monies paid under the compulsion of a law later so declared void."

12. In *Haryana State Handloom & Handicrafts Corpn. Ltd. v. Jain School Society*, land acquisition proceedings were challenged after about two decades. The delay was sought to be explained on the grounds that some other party had challenged the acquisition and had obtained stay order from the court and hence the petition could be filed only after disposal of those proceedings. This Court dismissed the petition observing that pendency of other proceedings would not be good ground or challenging the acquisition.

13. Halsbury's Laws of England states as follows:

"In determining whether there has been such delay as to amount to laches, the chief points to be considered are:

(f) acquiescence on the claimant's part; and

(ii) any change of position that has occurred on the defendant's part.

Acquiescence in this sense does not mean standing by while the violation of a right is in progress, but assent after the violation has been completed and the claimant has become aware of it. It is unjust to give the claimant a remedy where, by his conduct,

he has done that which might fairly be regarded as equivalent to a waiver of it; or where by his conduct and neglect, though not waiving the remedy, he has put the other party in a position in which it would not be reasonable to place him if the remedy were afterwards to be asserted. In such cases lapse of time and delay are most material. Upon these considerations rests the doctrine of laches.

14. *In U.P. Jal Nigam v. Jaswant Singh, the issue pertained to entitlement of the employees of U.P. Jal Nigam to continue in service up to the age of 60 years*

15. *In Harwindra Kumar v. Chief Engineer, Karmik this Court had earlier held that these employees were in fact entitled to continue in service up to the age of 60 years. After the aforesaid decision, a spat of writ petitions came to be filed in the High Court by those who had retired long back. The question that arose for consideration was as to whether the employees who did not wake up to challenge their retirement orders, and accepted the same, and had collected their post-retirement benefits as well, could be given relief in the light of the decision delivered in Harwindra Kumar, The Court refused to extend benefit applying the principle of delay and laches. It was held that an important factor in exercise of discretionary relief under Article 226 of the Constitution of India is laches and delay. When a person who is not vigilant of his rights and acquiesces into the situation, his writ petition cannot be heard after a couple of years on the ground that the same relief should be granted to him as was granted to the persons similarly situated who were vigilant about their rights and challenged their retirement. The Court held that: (Jaswant Singh case, SCC p. 471. para 13)*

"13. In view of the statement of law as summarised above, the respondents are guilty since the respondents have acquiesced in accepting the retirement and did not challenge the same in time. If they would have been vigilant enough, they could have filed writ petitions as others did in the matter. Therefore, whenever it appears that the claimants lost time or whiled it away and did not rise to the occasion in time for filing the writ petitions, then in such cases, the court should be very slow in granting the relief to the incumbent. Secondly, it has also to be taken into consideration the question of acquiescence or waiver on the part of the incumbent whether other parties are going to be prejudiced if the relief is granted. In the present case, if the respondents would have challenged their retirement being violative of the provisions of the Act, perhaps the Nigam could have taken appropriate steps to raise funds so as to meet the liability but by not asserting their rights the respondents have allowed time to pass and after a lapse of couple of years, they have filed writ petitions claiming the benefit for two years. That will definitely require the Nigam to raise funds which is going to have serious financial repercussions on the financial management of the Nigam. Why should the court come to the rescue of such persons when they themselves are guilty of waiver and acquiescence?"

63. Thus, keeping in view the factual aspects of the matter in controversy as well as the law laid down in that regard, it is beyond doubt that the petitioners had not at all been vigilant in exercise of their rights in approaching this Court. Under the circumstances it can be very well concluded that the petitioners have approached this Court after a long delay without any plausible explanation for the same.

64. However, we cannot be oblivious of the fact that a serious dispute pertaining to possession of the land in dispute exists between the parties.

The case of the petitioners is that they have continued to remain in possession of the vacant land even after coming into force of the Repeal Act, 1999 and the possession of the State is only *de jure* possession. The pleadings raised in the writ petitions reveal that there was no imminent threat of dispossession of the petitioners from the vacant land by the respondents as most of the writ petitions have been filed seeking the benefit of government order dated 29.09.2015. In some of the writ petitions it has been alleged that land mafias were trying to dispossess the petitioners but the pleadings in this regard were vague as neither any date or time of the incident was pleaded nor the alleged land mafias were named and lastly even during the pendency of the writ petitions no application was filed by the petitioners apprehending threat of dispossession by third parties. Hence, from the pleadings in the writ petition we are unable to draw any inference of threat of dispossession of the petitioners. However, it goes without saying that the petitioners would be entitled to protect their possession over the lands in dispute as and when the cause of action arises if, the petitioners are able to prove their possession on the vacant land on the date of enforcement of Repeal Act, 1999 i.e on 18.03.1999 (cut off date).

