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**(2013) 12 RAJ CK 0092**

**In the Rajasthan High Court**

**Case No :** Civil Writ Petition Nos. 3566 of 1994, 1416 of 1976 and 3927 of 2001

National Engineering Industries Limited

APPELLANT

Vs

State of Rajasthan

RESPONDENT

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**Date of Decision :** 16-12-2013

**Acts Referred:**

**Citation :** (2014) 2 CDR 1064

**Hon'ble Judges :** Mohammad Rafiq, J

**Bench :** Single Bench

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## **Judgement**

Mohammad Rafiq, J.—All these three writ petitions pertain to different parcels of agriculture land, which are sought to be acquired and taken possession of by the State, treating them to be surplus land in the hands of late Shri Rao Rawal Rajeshwar Singh, who is now represented in first of these three writ petitions by his two sons. His mother-late Smt. Roop Raj Laxmi, who too is represented by the same legal heirs, had filed S.B. Civil Writ Petition No. 1416/1976 assailing various orders passed by the authorities declaring the land surplus in the hands of her son Rao Rawal Rajeshwar Singh and praying for direction to treat her as an independent/separate unit for the purpose of computation of ceiling limit. National Engineering Industries Ltd. has filed S.B. Civil Writ Petition No. 3566/1994 assailing the order dated 8/8/1991 passed by Additional Collector (I), Jaipur declaring the land, which it purchased from late Shri Rao Rawal Rajeshwar Singh, as part of his surplus land and the order dated 20/5/1994 passed by the Sub Divisional Magistrate, Amer directing Tehsildar to take possession of such land. S.B. Civil Writ Petition No. 3927/2001 has been filed by Surendra Pal Colony Vikas Samiti, who have set up a residential colony on the land declared surplus by the competent authority in the hands of late Shri Rao Rawal Rajeshwar Singh with the prayer that respondent-Jaipur Development Authority be directed to regularize possession of the members of the petitioner-society at the normal rates, instead of charging the rate applicable to the government land. All the writ petitions were heard together and are being decided by this common judgment. At the outset, it may be stated that writ petition of Smt. Roop Raj

Laxmi was earlier decided by the Single Bench of this Court. On an appeal filed by the State bearing D.B. Civil Special Appeal (Writ) No. 45/2001 (State of Rajasthan & Ors. vs. Smt. Roop Raj Laxmi & Ors.), the said judgment of the Single Bench was set-aside by the Division Bench vide judgment dated 12/8/2008 and the matter was remanded with the direction that the Single Bench may while deciding writ petition afresh, also decide two legal issues, which earlier escaped its notice. Those questions shall be dealt with at the appropriate place hereinafter.

2. The facts necessary for deciding these writ petitions are that Sub Divisional Officer, Amer by order dated 30/10/1971 after obtaining report from Tehsildar held that assessee Rao Rawal Rajeshwar Singh possessed 66 bighas and 19 biswas of surplus land. Sub Divisional Officer, Amer passed the aforesaid order dated 30/10/1971 (Ann. 1 in SBCWP No. 1416/1976 and Ann. 2 in SBCWP No. 3566/1994) under Chapter-IIIB of the Rajasthan Tenancy Act, 1955 (shall hereinafter be referred as the "Act of 1955") (old ceiling law) and held that total holding after allowing the transfers as discussed comes to 129.1/3 standard acres. He recognized the transfers of 129.1/3 standard acres including the one of 47.8 bighas of land made to National Engineering Industry Ltd. by Rao Rawal Rajeshwar Singh. Sub Divisional Officer, Amer de-recognized the transfers made in favour of other parties and held that assessee had 129.1/3 standard acres of land. Since his family consists of less than five members he was entitled to retain only 30 standard acres of land. Balance 99.1/3 standard acres of land was to be acquired from him. It was further directed that in view of the stay order dated 4/5/1971 passed by this Court in S.B. Civil Misc. Stay Application No. 343/1971 arising out of S.B. Civil Writ Petition No. 380/1971 filed by assessee-late Shri Rao Rawal Rajeshwar Singh, he shall not be dispossessed and possession may not be taken now. Eventually, the said writ petition was dismissed by this Court vide order dated 17/9/1973. Sub Divisional Officer, Amer then vide, order dated 6/3/1974 directed Tehsildar to take possession of the surplus land pursuant to the aforesaid order. The assessee, his wife and sons as also the State Government filed appeals challenging the orders dated 30/10/1971 and 6/3/1974 before the Revenue Appellate Authority. The Revenue Appellate Authority by its order dated 13/6/1975. dismissed the appeals; The assessee-late Shri Rao Rawal Rajeshwar Singh, his wife and sons filed revision petition before the Board of; Revenue. Board of Revenue also dismissed the revision petition but granted liberty to the assessee to exercise his option for surrender of land in ceiling limit subject to second proviso to sub-sec. (2) of Section 30E of the Act of 1955. The Sub Divisional Officer, Amer passed an order on 18/10/1976 excluding the land measuring 11 bighas 15 biswas (gair mumkin land) from ceiling limit in favour of Shri Rao Rawal Rajeshwar Singh. Mutation of land bearing khasra Nos. 10, 17, 92 & 93 were attested in favour of petitioner-National Engineering Industries Ltd. on 25/3/1966.

