

**(1987) 01 RAJ CK 0065**

**In the Rajasthan High Court**

**Case No :** Civil Writ Petition No's. 1080 and 1351 of 1975, 1130, 1178 and 1681 of 1976

Kesa and Others

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

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**Date of Decision :** 21-01-1987

**Acts Referred:**

Constitution of India, 1950 — Article 226  
Rajasthan Tenancy (Fixation of Ceiling of Land) Government Rules, 1963 — Rule 14  
Rajasthan Tenancy Act, 1955 — Section 257, 30D, 30D(1), 30DD

**Citation :** AIR 1987 Raj 120 : (1987) RLW 1 : (1989) 2 WLN 446 : (1987) 1 WLN 193

**Hon'ble Judges :** Guman Mal Lodha, Acting C.J.; Kanta Bhatnagar, J; Jasraj Chopra, J

**Bench :** Full Bench

**Advocate :** L.R. Mohta, J.R. Bhandari and M.L. Garg, for the Appellant; R.C. Maheshwari, Government Advocate, for the Respondent

**Final Decision :** Dismissed

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## Judgement

Bhatnagar, J.—The five writ petitions referred to this Bench involve a question of considerable importance inasmuch as the relevant statute is the expression of the anxiety of the Legislature to implement the ideals of the framers of the Constitution.

2. India is a Sovereign, Socialist, Secular, Democratic Republic. The Constitution of India secures to all citizens justice, social, economic and political. The directive principles of State Policy in Part-IV of the Constitution embody the aims and objects of the State under the republican Constitution that it is a "Welfare State". Those directives are implemented by Legislation. Article 39 of the Constitution enumerates certain principles of policy to be followed by the State. For the economic uplift of the citizens it directs that the State shall in particular, direct its policy towards securing that the citizens, men and women equally have the right to an adequate means of livelihood; that the ownership and control of the

material resources of the community are so distributed as best to subserve the common good : that the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment.

3. India being an agricultural country, majority of the people are dependent for their livelihood on cultivation. Prior to the agrarian reforms the agricultural land was in the ownership and possession of a few and the landless persons had to toil at the fields of others. In order to implement the socialistic pattern of society and to bridge the gap between the haves and have nots i.e. the landowners and the landless an Act for agrarian reforms was enacted. In other words, to abolish the Jagirdari, Jamindari and Biswedari system the Legislature of the State of Rajasthan introduced in Rajasthan by Rajasthan Tenancy Act, the law relating to fixation of ceiling on agricultural holdings. By the Amendment Act, 1960 (Act No. V of 1960) Chapter IIIB was inserted in the Rajasthan Tenancy Act 1955 fixing the ceiling on the agricultural Holdings (to be referred as "the Act" hereinafter). The object was to distribute surplus land to the landless and to remove disparity in holding of the agricultural land and to increase agricultural resources. The Act came into force on December 15, 1963. Chapter IIIB of the Act contains Section 30B to Section 30J. Sham, bogus and meaningless transfers were likely to evade and defeat the purpose of legislation. Section 30D therefore provided for non-recognition of transfers made after 25th day of February, 1958 for the purpose of ceiling area u/s 30C, with the exception of transfers enumerated in Clauses (i) and (ii) of Sub-section (1). Section 30DD was inserted in the Chapter by the Amendment Act 15 of 1970 w.e.f. 18-8-1970. It enlarged the scope of recognisable transfers, subject to their fulfilling the conditions contained in the two clauses of that section.

4. In proceedings under Chapter IIIB, the question of the validity of transfer of land by landholder came for consideration in a number of cases. The point arising for determination before the Revenue Authorities was as to whether in a proceeding against a landlord, whose ceiling area was in question before the Sub-Divisional Officer (for short "the S.D.O." hereinafter) notice to transferee was necessary. The opinion of the Board on the point was not uniform.