65. As already observed above the dispute in respect of possession of vacant land is a rather contentious one and the material on record is insufficient/ inconclusive to decide the same. We are also aware that ordinarily a suit to question orders passed and consequential notifications issued under the Act, 1976 is barred, inasmuch as the Act, 1976 is a self contained Code. As per own showing of the petitioners they are in possession of vacant land and proceedings under the Act, 1976 stand abated, therefore, a court of competent jurisdiction could have entertained a suit and granted such relief, as may be warranted, as and when cause of action arose, dependent on its determination whether actual possession of surplus vacant land was taken or not, before the cut off date and this could be done without questioning the validity of the orders and notification under the Act, 1976. Hence, we are of the view that the petitioner could have instituted a suit before a competent court to

protect their interest if any, in the land in dispute. The law laid down by the Apex Court in the case of ***State of U.P. and another v. Ehsan and another, (2024) 14 SCC 269*** lends support to our above said view wherein the Hon'ble Supreme Court has held as under:-

“30, No doubt, in a writ proceeding between the State and a landholder, the Court can, on the basis of materials/evidence(s) placed on record, determine whether possession has been taken or not and while doing so, it may draw adverse inference against the State where the statutory mode of taking possession has not been followed [See State of U.P. v. Hari Ram³]. However, where possession is stated to have been taken long ago and there is undue delay on the part of landholder in approaching the writ court, infraction of the prescribed procedure for taking possession would not be a determining factor, inasmuch as, it could be taken that the person for whose benefit the procedure existed had waived his right thereunder (see State of Assam v. Bhaskar Jyoti Sarma). In such an event, the factum of actual possession would have to be determined on the basis of materials/evidence(s) available on record and not merely by finding fault in the procedure adopted for taking possession from the landholder And if the writ court finds it difficult to determine such question. either for insufficient/inconclusive materials/evidence(s) on record or because oral evidence would also be required to form a definite opinion, it may relegate the writ petitioner to a suit, if the suit is otherwise maintainable.

31. In the instant case, the original petitioner had knowledge that 5499.20 sq m of his land was declared surplus by order dated 26-11-1977. Yet, this order was challenged through writ petition not before the year 1986. What happened in between is not disclosed. Even if we assume that the third writ petition was based on a separate cause of action, still there could have been a whisper as to what was the reason for such long delay in filing the first writ petition, particularly when the original petitioner was throughout aware of the State's case that possession had been taken in the year 1979 after publication of the vesting notification. The only explanation, if any, for this delay can be found in Para 4 of the writ petition, where it is stated that order dated 26-11-1977 was ex parte. Even if we accept that order dated 26-11-1977 was ex parte, there is no disclosure in the writ petition as to when it came to be knowledge of the original petitioner

33. As far as documentary material placed by the original petitioner is concerned, we notice that no khatauni or khasra extract of the period starting from 1979 up to 1987 was filed. The third writ petition annexes khatauni or khasra extracts of the period 1405 to 1417 Fasli, that is, of the year 1998 to the year 2010. In addition to those documents, some revenue receipts of the period starting from 1989 have been filed. According to the State, possession of the surplus land was taken in the year 1979. If it were so, even if the petitioner entered into possession anytime thereafter, may be on the strength of the ex parte interim order dated 20-8-1987, the same would not defeat the right of the State in view of decision of this Court in Indore Development Authority (LAPSE-5 J.)¹⁰ where, in para 258 of the judgment, it was held that once title of the land vests in the State, consequent to acquisition and taking of possession, even if the landholder has retained possession or otherwise trespassed upon it after possession has been taken by the State, he is just a trespasser and his possession, if any, would be on behalf of the owner i.e. the State.

34. At this stage, we may notice to reject another argument made on behalf of the respondent, which is, that the High Court had granted an interim order, dated 20-8-1987, protecting original petitioner's possession, therefore, it is to be assumed that possession was not taken from him by that time. No doubt, the original petitioner succeeded in obtaining an ex parte interim order but there is no material on record to suggest that this interim order was confirmed after considering the State's objection. Moreover, if possession had been taken prior to the grant of interim order,

as is the case of the appellants, and while disposing of the writ petition the question of possession was left open, the interim order would not, in any way, be conclusive to prove continuity of possession. In these circumstances as also that no documentary evidence was filed regarding original petitioner's possession between the years 1979 and 1987, in our view, the interim order did not carry much evidentiary value to prove that possession was not taken prior to the year 1987.

Conclusion

(35) In view of the discussion above and having regard to the following:

(a) that there was a serious dispute with regard to taking of possession of the surplus land;

(b) that there was a delay of about seven years in filing the first writ petition from the date when possession was allegedly taken by the State, after publication of the vesting notification;

(c) that no documentary evidence such as a khasra or khatauni of the period between alleged date of taking possession and filing of the first writ petition was filed by the original petitioner;

(d) that in the earlier two rounds of litigation, the High Court refrained from deciding the issue of possession of the surplus land even though that issue had arisen directly between the parties; and

(e) that infraction of the prescribed statutory procedure for taking possession cannot be the sole basis to discard the State's claim of possession, when it is stated to have been taken long before the date the issue is raised, we are of the considered view that the High Court should have refrained from deciding the issue with regard to taking of actual possession of the surplus land prior to the cut-off date specified in the Repeal Act, 1999. Instead, the writ petitioner should have been relegated to a suit.”.