3. It was thereafter that the State Government in exercise of its powers u/s 15(2) of the Rajasthan Imposition of Ceiling on Agricultural Holdings Act, 1973

(shall hereinafter be referred as the "Act of 1973") (new ceiling law) passed orders on 23/8/1978 and 7/9/1978 for reopening of the ceiling case and determination of surplus land of Rao Rawal Rajeshwar Singh as decided by the Sub Divisional Officer, Amer vide orders dated 30/10/1971 and 18/10/1976. The Additional Collector (I), Jaipur by his order dated 27/12/1978 now held that transfer of the land by the assessee to the petitioner-National Engineering Industry Ltd. vide sale-deed dated 25/3/1966 was invalid. Assessee Rao Rawal Rajeshwar Singh as well as the State filed appeals against the order of Assistant Collector (I), Jaipur before the Revenue Appellate Authority, which dismissed both the appeals. Rao Rawal Rajeshwar Singh then filed appeal before the Board of Revenue, which partly allowed the appeal vide order, dated 21/5/1980 and set-aside the order dated 27/12/1978 passed by Additional Collector (I), Jaipur and remanded the matter. The Additional Collector (I), Jaipur by his order dated 20/4/1982 then held that assessee Rao Rawal Rajeshwar Singh possessed 66 bighas and 19 biswas of the land in excess of the ceiling limit including the land transferred to the petitioner-NEI. Assessee was granted fifteen days time to give his option as per Section 30E of the Act of 1955 for surrendering the said excess land to the State. The legal heirs of the assessee i.e. respondents No. 5 and 6, filed option with the Additional Collector (I), Jaipur in furtherance of the order dated 30/4/1982 and land transferred to the petitioner-company was also sought to be surrendered. Additional Collector (I), Jaipur on that basis without providing any notice or opportunity of hearing to the petitioner, permitted respondents No. 5 and 6 to retain the land of their choice but as per option submitted by the said respondents directed the concerned Tehsildar to take possession of the surrendered lands including the land sold by the assessee to the petitioner-NEI. Tehsildar suddenly visited the factory premises of petitioner-NEI on 5/6/1994 and sought to lock the factory premises and take possession of 47 bighas and 8 biswas of land of the petitioner's factory on the strength of the order dated 20/5/1994 issued to him by the Sub Divisional Magistrate, Jaipur. Aggrieved thereby, petitioner-National Engineering Company has filed S.B. Civil Writ Petition No. 3566/1994.

4. Shri Mahendra Singh, learned counsel appearing for petitioner-National Engineering Ltd. in S.B. Civil Writ Petition No. 3566/1994 has argued that the Board of Revenue is highest judicial Court in the land revenue matters and finality has been given to its judgments. Neither the State nor the Assistant Collector (I), Jaipur has any competence to reopen its order. The pre-requisite condition for reopening of a ceiling case as provided in second proviso to sub-section (2) of Section 15 of the Act of 1973 is that no final order passed by the Board in the matter referred to in subsection (1).or in sub-Section (2) shall be directed to be re-opened and decided afresh under the said sub-sections unless the State Government is satisfied that such order is required to be re-opened on account of the discovery of new and important matter or evidence, which has since come to the notice of the State or due to some mistake or error apparent on the face of the record. None of these parameters are satisfied in the present