5. In the writ petition of Kesa and others v. State of Rajasthan, D.B. Civil Writ Petn. No. 1361 of 1975 the legality of the order of the Board of Revenue dated March 31, 1975 has been challenged. The Board of Revenue was of the opinion that there is no provision of law under which the S.D.O. is called upon to issue notice to the transferee and the principles of natural justice were not attracted in such matters. Subsequent to the aforesaid order of the Board of Revenue certain decisions of this Court dealt with the question of notice to the transferees.

6. In the case of Nandlal v. State of Rajasthan. 1978 Raj LW 198 : AIR 1979 NOC 78 (Raj)), the Division Bench of this Court did not consider notice to the transferee necessary and also held that the principles of natural justice are not attracted.

7. The question of necessity of issuing notice to the transferee under Chapter IIIB came for consideration in the case of Bhera Ram v. State of Rajasthan 1979 WLN 224. The learned Judge distinguished the case of Nandlal (1) and held that notice to the transferee whose case falls u/s 30DD was required on the principle of natural justice.

8. When the Writ Petition of Kesa and others v. State of Rajasthan, Civil Writ Petn. No. 1361 of 1975 came before the Division Bench of this Court on November 19, 1979, looking to the importance of the question involved and also in view of certain observations made by this Court in the case of Nandlal v. State of Rajasthan. 1978 Raj LW 198 : AIR 1979 Raj 78) it was considered proper that the case may be heard by a Larger Bench. The writ petition has therefore come up before this Bench. The point for determination argued by the learned counsel for the parties is regarding the necessity of issuance of notice to the transferee in proceedings under chapter IIIB of the Act. This is the question involved in the other four writ petitions also and therefore, they were also ordered to be put up before the Larger Bench along with writ petn. No. 1361 of 1975 Kesha v. State of Rajasthan.

9. As the common question involved in all the five writ petitions is the same, we propose to dispose them of by one common judgment.

10. In order to determine the question of the necessity of issuing notice to the transferee the scheme of Chapter IIIB of the Act and the Rajasthan Tenancy (Fixation of Ceiling of Land) Government Rules, 1963 hereinafter to be referred as the Rules") framed in exercise of the powers conferred by Section 257 of the Act will have to be examined.

11. Section 30B of the Act defines the term "family" and "person" with reference to the provisions of that Chapter.

12. Section 30C of the Act lays down the extent of the ceiling area.

13. Section 30D and Section 30DD are the important sections for determining the question of notice to the transferees.

14. Section 30 D imposes restriction upon transfers after 25-2-1958 other than those falling within the ambit of Clauses (i) and (ii) of Sub-section (1). The portion of the section relevant for the present purpose reads as under:

30 D Certain Transfers Not To Be Recognised For Fixing Ceiling Area u/s 30C.

(1) For the purpose of determining the ceiling area in relation to a person u/s 30C, any voluntary transfer effected by him on or after the 25th day of February, 1958 otherwise than : --

(i) by way of partition, or

(ii) in favour of a person who was a landless person before the said date and continued to be so till the date of transfer, of the whole or a part of his holding

shall be deemed to be a transfer calculated to defeat the provisions of this Chapter and shall not be recognised and taken into consideration; and the burden of proving whether any such transfer falls under Clause (i) or Clause (ii) shall lie on the transferer;

(2).....

(3) Notwithstanding the provision contained in Sub-section (2), the transferee of the land referred to therein shall be entitled to claim from the transferor thereof a refund of the consideration money, if any, paid by him for such land and the amount thereof shall be a charge on the compensation money payable by the State Government in respect of such land u/s 30G.

(4).....

15. Section 30DD makes transfers made up to the 31-12-1969, recognisable if they are covered by Clauses (i) and (ii) of that Section. The relevant part of the Section reads as under :

30DD. Certain transfers to be recognised. --Notwithstanding anything to the contrary contained in Section 30D, for the purpose of determining the ceiling area in relation to a person u/s 30C,--

(i) every transfer of land not exceeding thirty standard acres made by a person up to the thirty first day of December, 1969 in favour of an agriculturist domiciled in Rajasthan or in favour of his son or brother intending to take to the profession of agriculture and capable of cultivating land personally and who had attained the age of majority on or before the said date; and

(ii) every transfer to the extent as aforesaid made by a person before the first day of June, 1970 of land comprised in groves or farms of the nature referred to in Clauses (a), (b), (d) and (e) of Sub-section (1) of Section 30J. As it stood prior to the commencement of the Rajasthan Tenancy (Second Amendment) Act, 1970 and acquired before the first day of May, 1959 in favour of his son who attains the age of majority on or before the first day of the aforementioned dates shall also be recognised.