66. In view of the law considered above we go on to consider the factual position in brief in respect of each of the writ petitions in this bunch in terms of locus of the petitioner, possession and the delay in approaching this Court. The cause of action for filing the writ petitions being already discussed in the paragraphs above it would be a futility in reiterating the same;

(66.1) Writ -C No. 19612 of 2018 (Kumbha Karan Vs. State of U.P. & Ors.)

(a) Rikhi Ram, father of Kumbha Karan, was the original landholder of the land in question Admittedly Rikhi Ram was succeeded by four sons namely, Kumbha Karan (the petitioner), Jiya Lal, Kanhaiya Lal and Dharamraj, but it is only Kumbha Karan (the petitioner) who has approached this Court.. A notice under Section 8(3) was served upon

Rikhi Ram on 14.12.1986, but no objections were filed in response thereto. Rikhi Ram passed away on 22.03.2006. Thus, it is evident that the proceedings under the Act, 1976 stood concluded during the lifetime of Rikhi Ram and he never object to the same. Even after the demise of Rikhi Ram, notices under Section 11(8) of the Act, 1976 were issued and served upon Sri Jiya Lal, son of Rikhi Ram, on 18.01.2008, even then the petitioner preferred to sleep over the matter for the next ten years. The petitioner also does not disclose when he came to know about the proceedings under the Act, 1976 or mutation of revenue entries in the name of the State.

(b) Hence, the petitioner has approached this Court in May, 2018 after a lapse of about 32 years from the date when the land was declared surplus under Section 8(4) vide order dated 25.02.1986 and after about 22 years from taking over voluntary possession under Section 10 (5) on 02.08.1996.

(c) The present writ has been filed after a lapse of about five years since passing of judgment dated 04.07.2013 in Writ-C No. 30361 of 2010. The questions to be decided in the two writ petitions are also different . Further there was no serious dispute regarding possession of vacant land by the petitioner in Writ-C No.30361 of 2010. The petitioner in the other writ petition, Babe Lal is not the co-tenure holder of the petitioner in the present writ petition.

(d) In support of the allegation that the petitioner is in possession of the land in question, the petitioner has relied upon certain revenue records and photographs. As far as the revenue records are concerned, the petitioner himself admits that the land in question has been recorded in the name of the State in pursuance of the proceedings under the Act, 1976. Further, there is no material to substantiate the contention of the petitioner that the photographs pertain to the land in dispute and as such the photographs cannot be held to be a proof of possession for the detailed reasons assigned above.

**(66.2) Writ-C No. 8237 of 2017 (Late Rajendra Prasad through
LRs Vs. State & Ors.)**

(a) In the said case, the ceiling return was filed by one Sri Rajjan @ Rajbhawan and not by the petitioner. The petitioner has also failed to establish as to how he is related to Rajjan @ Rajbhawan. Late Rajjan @ Rajbhawan, son of Sri Mahadev, was succeeded by his wife, Nirmala Devi, and four sons, namely, Konark, Chanakya, Kanishka and Amit. Hence, the locus of the petitioner to maintain the present writ petition itself is under a cloud. The petitioner does not disclose as to when the petitioner became aware of the proceedings under the Act, 1976 and mutation of revenue entries in the name of the State.

(b) The writ petition has been filed in February, 2017 after a lapse of about 31 years from the date when the land in question was declared surplus under Section 8(4) vide order dated 04.11.1985 and after about 23 years from taking over voluntary possession under Section 10 (5) on 29.09.1993.

(c) The petitioner, in support of his allegation of being in possession of the land in question, has filed certain photographs; however, there is no material to support the contention of the petitioner that the said photographs pertain to the land in dispute and as such the photographs cannot be held to be a proof of possession for the detailed reasons assigned above.

**(66.3) Writ-C No. 8238 of 2017 (Jamuna Prasad & Ors. Vs. State of
U.P. & Ors.)**

(a) The petitioners are the descendants of the original landholder, Ram Jatan. The notice under Section 8(3) was served Ram Jatan on 23.12.1985. Thereafter the notice under Section 11(8) was served Smt. Nirmala, daughter of Ram Jatan, on 14.02.1998. Besides, Ram Jatan had also filed objections in response to the notice under Section 11(8), and the same were rejected on 17.08.1998. Thus, it is beyond doubt that the original landholder, Sri Ram Jatan, was well aware of the proceedings

initiated under the Act, 1976 but did not object to the same. The objections were filed only in respect of Sandeya Dhanrashi/compensation in proceedings under Section 11(8).

(b) The writ petition has been filed in February, 2017 after a lapse of about 31 years from the date the land was declared surplus under Section 8(4), on 03.12.1985 and after 19 years from taking voluntary possession of land on 26.12.1997. The petitioners have failed to disclose as to when they came to know about the proceedings under the Act, 1976 and mutation of revenue entries in the name of the State.

(c) The petitioners, in support of the allegation that they are in possession of the land in dispute, have relied upon revenue records, electricity bills, and photographs. As far as the revenue records are concerned, the petitioners do not dispute the fact that the land in dispute was recorded in the name of the State in the Fasli year 1402–1407. The electricity bills also do not indicate that the same pertain to the land in dispute and do not disclose any plot number. Further, the photographs relied upon by the petitioners are also of no assistance as there is no material to substantiate that said photographs pertain to the land in dispute and in view of detailed reasons assigned above.