case. In this matter, not only the assessee but the State Government also filed appeal before the Revenue Appellate Authority, which dismissed both the appeals. State Government did not seek to file any further appeal against that judgment of the Revenue Appellate Authority and thus that judgment attained finality. It was argued that the final order dated 20/4/1982 to re-open the case was passed without any notice or providing opportunity of hearing to the petitioner-NEI. The assessee has wrongly given option of the land, which it had already transferred to the petitioner-company. He ought to have given option of unencumbered land. Learned counsel in" support of his argument, has relied on the Division Bench judgment of this Court in Badrilal Vs. State of Rajasthan and Others, Learned counsel referring to Section 301 of the Act of 1955 argued that crucial date for determining the excess land in the hands of the assessee is 1/4/1966, whereas sale-deed dated 25/3/1966 (Ann. 1) annexed with SBCWP No. 3566/1994 for sale of the land in favour of petitioner-company was executed by the assessee on 25/3/1966. Thus, by virtue of the aforesaid provision, this land cannot be said to be excess in the hands of the erstwhile owner/asses see Rao Rawal Rajeshwar Singh. Petitioner-NEI after purchasing the land, made huge investments on the land and set up an Industry. Petitioner-company is running the ball bearing factory on the disputed land for last fifty years.

5. Learned counsel argued that Division Bench judgment of this Court in Rajeshwar Singh vs. The Sub-Divisional Officer, Amber RLW 1981 561 regarding this very transaction held that transferee is not required to be heard before reopening of a ceiling case. It is per-incuriam judgment. In para 8 of the judgment, the date of sale has been indicated to be 26/3/1967 i.e. much after 1/4/1966, whereas actually, the sale-deed in favour of petitioner-NEI was executed on 25/3/1966. The Division Bench was thus wrongly informed by the assessee that petitioner-NEI had purchased the land after 1/4/1966, whereas fact is that sale-deed was executed in favour of the petitioner-NEI on 25/3/1966, which is evident from para 23 thereof. Ratio of the aforesaid judgment cannot therefore be applied to the facts of the present case as it proceeds on wrong assumption that sale-deed was executed after 1/4/1966, which is the appointed date with reference to Section 30E of the Act of 1955. Referring to the order dated 30/10/1971 passed by the government, learned counsel argued that decision of the Sub Divisional Officer too is based on the assumption that sale-deed was executed on 25/3/1967. This shows non-application of mind on his part. Division Bench judgment of this Court in Rajeshwar Singh supra in any case, cannot bind the petitioner-company as it was not party to that writ petition. Principle of res judicata is thus not applicable. This judgment is per-incuriam and not binding. Section 301 provides that nothing contained in clause (a) of sub-section (1) of Section 30E shall apply to a person - (i) who, on the date notified under the said sub-section of the said section, does not hold land in excess of the ceiling area applicable to him, or 00 who, after the said date has once surrendered to the State Government or been rejected by it from land in excess of land retained in his possession land to the extent of, such ceiling area, even

though the productive capacity of the land so held or retained, as the case may be, increases in future by reason of any improvement made by or at the expense of such person subsequently to the said date. It is argued that the sale-deed having been executed much prior to 1/4/1966, the land transferred to the petitioner-NEI cannot be said to be excess in the hands of the assessee in terms of Section 301. Argument is that Section 30E(1)(a) provides that no person shall, as from a date notified by the State Government in this behalf, continue to hold or retain in his possession in any capacity and under any tenure whatsoever land in excess of the ceiling area applicable to him. Since transfer of land in favour of the petitioner had already taken place prior to the date notified by the State Government for that purpose, the assessee cannot be said to hold or retain possession of the land so transferred to the petitioner.

6. Shri Rajendra Prasad, learned counsel for petitioner Surendra Pal Colony Vikas Samiti in S.B. Civil Writ Petition No. 3927/2001 has argued that members of the petitioner Samiti are allottees of respondent No. 3-Moti Bhawan Grah Nirman Sahakari Samiti Ltd., which Samiti purchased the land for development of residential colony from erstwhile khatedar tenant Rao Rawal Rajeshwar Singh through an agreement to sale dated 26/12/1975. The site plan of the scheme was technically approved by respondent No. 2-Jaipur Development Authority. Tehsildar, Jaipur reported on 14/3/1984 that the land has not been acquired under ceiling law. The Additional Collector Land Conversion (North) vide its order dated 30/4/1984 granted provisional sanction for conversion into residential use. On writ petition being filed i.e. S.B. Civil Writ Petition No. 1416/1976 by Smt. Roop Raj Laxmi titled as Smt. Roop. Raj Laxmi vs. S.D.O. Amer & Ors., this Court declared the land having been exempted from ceiling law vide order dated 13/9/2000. The respondents charged Rs. 75/- per square yard for regularization of plots from the petitioner-Samiti in 1994. Government fixed Rs. 65/- & Rs. 90/- per square yards as the rate for regularization of similarly situated plots as per Schedule-B appended to the writ petition on 27/9/1999. Grievance Of the plot holders of the petitioner-Samiti is with regard to demand of Rs. 345/- per square yards as regularization charges made by the respondents vide public notice dated 27/2/2001 treating the land in question as government land, whereas the respondents ought to have Charged @ Rs. 65/- or @ Rs. per square yards for regularization of the plots as specified in Schedule-B appended to the petition.