Explanation--I. The expression "agriculturist" in this section shall mean a person who earns his livelihood wholly or mainly from agriculture and cultivates land by his own labour or by the labour of any member of his family or along with such labour as aforesaid with the help of hired labour or servant on wages payable in cash or in kind and shall include an agricultural labourer and a village artisan.

II. The expression "domiciled in Rajasthan" in this section shall mean a person who permanently resides in Rajasthan since before the commencement of this Act".

16. Section 30E makes provision for maximum land that can be held and restriction on future acquisitions. Sub-section (5) of that section provides that all lands coming to the State Government by surrender under Sub-section (2) or by

ejectment under Sub-section (4) shall vest in ii free from all encumbrances.

17. Section 30F deals with the provisions of allotment of land surrendered u/s 30E.

18. Section 30G makes provisions for compensation for land surrendered u/s 30E, and for rights in improvement therein.

19. Section 30H contains the provisions relating to encumbrances on lands vesting in Government u/s 30E.

20. Section 30I lays down exceptions of general character and enumerates the category of persons to whom provisions of Clause (a) of Sub-section (1) of Section 30E shall not be applicable.

21. Section 30J exempts certain lands mentioned in that section from the application of the provisions of Section 30E.

22. The determination of the question which we are to deal with would require firstly, whether provisions of Chapter IIIB or the Rules make any provision for the issuance of notice to the transferee. In case the answer is affirmative the matter ends. But if the conclusion is negative in nature, then the question of applicability of principles of natural justice would arise. In deciding that point the important factor requiring consideration would be whether the provisions of Section IIIB of the Act and the Rules by necessary implications exclude the principle of natural justice. Chapter 111 of the Rules contains the provisions relating to fixation of ceiling on land. Rule 9 provides for declarations to be filed by land holders and tenants. The relevant portion of that Rule reads as under :

Rule 9. Declarations to be filed by land holders and tenants -- In order to enable the Sub-Divisional Officer to-

(a) determine, u/s 30C of the Act, the ceiling area applicable to every person holding land in his sub-division; and

(b) eventually, enforce the provisions of Section 30E;

every land holder and tenant, who was on the 25th of February, 1958, or the 9th of December, 1959, or the 15th of December, 1965 or who is on the 1st of April, 1956, in possession of land in excess of the ceiling area applicable to him, shall, within six months of the 1st of April, 1956, furnish to the Sub-Divisional Officer of the Sub-Division in which his holding, or any part thereof, is situated, a declaration of his holding and particulars of his family in Form "Ceiling IV".

23. Rule 10 relates to the issue of notice by Sub-Divisional Officer calling for declarations reads as under :

"Without prejudice to the provisions of Rule 9, the Sub-Divisional Officer shall have power to issue a notice in Form "Ceiling V" requiring any land holder or tenant who he has reason to believe, resides or holds land within its jurisdiction in excess of the ceiling area applicable to him to furnish to him a declaration of

his holding and particulars of his family within such period as may be specified in the notice (not being less than thirty days from the date of its issue) and it shall be the duty of such land holder or tenant to furnish the declaration and particulars, whether or not he resides or holds land within the jurisdiction of such Sub-Divisional Officer.