(66.4) Writ-C No. 8242 of 2017 (Ram Dev & Ors. Vs. State)

(a) The writ petition arises out of three ceiling cases. The petitioner no.1- Ram Dev, son of Deena Nath claims that Deena Nath had filed ceiling return. The notice under Section 8(3) was served on Deena Nath on 20.10.1984, however, no objections were filed. Notice under Section 10 (5) was served upon Baldev, son of Deena Nath on 23.8.1996. Thus, Deena Nath despite being aware of the proceedings made the Act, 1976 had never objected to the same. The petitioner no.1 has also failed to disclose as to when the petitioner came to know about the proceedings under the Act, 1976 and mutation of revenue entries in the name of the State.

(b) The petition has been filed in February, 2017 after a lapse of 32 years from the date the land was declared surplus under Section 8(4) on

14.11.1984 and after 20 years from taking voluntary possession under Section 10(5) on 22.4.1996.

(c) The petitioner No. 2 claims that his father, Maiku Lal, son of Gambhir had filed ceiling return. The notice under Section 8(3) was served on Maiku Lal on 01.4.1981, however no objections were filed. The final statement under Section 9 was served on Mewa Lal, son of Maiku Lal. Thus, Maiku Lal despite being aware of the proceedings under the Act, 1976 had never objected to the same.

(d) The petition has been filed in February, 2017 after a lapse of 34 years from the date the land was declared surplus under Section 8(4) on 23.9.1982 and after 20 years from taking voluntary possession under Section 10(5) on 27.4.1996. The petitioner no.2 also does not disclose as to when the petitioner came to know about the proceedings under the Act, 1976 and mutation of revenue entries in the name of State.

(e) The petitioner No. 3-Shiv Baran, son of Gambhir alleges to have filed ceiling return. However, the ceiling case relied upon by the petitioner no.3 is ceiling case No. P-1460 of 1976 and in the said case the ceiling return has been filed by Nanku, Hira and Pachai, sons of Anganu. The petitioner no.3 also admits the said fact in the writ petition. However, the petitioner no.3 has completely failed to demonstrate as to how the petitioner no.3 is related to Nanku, Hira and Pachai and as to how the petitioner has set up a claim on the land of the three land holders. Thus, the petitioner no.3 has utterly failed to establish his locus to maintain the writ petition.

(f) Be that as it may, the writ petition has been filed in February, 2017 after a lapse of 35 years after the land in question was declared surplus under Section 8(4) and after 20 years from taking over voluntary possession under Section 10(5) on 2.8.1996. Further the records reveal that the notice under Section 8(3) was served upon land holders in the said ceiling case. The petitioner no.3 also not disclose as to when he came to know about the proceedings under the Act, 1976 and mutation of revenue entries in the name of the State.

(g) The petitioners in order to demonstrate that they are in possession of land in dispute have placed reliance on CH-Form No. 23 under the Consolidation of Holdings Act, 1953, electricity bills and photographs. The perusal of the CH Form No. 23 reveals that the land is recorded in the name of State-Competent Authority, Urban Ceiling. The electricity bills do not mention any plot number and as such it cannot be held that the same pertain to the land in dispute. Further there is no material on record to show that the photographs are that of the land in question and are of no assistance to the petitioners for the detailed reasons in the paragraphs above. Further, the writ petition itself is not maintainable arising out of three distinct ceiling cases.

(66.5) Writ-C No. 26381 of 2017 (Brij Lal Vs. State & Ors)

(a) The said writ petition has been filed in respect of land involved in two ceiling cases. In respect of the first ceiling case, it is alleged that Mahadev, the grandfather of the petitioner was the original landholder. Mahadev passed away leaving behind his son Sharda Prasad, who was succeeded by two sons, namely, Indraaj and Brijlal (the petitioner). However, Indraaj has not joined in the present writ petition.

(b) As far as the second ceiling case is concerned, it is alleged that Sahdev, the brother of Mahadev, was the original landholder, Sahdev was unmarried and that after his demise the land in question devolved upon Sharda Prasad, the father of the petitioner. However, there is nothing on record to demonstrate that Sahdev was the brother of Mahadev and that after the demise of Sahdev the land had devolved upon Sharda Prasad. Hence, the locus of the petitioner to maintain the petition in respect of the second ceiling case itself is under a cloud.

(c) Besides, the allegation of the petitioner that his grandfather Mahadev had filed the ceiling return is incorrect, as it was Sharda Prasad, the father of the petitioner, who had filed the ceiling return. The petition has been filed in May, 2017 after a lapse of about 31 years from the date the land was declared surplus under Section 8(4) on 01.10.1984 and after

about 20 years from taking of voluntary possession of land under Section 10 (5) . The petitioner also does not disclose as to when he came to know about the proceedings under the Act, 1976 and mutation of revenue entries in the name of State.

(d) The petitioner also does not dispute the fact that two other writ petitions had been filed before this Court in respect of the very same two ceiling cases. Hence, it is difficult to understand how three writ petitions arising out of same subject matter were maintainable. Two the writ petitions being decided in this bunch of writ petitions, including the present writ.

