

**(1993) 04 AHC CK 0012**

**In the Allahabad High Court**

**Case No :** Civil Miscellaneous Writ Petition No. 12439 of 1992

Laloo Ram and Another

APPELLANT

Vs

State Government and Others

RESPONDENT

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**Date of Decision :** 02-04-1993

**Acts Referred:**

Uttar Pradesh Bhoodan Yagna Act, 1952 — Section 11, 13

Uttar Pradesh Zamindari Abolition and Land Reforms Act, 1950 — Section 229B

**Citation :** (1994) 1 AWC 291

**Hon'ble Judges :** R.A. Sharma, J;M. Katju, J

**Bench :** Division Bench

**Advocate :** Ramendra Asthana and V.S. Kushwaha, for the Appellant;

**Final Decision :** Dismissed

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## **Judgement**

R.A. Sharma, J.—Petitioners, who claim to be the heirs and legal representatives of those, who had donated land under the Bhoodan Movement, have filed this writ petition for writ of mandamus, commanding the Respondents .2 and 3, namely, the Commissioner, Allahabad Division, Allahabad and the Collector, Fatehpur to record their names against the aforesaid land in the revenue records of the village after expunging the name of Sarvodaya Mandai. The grievance of the Petitioners is that in pursuance of the Government order dated 3-12-1976 the said Respondents are bound to mutate their names in place of Sarvodaya Mandai.

2. We have heard the learned counsel for the Petitioners and the learned Standing Counsel.

3. After independence Acharya Vinoba Bhave started Bhoodan movement in pursuance of which agricultural and Banjar lands were donated by the Zamindars and big tenure holders for distribution amongst the landless and the poorer section of society. To regularise the donation of such land the State of U.P. enacted U.P. Bhoodan Yajna Act, 1952 (here-in-after referred to as the Act). The

Act which has the over riding effect over other laws, provides for donation by the owners of the land to Bhoodan Yajna by declaration in writing in that behalf. Section 11 provides for filing, hearing and disposal of objections, if any. After the disposal of the objections all the rights, title and interest of the owners in such land stand transferred to and vest in the Bhoodan Committee and thereupon the donors are divested of ownership of the land and ceases to have any concern with it. Section 13 provides for similar consequences where any land has been donated prior to the commencement of the Act. The land so vested in the Bhoodan Committee is liable to be granted to the poorer section of society, such as landless, agricultural labourers.

4. It is admitted that the land in dispute was donated by the petitioners' ancestors to Bhoodan Committee and it stand recorded in the name of Sarvodaya Mandai. In pursuance of Sections 11 and 13 of the Act, after donation was accepted, the land vested in the Bhoodan Committee and the petitioners' ancestors had ceased to be its owners. Consequently the Petitioners, who are heirs and legal representatives of the donors, cannot have any right in the land so donated by their ancestors. They have as such, no legal right to get that land recorded in their names. Such a claim of the Petitioners cannot be entertained in view of the provisions contained in the Act and the writ petition, as such, is liable to be dismissed.

5. Learned counsel for the Petitioners has however based his claim for appropriate writ on the Government order dated 13-12-1976, copy of which has been filed as Annexure I to the writ petition. In this order the Government has referred to the difficulties experienced by the small cultivators of three villages to whom the donated land was allotted in view of the fact that the and continued to be recorded in the name of Bhoodan Committee and, not in the name of those to whom it was allotted. The Government, as such suggested for expunging the name of Bhoodan Committee from the revenue records and in its place for recording the name of original tenure holder. On this basis the learned counsel has submitted that as the Government has now directed in 1976 for the recording of the name of the original tenure holder in place of Bhoodan Committee, they are entitled to get their names mutated in the revenue records of the village concerned. It is not possible for us to agree with the learned counsel. It has not been pleaded in the writ petition that the Bhoodan declaration issued after the land was donated" by the petitioners' ancestors stands superseded or cancelled. It has also not been pleaded that the grant of donated land to the persons belonging to poorer section of society has been cancelled. So long as the declaration granted under the Act remains in tact, the original tenure holders cannot have any right, title and interest in the donated land. After donation has been accepted the donors are divested of the ownership and cannot lay any claim to such a land. It is, as such, not open to the Government to direct the recording of the names of the original tenure holder in place of the Bhoodan Committee. It is not disputed that there is no provision under which such an order, as is contained in Annexure I, can be issued by the Government Under the

circumstances, it is not possible for us to issue a writ of mandamus for enforcing the administrative order of the Government, which is contrary to the provisions contained in the Act.

6. There is another reason for dismissing this writ petition. It has been maintained in paragraphs 17 and 18 for the writ petition that the Petitioners filed a suit No. 52 of 1991 u/s 229-B of the UP ZA & LR Act, for declaration of their rights over the land in question and for recording their names in the revenue records over the said land, [t is further stated therein that the suit was dismissed on the ground that on the basis of the G. O. dated 13-12-1976 (Annexure I to the writ petition) no relief could be given in the suit. Although a copy of the judgment has not been filed and is not part of this writ petition but from the penis il of paragraph 18 of the writ petition, it is aparent that the lower Court has refused to give relief to the Petitioners on the basis of the aforesaid Gavernment order. The aforesaid decision of the Court does not appear to have been challenged by the Petitioners and has become final. We cannot grant any relief in this writ petition which judgment of the competent Court has become final. The dispute which has been finally settled by a competent Court cannot be permitted to be reopened.

7. For the reasons given above, the writ petition is dismissed.