24. Rule 11 entitles the land holder or tenant to receipt for the declaration filed.

25. Rule 12 makes provision for the checking of the declarations received.

26. Rule 13 provides for the lists and the statements to be prepared by Tehsildars.

27. On the report of the Tehsildar the S.D.O. is to take action as mentioned in Rule 14, which reads as under :--

Rule 14 -- Action by Sub-Divisional Officer -- On receipt of the reports mentioned in Rule 12 and of the statements referred to in Rule 13 the Sub-Divisional Officer shall issue notice to the hind-holders and tenants, in Form Ceiling VII informing them of the receipt of the Tehsildar's report and directing them to appear before the Sub-Divisional Officer, on a date to be specified, if they wish to be heard before he (Sub-Divisional Officer) determines the ceiling area applicable to each such person. If a land-holder or tenant appears, he shall be given a hearing, otherwise the Sub-Divisional Officer shall, on the basis of the Tehsildar's report and such further enquiry, if any, as he may deem fit to make proceed to determine the ceiling area, in accordance with Rules 15 to 21.

28. The contents of Sub-Divisional Officer's order are to be according to Rule 21. Sub-rule (5) of Rule 21 directs the S.D.O. to mention, in the report as to whether any transfer were made, and if so, on what date, and what was the total area and soil-classes and other particulars of the land transferred.

29. Rule 22 makes provision for claim by transferee for refund of consideration money.

30. Rule 23 obliges the Sub-Divisional Officer to give notice to the transferor and after hearing and disposing of any objections raised to pass appropriate orders on the application of the transferee under Rule 22.

31. The words issue notice to the landholders and tenants has raised controversy regarding issuance of notice to the transferee.

32. Learned counsel for the petitioners have strenuously contended that the transferees whose transfers fall within the exceptions given in Clauses (i) and (ii) of Sub-section (1) of Section 30D and those whose transfers are to be recognized, under Sections 30DD are entitled to notice because they are the persons affected and in case they are not afforded opportunity to place their point adequately, any order passed detrimental to their interest would place them in a disadvantageous position.

33. Mr. Mehta, learned counsel for the petitioners took us through the definition of the term "tenant" in Section 5(43) of the Act and submitted that holder of land under a recognised transfer is covered by that definition and is entitled to a notice under Rule 10 of the Rules.

34. The learned Government Advocate controverted these contentions and submitted that the terms "landholder" and "tenant" in proceedings under Chapter IIIB of the Act relate only to the persons whose ceiling area is under consideration before the authorised officer.

35. Section 30D casts the burden on the transferor to prove that the transfer by him falls under Clauses (i) or (ii) of Sub-section (1) of that section. The argument advanced on behalf of the petitioners is that Section 30DD is silent on the point. That, the non obstante clause of Section 30DD distinguishes that section from Section 30D and shows the intention of the Legislature to give recognition to the transfers falling u/s 30DD and in case the authorised officer intends to make any inquiry in that regard that should be from the transferee whose interests are jeopardised by any adverse order regarding the land under consideration. That, the transferee can put up his case before the authorities only when notice is issued to him.

36. On careful study of the Rules we are of the opinion that there is no rule obliging the concerned authority to issue notice to the transferee in whatsoever category he may fall. The consensus of the opinion expressed in various cases is also the same.

37. It has been emphasized on behalf of the State that Sub-section (2) of Section 30D read with Rules 22 and 23 state the position in which the transferee would stand at the conclusion of the inquiry and his interest is safeguarded.

38. The question of necessity of issuing of notice came for consideration before the Division Bench of this Court in the case of Nand Lal v. The State 1978 Raj LW 198 : AIR 1979 NOC 78 (Raj)) and it was held that Chapter IIIB of the Rajasthan Tenancy Act, 1955 and the Rajasthan Tenancy (Fixation of Ceiling on Land) (Government) Rules, 1963 made thereunder do not provide for issuance of notice to the transferees.

39. The learned single Judge of this Court deciding Bhera Ram's case 1979 WLN 224 distinguished the aforesaid Division Bench decision and concluded that what was meant by their Lordships was that the Rajasthan Tenancy Act or Rules made thereunder do not make provision of giving an opportunity -of being heard to the transferee whose transfers have not been recognised under the law of the land for ceiling purpose.