(e) In order to demonstrate his possession over the land in dispute, the petitioner has filed electricity bills and photographs. A perusal of the electricity bills reveals that there is no material on record to show that the said bills pertain to the land in dispute as no plot number has been mentioned on the same. Further, there is no material on record to substantiate that the photographs pertain to the land in dispute and as such the photographs cannot be said to be a proof of possession for the detailed reasons assigned above.

(66.6) Writ C No. 6765 of 2018 (Mewa Lal Yadav v. State of U.P.)

(a) The petitioner admittedly has purchased the land in question from one, Shiv Bhan Yadav on 24.07.2004. Thus, the petitioner has no knowledge of the proceedings under the Act, 1976. The petitioner also admits that the land is recorded in the name of State in the revenue records. The khatauni relied upon by the petitioner pertains to Gata No. 120 M, whereas the petitioner has purchased Gata No. 120. The petitioner has filed the present writ petition in February, 2018 after a lapse of about 33 years from the land being declared surplus under Section 8(4) on 22.02.1985 and after about 20 years from taking voluntary possession of land under Section 10 (5). The writ petition has been filed after more than 13 years from the sale of the same in favour of the petitioner. The petitioner has not even filed the title deed to show that the petitioner is the owner of the land.

(b) Besides no document/ evidence have been filed to show that the petitioner is in possession of the land in dispute. The petitioner prior to claiming parity with others has to make out a case, which the petitioner has failed to, moreover, the judgment of this court relied upon by the petitioner was passed three to four years ago, prior to filing the present writ petition. Both the cases relied upon by the petitioner were decided on the premise that possession of the land had not been taken by the State but in the present case State claims to have taken voluntary possession of the land and the name of State is also recorded in the revenue records. Moreover, there is nothing on record to show the possession of the land in dispute is with the petitioner, not even the title deed has been filed.

(c) Interestingly in Writ C No. 26381 of 2017 (Brij Lal v. State of U.P and others) being decided with this bunch of writ petitions and arising out of ceiling Case No. P-531/ 1976 (State v. Mahadev) and Ceiling Case No. P-542/1976 (State v. Sahdev) filed by the descendants of Mahadev and Sahdev, it is alleged that Sahdev and Mahadev were real brothers. Sahdev was unmarried and Mahadev had a son, Sharda Prasad. Hence, after the demise of Sahdev and Mahadev their land devolved upon Sharda Prasad who was succeeded by two sons Brij Lal (petitioner in Writ-C No. 26381/ 2017) and Indraaj whereas the petitioner has purchased the land from one, Shiv Bhan Yadav. Thus, even the title of the petitioner over the land in dispute is under a cloud.

(66.7) Writ C No. 6926 of 2016 (Late Mohib Ullah through LRs v. State of U.P. and others)

(a) It is admitted that the original tenure-holder Mohib Ullah had filed a ceiling return. It is also admitted that notice under Section 10(5) was issued on 28.3.1979 but not served upon the petitioner. It is also admitted that the name of State is recorded in the revenue records. Even though the records of the said case are not available with the respondents, the fact cannot be denied that the present writ petition has been filed after a lapse of about 37 years from the date when the notice for taking

voluntary possession of the land was issued under Section 10(5). Amongst the writ petitions being decided in the present bunch in some of the matters the land in dispute is situated in the vicinity of the land of the petitioner and it may be presumed that a similar procedure had been followed in the present case as well.

(b) The petitioner in support of his contention that he is in possession of the land in dispute has relied upon the Khasra of Gata No. 14-M and photographs showing the coordinates. As far as the Khasra of Plot No. 14-M is concerned, it is evident that from the notice under Section 10(5) that only a part of Khasra No. 14 had been declared vacant under the Act, 1976 and as such the remaining part of the aforesaid plot has been numbered as Khasra No. 14-M and continues to remain recorded in the name of the petitioner. As far as the photographs are concerned there is no material to substantiate that the photographs pertain to the land in dispute and as such the same cannot be relied upon in respect of possession of the petitioner over the land in dispute for the reasons detailed above.

(66.8) Writ-C No. 6679 of 2018 (Ram Sumer Vs. State & Ors.)

(a) The petitioner alleges himself to be the grandson of the original landholder, Mahadev. Admittedly, Mahadev had three sons, namely, Hira Lal, Mohan Lal and Baccha Lal. The petitioner is the son of Hira Lal. Thus, all the descendants of Mahadev have not joined in the present writ petition.

(b) A notice under Section 8(3) was served upon Mahadev on 22.04.1981. Thereafter, the final statement under Section 9 was also served upon Mahadev. Subsequently, a notice under Section 10(5) was issued on 15.02.1990 and served upon Mahadev on 16.02.1990. Thus, it is evident that Mahadev had due knowledge of the proceedings under the Act, 1976 but never objected to the same. The petitioner also does not disclose as to when the petitioner came to know about the proceedings

under the Act, 1996 and the mutation of revenue entries in the name of State.

(c) It is only after a lapse of about 33 years from the date the land was declared surplus under Section 8(4), on 03.11.1982 and after 28 years from taking over of voluntary possession under Section 10 (5) on 15.02.1990 that the petitioner has filed the present writ petition in March, 2018.