7. Shri Sudhir Gupta, learned senior counsel argued that the Finding recorded by the Division Bench of this Court in Rajeshwar Singh supra would bind the State authorities. In this connection, learned senior counsel submitted that transferee has no right to be heard has to be understood in the light of the observation made in para 25 of the judgment in which it was held by the Division Bench that petitioner-Rajeshwar Singh cannot be said to be an aggrieved person regarding giving notice to National Engineering Industries Ltd. This company cannot be held to be an agriculturist. In any case, learned senior counsel argued that the aforesaid judgment has been decided on assumption of wrong facts and no principle of res judicata applies atleast quo the National Engineering Company

Ltd. It is argued that the law has given option to the land holder as to which land he wants to surrender. The respondent-assessee first surrendered the encumbered land. Learned senior counsel in this connection referred to second proviso to sub-Section (2) of Section 30E of the Act of 1955 and argued that requirement of surrendering the encumbered land is not rigid. This provision rather stipulates that the option afforded by the foregoing provisions shall be subject to the limitation that, where the person surrendering excess land under this sub-section holds lands of which some are encumbered and some are not encumbered, the un-encumbered lands, shall so far as may be, be surrendered in preference to encumbered lands. The use of the words "so far as may be" thus clearly indicates intention of the Legislature that it is left open to the land holder to decide in his discretion as to which land he wants to surrender first. Referring to sub-sections (2) and (3) of Section 30D of the Act of 1955, learned senior counsel argued that legislature in those provisions has recognized and safeguarded the rights of the transferee. In support of his argument, learned senior counsel referred to the full bench judgment of this Court in Kesa vs. State of Rajasthan, RLW 1987 1. The assessee-Rao Rawal Rajeshwar Singh submitted an application dated 5/2/1991 (Ann. 9) annexed in SBCWP No. 3566/1994 for option in which, reference has been given of the land of the petitioner at Item No. 6. According to sub-section (3) of Section 30D of the Act of 1955, transferee of the land shall be entitled to claim from the transferor thereof a refund of the consideration money, if any, paid by him for such land. Learned senior counsel argued that in any case, the land, which was transferred by the assessee to the petitioner-company has been made use of by the company for establishment of an industry, which has generated the jobs for hundreds of people and huge revenue by way of tax etc. to the government. State Government in any case has discretion to regularize the possession or otherwise allot this land to the petitioner-company, which has for so long contributed to the growth of the State.

8. Shri Sudhir Gupta, learned senior counsel arguing on behalf of petitioner-Smt. Roop Raj Laxmi mother of the assessee-Rao Rawal Rajeshwar Singh, who too is represented now before this Court through the same legal heirs, who represent the interest of Rao Rawal Rajeshwar Singh in other petition, submitted that this matter has been remanded by the Division Bench to the Single Bench precisely on the question whether petitioner-Smt. Roop Raj Laxmi was not party to the ceiling proceedings initiated against Rao Rawal Rajeshwar Singh and challenge to those orders dated 30/10/1971, 6/3/1974 and 6/8/1975 could be made by her after reopening of the case. In substance, the question has to be determined in this writ petition is whether Smt. Roop Raj Laxmi, did not have any independent entity and was not separate unit. Her husband late Shri Maharawal Sangram Singhji died on 15/02/1963 leaving behind his son Rao Rawal Rajeshwar Singh and petitioner herself. Schedule-IIIB that was inserted by way of amendment in the Act of 1955 notified 1/4/1966 as the cut off date. Mother of late Shri Rao Rawal Rajeshwar Singh i.e. the petitioner-Smt. Roop Raj Laxmi being coparcener in the Hindu undivided family, eventually on the death of her husband in 1963,