40. Mr. Mehta, learned counsel for the petitioner submitted that the view expressed by the learned single Judge in Bhera Ram's case is the correct view because Section 30DD recognises certain transfers and the transferor is not required to adduce evidence regarding those transfers and if the authorised

officer has any doubt regarding the genuineness of those transfers, he should issue notice to the transferee to prove that the transfer made in his favour is one falling within the recognised category of transfers. Both Section 30D and 30DD deal with the transfers which may be taken in consideration in fixing the ceiling area of the landholder. Section 30D is in negative form while Section 30DD is in positive form. Section 30-DD only enlarges the scope of recognisable transfers by two clauses mentioned therein.

41. By virtue of Section 30D the cases falling under two sub-clauses of Sub-section (1) are to be recognised. The non obstante clause, with which Section 30DD begins, mainly relates to the date mentioned in Section 30D because by Section 30DD the date of recognisable transfers is extended to 31-12-69. True it is that in Section 30DD there is no provision regarding the burden of proving the transfer to be genuine on the transferor, but the non obstante clause would not for the reason just mentioned, make the provision of Section 30D in that regard inapplicable to Section 30DD.

42. The learned single Judge deciding Bhera Ram's case 1979 WLN 224 has concluded that the Act and the Rules are silent with regard to the notice to be issued to the transferee. The learned Judge however considered the necessity of issuance of notice on the principles of natural justice and opined that the principles of natural justice are not excluded and as such principle of audi alteram partem is applicable in the case and transfers falling in the category of recognised transfers and the transferees likely to be aggrieved by any adverse order being passed regarding the transfers made to them are entitled to notice.

43. In Nandlal's case 1978 Raj LW 198 : AIR 1979 NOC 78 (Raj), the Division Bench of this Court had considered the point as to whether principle of natural justice is attracted in the proceedings under Chapter III-B of the Act despite the Rules framed thereunder being silent on the point and notice to the transferee is a must. After dealing with the various sections of chapter III-B, their Lordships observed that it is manifest that the legislature by necessary implication excludes the right of transferee-purchasers to be heard. One of the reasons given was that the transferee is entitled to be reimbursed and the transferor is bound to restore to him the advantage obtained by him. In Para-11 of the judgment, their Lordships observed that the motive behind the present Act is to ensure equitable distribution of agricultural land for securing the object that the ownership and control of material resources of the community are so distributed as best to subserve the common good, as enshrined in Article 39 of the Constitution of India. With that motive in mind their Lordships held that the principle of natural justice cannot be stretched to defeat the very purpose and object of the Act itself. In Bhera Ram's case 1979 WLN 224 the learned single Judge expressed that the principles enunciated in Nandlal's case, were in view of the circumstances of that case and do not apply to recognised transfers. We are unable to agree with the learned single Judge for the reason that in Nand Lal's case the observations regarding the application of the principle of natural justice



are in generic sense and therefore cannot be restricted to the transfers u/s 30D of the Act only.

44. The learned Judge in Bhera Ram's case held that the principles of natural justice are not excluded by necessary implication in the proceedings under Chapter III-B and the Rules framed under the Act and referred to Rule 14 of the Rules. According to his Lordship the words "such further inquiry if any as he may deem fit to make" occurring in that Rule empower the S. D. O. to make any sort of inquiry from any person. From this observation the argument is built up before us that it should be taken to mean that if the S. D. O. considers necessary he may issue notice to the transferee. There is no quarrel on the point that the S. D. O. has been vested with wide powers to make inquiry from any person in whatever manner he may deem fit, in order to ascertain whether the declaration filed by the landlord is correct or not. If the circumstances so require the S. D. O. can make inquiry from the transferee regarding the transfer made to him in order to arrive at the conclusion as to whether the transfer is genuine and should be recognised or it is sham, bogus and meaningless and has been effected simply to defeat the purpose of the Act but that does not oblige the S. D. O. to call the transferee to put up his case.