(d) The petitioner, in support of the allegation that he is in possession of the land in dispute, has filed photographs and Khatauni. However, there is no material to substantiate that the photographs pertain to the land in dispute and as such the photographs cannot be relied upon as a proof of possession for the detailed reasons assigned above. The petitioner himself does not dispute the fact that the land was recorded in the name of the State in the revenue records in pursuance to proceedings under the Act, 1976. Hence, the revenue records relied upon by the petitioner would also be of no assistance in regard to possession.

(66.9) Writ-C No. 6701 of 2018 (Ram Awadh Vs. State & Ors.)

(a) The petitioner is the son of the original landholder, Bachha Lal. The notice under Section 8(3) was served upon the nephew of the original landholder, Ramphal, on 02.12.1981. The present writ petition has been filed in May, 2018 after a lapse of about 33 years from the date the land was declared surplus under Section 8(4) on 05.10.1982 and after 22 years from taking voluntary possession under Section 10 (5) on 23.05.1996. The petitioners also has fail to disclose as to when he came to know about the proceedings under the Act, 1976 and mutation of revenue entries in the name of State.

(b) The petitioner, in support of his allegation of being in possession of the land in dispute, has filed photographs and revenue records. However, there is nothing material on record to substantiate the fact that the photographs pertain to the land in question and as such the photographs cannot be held to be a proof of possession for the detailed reasons

assigned above. Further, the petitioner himself admits that the land was recorded in the name of the State Government in pursuance of the proceedings under the Act, 1976.

(66.10). Writ-C No. 1125 of 2018 (Raghvendra Kumar & Ors. Vs. State & Ors.)

(a) The petitioners are the son (Muneem-petitioner no.3) and the grandsons (Raghvendra Kumar-petitioner No.1 and Ajeet Kumar petitioner No.2) of the original landholder, Mahadev. The notice under Section 8(3) was served upon Smt. Nanki, wife of Mahadev. The final statement under Section 9 was served upon Bhagwat Prasad, son of Mahadev, on 12.10.1984. Further, a notice under Section 10(5) was also served upon Muneem, son of Mahadev and petitioner no. 3 in the present writ petition.

(b) Thus, the original landholder as well as his sons, petitioner no.3 and Bhagwat Prasad, the father of petitioners no.1 and 2 were well aware of the proceedings under the Act, 1976 but never objected to the same. The present writ petition has been filed in May, 2018 after a lapse of about 35 years from the date the land in question was declared surplus under Section 8(4), on 23.08.1982 and after 31 years from taking voluntary possession under Section 10 (5) on 17.12.1986.

(c) The petitioners have not adduced any evidence in support of their allegation of being in possession of the land in question.

(66.11) Writ-C No. 11226 of 2018 (Smt. Pushpa Devi & Ors. Vs. State & Ors.)

(a) The father of the petitioners, Sankhatha Prasad was the original landholder. Sankhatha Prasad had filed an appeal under Section 33 of the Act, 1976, and the same was dismissed on 27.9.2008. Thus, the original landholder was very much aware about the proceedings under the Act, 1976 and had also challenged the same but without success. Hence, the

present writ petition, filed after ten years from the dismissal of the appeal, itself would not be maintainable.

(b) Moreover, the present writ petition has been filed in May, 2018 after a lapse of 37 years from the date the land was declared surplus under Section 8(4) and after 22 years from the date of taking voluntary possession of the land under Section 10(5) on 01.01.1996. Besides, the petitioners have not placed any evidence to show their possession over the land in question. The land in question is admittedly recorded in the name of the State in the revenue records.

(66.12) Writ-C No. 19678 of 2018 (Buddhan Prasad Vs. State)

(a) The original landholders were Jokhu, Moti and Heera, sons of Mahadev, and Dukharan, son of Jawahir, had filed separate ceiling returns. Notice under Section 8(3) was served upon the wife of Dukharan. Separate notices under Section 10(5) were issued and served on the original landholders. Thus, the original landholders had never objected to the proceedings under the Act, 1976, and had knowledge about the same.

(b) The petitioner is the son of one of the co-tenure holders, Jokhu. Hence, it is difficult to understand as to how the writ petition would be maintainable at the instance of the petitioner on behalf of all the original landholders.

(c) Moreover, there is nothing on record to demonstrate that Dukharan, son of Jawahir, is the grandson of Mahadev, the grandfather of the petitioner.

(d) The petitioner cannot be granted parity with the judgment and order dated 15.5.2014 passed in Writ-C No. 68563 of 2012 filed by Dukharan, the present petition having been filed after a lapse of four years thereafter. Moreover, the questions in dispute involved and the question of possession of the petitioner was not in serious dispute in said petitions which is not so in the present case.

(e) The present writ petition has been filed in May, 2018 after a lapse of more than 35 years from the date land was declared surplus under Section 8(4) and more than 25 years from taking voluntary possession of the land under Section 10(5). The petitioner does not disclose as to when he came to know about the proceedings under the Act, 1976 and mutation of revenue entries in the name of State.

(f) The electricity bills and photographs have been filed by the petitioner to show his possession over the land in dispute. The electricity bills do not indicate any plot number and as such cannot be said to be in respect of the land in dispute. Further, the photographs would also be of no assistance to the petitioner, as there is no material to demonstrate that the same pertain to the land in dispute and also for the reasons detailed in the paragraphs above.

(66.13) Writ-C No. 19694/2018 (Devendra Kumar Jaiswal Vs. State & Ors.)

(a) Shambhu Nath, the father of the petitioner was the original land holder of the land in dispute. Shambhu Nath passed away on 04.01.2006. Besides Shambu Nath had also filed objections dated 21.3.1983 to the final statement under Section 9 issued on 4.3.1983 and the objections were rejected on 29.4.1985. Thus, the original land holder was well aware of the proceedings under the Act, 1976. Besides the petitioner also fails to disclose as to how and when the petitioner got to know about the ceiling proceedings under the Act, 1976 and mutation of revenue entries in the name of State.

(b) Moreso, the present writ petition has been filed in May, 2018 after a lapse of 37 years from the date the land was declared surplus under Section 8(4) and about 28 years from taking voluntary possession of the land under Section 10(5) on 21.8.1990.

(c) The electricity bills, meter sealing certificate and photographs have been relied upon by the petitioner to show his possession over the land in dispute. The electricity bills and meter reading certificate do not indicate

any plot number and as such cannot be said to be in respect of the land in dispute. The photographs would also be of no assistance to the petitioner as there is no material to demonstrate that they pertain to land in dispute and also for the reasons detailed in paragraphs above.

(66.14) Writ-C No. 19800 of 2018 (Smt. Leelawati Vs. State & Ors.)

(a) The petitioner is the original landholder of the land in dispute. The notice under Section 8(3) was served on the petitioner on 11.4.1981, and the petitioner had filed objections on 5.5.1981, and ultimately an order under Section 8(4) was passed on 19.6.1981, but the same was not challenged by the petitioner. Thus, the petitioner, despite being aware of the ceiling proceedings, preferred to sit over the matter for about 37 years till the filing of the present writ petition in May, 2018.

(b) The petitioner herself admits that the land in dispute is recorded in the name of the State in the revenue records, and the same is also evident from the perusal of the Khasra relied upon by the petitioner. Cultivation of crops over the land in dispute after the respondents claim to have taken possession of the land in dispute, moreso when admittedly the land is recorded in the name of the State, would be of little assistance to the petitioner for the reasons detailed above, and even otherwise the same would involve a disputed question of fact.

(c) The photographs relied upon by the petitioner to show possession also fail to establish that the same pertain to the land in dispute for the reasons detailed in paragraphs above.

(66.15) Writ-C No. 29963 of 2018 (Ram Lakhan Vs. State & Ors.)

(a) Mewa Lal was the original land holder and admittedly was succeeded by four sons, Brij Lal, Ram Lakhan (the petitioner) , Jeet Lal and Amrit Lal. The notice under Section 8(3) was served on 18.7.1979 on son of Mewa Lal, Brij Lal and objections were filed by Mewa Lal in response thereto on 03.09.1979. After passing of the order under Section 8(4) on 18.12.1979, the final statement under Section 9 was served on daughter in law of Mewa Lal, Smt. Ramwati on 15.5.1980. Thus, it is evident that

Mewa Lal was well aware of the proceedings under the Act, 1976. Further all the successors of Mewa Lal have not joined the petitioner in the present writ petition.

(b) The reliance placed on questionnaire issued from the office of Competent Authority would be no relevance as the land in dispute was recorded in the name of the State in the revenue records after completion of proceedings under the Act, 1976.

(c) No plausible explanation has been given in filing the present writ petition in August, 2018 after a lapse of about 39 years after the land was declared surplus under Section 8(4) and original land holder, Mewa Lal was well aware of proceedings under Section 8.

(d) Further the photographs relied upon by the petitioner to show his possession over the land in dispute are of no assistance as there is nothing on record to show that the photographs pertain to the land in question and for the reasons detailed above.

(66.16) Writ-C No. 34357 of 2018. (Kunwar Bharat Singh Vs. State)

(a) Brij Mohan Singh, the grand father of the petitioner was the original land holder and had filed ceiling return. The father of petitioner passed away during the lifetime of Brij Mohan Singh. Subsequently on demise of Brij Mohan Singh, the land in dispute came to be recorded in the name of petitioner in the year 1985. The notice under Section 8(3) was served on 24.9.1982 on Jai Karan Singh, nephew of Brij Mohan Singh. Final statement under Section 9 was sought to be served upon the land holder but was refused. The land was recorded in the revenue records in the name of State after completion of ceiling proceedings and presently is recorded in the name of Ministry of Railways, Government of India.

(b) The petitioner despite being the recorded tenure holder never objected to the mutation of the entries in the name of State in the revenue records till the time of filing of the present writ petition in October, 2018. Moreover, the present writ petition has been filed after a

lapse of 36 years after it was declared surplus under Section 8(4) on 17.11.1982 and 22 years after taking voluntary possession of the land in question under Section 10(5) on 01.06.1996. It is alleged that land in dispute was recorded in favour of petitioner prior to conclusion of proceedings under the Act, 1976 but the petitioner does not disclose as to when he came to know about mutation of revenue entries in the name of State.