45. It is pertinent to note that a transfer effected up to 1st day of December 1969, would not in all cases become a recognised transfer. It would rather be so subject to the conditions mentioned in Clauses (i) and (ii) of Section 30DD being fulfilled. Whether those conditions are fulfilled or not is to be proved by the transferor who wants to take advantage out of it in getting his ceiling area fixed. The matter is between the State and the transferor whose ceiling area is in question. Simply because a third person may be affected by an order of the authorised officer, it cannot be said that that third person is a necessary party to the proceedings. The transfer is recognised only when the transferor satisfied the authorised officer that the transfer out of the land under consideration before him is recognisable according to Clauses (i) and (ii) of Section 30DD. It is for the transferor to prove the legality of the transfer. The S. D. O. would decide the matter in view of the declaration of the transferor and the attendant circumstances of the case.

46. The statute is the formal expression of the will of the Legislature. Necessary amendments in the same from time to time denote the anxiety of the Legislature to bring a revolutionary change in improving the condition of the landless persons. The idea behind was to do away with the concentration of wealth of agricultural soil in the hands of a few and to distribute it amongst the landless persons so that the ideal of socialistic pattern of the society may be achieved.

47. The learned counsel for the petitioners stressed that the transfer u/s 30DD in order to be valid requires the transferee to be a landless person and as such the object of the reformatory act is achieved. The submission has substance but it is noteworthy that unless the transferor satisfied that the transfer falls within the ambit of Section 30DD, it cannot be said to be recognised transfer and the

transferee cannot as of right claim notice.

48. Mr. Metha and Mr. Bhandari, learned counsel for the petitioners pointed out certain contingencies such as a transferor not taking interest in the proceedings; the transferor dying and his legal representatives leaving the matter to the will of the authorised officer without making efforts to satisfy him about the legality of the transfer; proper opportunity not being afforded to the transferor or he not being in a position to bring on record the relevant evidence or documents to satisfy that the transfer falls within the ambit of Section 30DD; and submitted that in such circumstances notice to the transferee would enable him to safeguard his interest.

49. It is important to consider that the person who wants to take advantage of transfer is the one whose land is in question and the fixation of ceiling area this way or that way would affect his interest. If he does not prove the transfer he is to lose. The interest of the transferee is safeguarded by the provisions of the reimbursement of the consideration has paid for the land. The argument that the provisions of reimbursement do not apply to cases falling u/s 30DD as corresponding amendment has not been made in Rules 22 and 23 has no force. The case of one transferee cannot be distinguished from the other in that regard and the learned Government Advocate has submitted that the cases of the transferees u/s 30D or Section 30DD are to be similarly considered for the purpose of reimbursement.

50. In view of the above discussion of the provisions safeguarding the interest of the transferee and the burden being on the transferor to prove the transfer as recognisable, we hold that the provisions of the Act and the Rules framed thereunder by necessary implications exclude the principle of natural justice to the proceedings under Chapter IIIB of the Act.

51. The scheme of the Act indicates the intention of Legislature that unrecognised transfers are to be ignored. That the transferor is to prove that the transfer effected by him is recognisable. As stated earlier, Legislature was conscious of the interest of the transferee and made provision that the transferee is entitled to be reimbursed and transferor is bound to restore to him the advantage obtained by him and that the former can claim reimbursement from the compensation money payable to the transferor by the State Government u/s 30G of the Act. This being the position of law it was held in Nand Lal's case, 1978 Raj LW 198 : AIR 1979 NOC 78 (Raj) that under the scheme of Chapter 111B of the Act, the Legislature by necessary implication, excludes the application of the principles of natural justice regarding audi alteram partem in favour of the transferees and we fully agree with the opinion so expressed by the Division Bench of this Court.

52. In order to appreciate the arguments of the learned counsel for the parties regarding the applicability of the principle of audi alteram partem and the principle of natural justice and to strengthen the view expressed by us it would

be profitable to refer to the various authorities cited from both the sides.

53. The learned counsel for the petitioners placed reliance on the following principle enunciated in the case of *Smt. Maneka Gandhi v. U. O. I.* AIR 1478 SC 597.