(c) Reliance has been placed on electricity bills in respect of tube-well installed and photographs to show the possession of the petitioner over the land in question. The electricity bills do not show any plot number and as such cannot be said to be in respect of land in dispute. There is nothing material on record to show that the proceedings pertain to land in dispute and fail to establish the possession for the reasons detailed above.

(66.17) Writ-C No. 36216 of 2019 (Matru Vs. State & Ors.)

(a) Matru-petitioner, son of Bansi Lal along with Khushru Lal, Gore Lal and Manshi, sons of Vindeshwar had filed the ceiling return in the year 1976. Thereafter notice under Section 8(3) was issued on 24.4.1981 and served upon the petitioner. Moreover, no objections were filed. Ultimately the order under Section 8(4) was passed on 21.10.1982.

(b) The present writ petition has been filed in May, 2018 after a lapse of about 35 years from the date of land being declared surplus under Section 8(4) on 21.10.1982 and 21 years after taking over the voluntary possession of the land under Section 10(5) on 26.03.1997. Moreso, when the petitioner does not dispute service of notice under Section 8(3).

(c) The petitioner has relied upon some revenue records and photographs to show the petitioner is in possession of the land in question. However, at the same time the petitioner does not dispute the fact that the land in dispute was recorded in the name of State in pursuance to the proceedings under the Act, 1976. Further there is no material on record

to demonstrate that the photographs pertain to the land in question and would be of no assistance to the petitioner to establish his possession over the land in question for the reasons detailed above.

(66.18) Writ-C No. 36927 of 2019 (Ram Chandra Vs. State & Ors.)

(a) Ram Chandra-petitioner is the son of the original land holder, Maiku Lal. The notice under Section 8(3) was served personally on Maiku Lal on 7.4.1981 but no objections were filed. Ultimately order under Section 8(4) was passed on 6.10.1981. Thus, Maiku Lal, the original tenure holder was aware of the proceedings under the Act, 1976. The petitioner also does not disclose as to when he came to know about the proceedings under the Act, 1976 and mutation of revenue entries in the name of State.

(b) However, the present writ petition has been filed in November, 2018 after a lapse of 38 years from the date the land was declared surplus under Section 8(4) on 6.10.1981 and after about 24 years from taking over voluntary possession of the land in question under Section 10(5) on 14.12.1995. Further the petitioner himself does not dispute the fact that a part of the land in question came to be recorded as High Court Colony in the revenue records and the petitioner does not dispute that he is not in possession of the said land.

(c) The petitioner has filed some photographs to show that the petitioner is in possession of the land in dispute but there is no material available on record to establish that the photographs pertain to the land in dispute, as such the same are of no assistance to the petitioner for the reasons detailed above.

(66.19) Writ C No. 13925 of 2021 (Bhanu Pratap v. State of U.P & Ors.)

(a) The original tenure holder of the land in question was Ram Kumar, the grand father of the petitioner. Ram Kumar passed away leaving behind four sons namely Eswardas, Parmeshwar, Lala and Budulram.

Subsequently Parmeshwar died leaving behind three sons Randhir, Babuji and Ram Singh. Ram Singh passed away on 20.10.2003 leaving behind three sons namely, Indrapratap, Bhanu Pratap- petitioner and Vidya Charan. Further, by means of the present writ petition the petitioner has set up his claim over the entire surplus land under the Act, 1976 originally belonging to Ram Kumar. Even the brothers of the petitioner, Indrapratap and Vidya Charan who had joined the petitioner in the earlier writ petition, have not joined the petitioner in the present writ petition.

(b) Notice under Section 8(3) was served on 01.09.1984 on the wife of the original land holder but no objections were filed. Ultimately the order under Section 8(4) was passed on 22.9.1984. As such the petitioner has no personal knowledge about the proceedings under the Act, 1976 and the first time approached this Court in the year 2019 after a lapse of about 34 years from the date the land was declared surplus under Section 8(4) on 22.09.1984 and 26 years from taking over the voluntary possession of the land under Section 10(5) on 17.08.1992. The petitioner also does not disclosed as to when the petitioner came to know the proceedings under the Act, 1976 and mutation of revenue entries in the name of State.

(c) The petitioner has relied upon electricity bills and photographs to show his possession over the land in question. Moreover, the electricity bills do not disclose any plot number and cannot be said to be in respect of the land in dispute. Further there is no material on record to establish that photographs are of the land in dispute and as such cannot be relied upon for the detailed reasons assigned above.

66. Under the circumstances, the petitioners having approached this Court after a long delay and the writ petitions being barred by laches we refuse to exercise our jurisdiction under Article 226 of the Constitution of India and the writ petition stands *dismissed* on the aforesaid ground. However, it is made clear that dismissal of the writ petition is without

prejudice to the rights of petitioners to institute suit before the competent court for appropriate reliefs in view of the judgment of Apex Court in the case of Ehsan & another (supra).

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

March 25, 2026

Gaurav