"Although there are no positive words in the statute regarding that the party shall be heard, yet the justice of the common law will supply the omission of the legislature. The principle of *audi alteram partem*, which mandates that no one shall be condemned unheard is part of the rules of natural justice.

Natural justice is a great humanising principle intended to invest law with fairness and to secure justice and over the years, it has grown into a widely pervasive rule affecting large areas of administrative action. The inquiry must, always be : does fairness in action demand that an opportunity to be heard should be given to the person affected.

The law must now be taken to be well settled that even in an administrative proceeding, which involves civil consequences, the doctrine of natural justice must be held to be applicable."

54. Their Lordships were of the opinion that the principles of *audi alteram partem* would not be frustrated if prior notice and hearing were not to be given to the person concerned before impounding his passport. At the same time the observations reproduced below are significant for the present purpose.

"The *audi alteram partem* rule is intended to inject justice into the law and it cannot be applied to defeat the ends of justice, or to make the law "lifeless, absurd, stultifying, self-defeating or plainly contrary to the common sense of the situation." Since the life of the law is not logic but experience and every legal proposition must, in the ultimate analysis, be tested on the touchstone of pragmatic realism, the *audi alteram partem* rule would, by the experimental test, be excluded, if importing the right to be heard has the effect of paralysing the administrative process or the need for promptitude or the urgency of the situation so demands."

55. Mr. Mehta also referred to the case of *State of Punjab and Another Vs. Gurdial Singh and Others*, wherein it has been observed as under : --

"It is fundamental that compulsory taking of a man's property is a serious matter and the smaller the man the more serious the matter. Hearing him before depriving him is both reasonable and pre-emptive of arbitrariness, and denial of this administrative fairness is constitutional anathema except for good reasons."

56. It was further held that save in real urgency where public interest does not brook even the minimum time needed to give a hearing, land acquisition authorities should not, having regard to Articles 14 and 19, make an enquiry u/s 17 of the Act. The observations were made in view of the facts and circumstances of the case. The Government had sought to acquire particular land

for establishing a grain market, then gave it up and selected another piece of land but ultimately acquisition of the latter was declared mala fide by the High Court and seven years thereafter the Government again sought to acquire the same land under emergency powers u/s 17. In such peculiar circumstance invoking of that powers was not held to be justified.

57. The case of S.L. Kapoor Vs. Jagmohan and Others, related to the supersession of the New Delhi Municipal Committee by the Lt. Governor of the Union Territory of Delhi. The order was held to be vitiated because of the authority failing to observe principle of audi alteram partem. Section 238(1) of the Punjab Municipal Act contemplated and required that an opportunity should be given to the committee before an order of supersession is passed. The question, arose whether in a case where non-observance of principle of natural justice has not prejudiced the case of the party concerned, the order should be vitiated. It was held as under : --

"The principles of natural justice know of no exclusionary rule dependent on whether it would have made any difference if natural justice had been observed. The non-observance of natural justice is itself prejudice to any man and proof of prejudice independently of proof of denial of natural justice is unnecessary. It ill comes from a person who has denied justice that the person who has been denied justice is not prejudiced. Because of the failure to observe the principle of audi alteram partem the order of the Lt. Governor was superseded."

58. The enactment relating to ceiling of agricultural land is the expression of the desire of Legislature to bring revolutionary change in the financial status of the poor masses and, therefore, Legislature by necessary implication excluded the principle of audi alteram partem. The purpose of the legislation is likely to be frustrated if notices are issued to the transferees. Because in that case proceedings are bound to become intricate, complicated and lengthy.

59. In view of the above discussion, we arrive at the conclusion that there is no provision in Chapter IIIB or the Rules framed under the Act for issuing notice to the transferees. The Act and the Rules framed thereunder by necessary implication exclude principle of natural justice in proceedings under Chapter IIIB of the Act and as such the transferees cannot claim notice in ceiling proceedings under Chapter IIIB of the Act.

60. Consequently all the five writ petitions are dismissed. In the circumstances of the case, costs are made easy.