acquired the right to inherit his share in the property left by him. Even if the notified cut off date is 1/4/1966, that would not affect right of the petitioner to inherit the property of her late husband. Declaration/return filed by Rao Rawal Rajeshwar Singh before the revenue authorities, did not bind Smt. Roop Raj Laxmi as, the State did not serve any notice upon her when they decided to re-open the matter on 23/8/1978. While Smt. Roop Raj Laxmi died in 17/7/1991, Rad Rawal Rajeshwar Singh died on 12/10/1982. Her writ petition was originally dismissed by the Single Bench on 4/9/1986 but the Division Bench vide order dated 19/2/1998 remanded the matter on two points Learned senior counsel therefore submitted that Smt. Roop Laxmi being an independent unit is entitled to retain 30 standard acres of land Learned counsel in support of his argument, placed reliance on judgments of the Supreme Court in V.N. Sarin Vs. Ajit Kumar Poplai, Balwant Singh and another etc. Vs. Daulat Singh (dead) by L.Rs. and others, and Chandradatta Shankardatta and Others Vs. Sanat Kumar Laxman Prasad and Others, as well as the judgment of this Court in Smt. Man Kanwar & Ors. vs. State of Rajasthan & Ors., SBCWP No. 494/1993 decided on 22/5/2001.

9. Shri Dinesh Yadav, learned Additional Advocate General opposed the writ petitions and argued that ceiling case of Rao Rawal Rajeshwar Singh was re-opened u/s 15(2) of the Act of 1973 by order of the government dated 23/8/1978. He filed writ petition challenging the aforesaid order and this Court dismissed the same vide order dated 27/11/1980 holding that notice of such proceedings to transferees of the land was not the requirement of law and has further held that for the purpose of determination of surplus land, such transfers are required to be ignored, except those covered by exemption provided u/Ss. 30D and 30DD of the Act of 1955. Rajasthan Imposition of Ceiling on Agricultural Holdings Rules, 1973 did not provide for issuance of notice to the transferee. Law does, not recognize the transferee. Land illegally transferred in their favour is liable to be treated land of the khatedar. Learned Additional Advocate General argued that Section 30DD of the Act of 1955 recognize" transfer only in favour of an agriculturist domicile of Rajasthan. Referring to Section 30D of the Act of 1955, it was argued that in sub-section. (1) thereof, it is provided that for the purpose of determining the ceiling area in relation to a person u/s 30C of the Act of 1955, any voluntary transfer effected by him on or after 25/2/1958 by way of partition or in favour of a person, who was a landless person before the said date. Even if the Division Bench in Rajeshwar Singh supra was not apprised of the correct date of sale that would not make any difference because all transfers that are made after 25/2/1958 are liable to be ignored in making computation of the ceiling limit and the transfer of land or execution of the sale-deed in favour of petitioner by the assessee has taken place-thereafter. In any case, transferee has no right as he steps into the shoes of land owner. Petitioner was therefore not required to be heard because the land in dispute was mutated in favour of the petitioner in 1984 much after order of reopening. The appointed date i.e. 1/4/1966 would be relevant for the purpose of Section 30C.

10. Shri Dinesh Yadav, learned Additional Advocate General submitted that

Section 30D of the Act of 1955 starts with non-obstante clause therefore it takes Section 30E out of its purview. There are different cut off dates both, for Section 30D and Section 30E and therefore all transfers made subsequent to 25/2/1958 would be liable to be ignored. Learned Additional Advocate General citing the full bench judgment of this Court in Kesa supra argued that it was held therein that in the scheme of Chapter IIIB of the Rajasthan Tenancy Act, legislature purposely excluded principle of natural justice and audi alteram partem. Learned Additional Advocate General cited judgment of the Supreme Court in Appineni Vidyasagar vs. State of A.P. & Ors., (2004) 11 SCC 186 to argue that the Supreme Court in that case held that transferee cannot object on surrender of his land by the holder.

11. I have given my anxious consideration to the rival submissions and perused the material available on record.

12. The first and the foremost argument that needs consideration is whether the petitioner-National "Engineering Industries Ltd. was required to be heard before reopening the ceiling case with reference to Section 15(2) of the Act of 1973. What is argued is that when Rao Rawal Rajeshwar Singh approached this Court, he raised argument that no notice was served upon the petitioner-NEI prior to passing the order of reopening despite objection filed by him before the competent authority, but he gave incorrect date of execution of the sale-deed to this Court. In para 8 of the judgment, date of execution of the sale-deed is indicated as 26/3/1967. It needs mention at this stage that the State Government vide notification No. F.6(9)Rev/B/64 dated 11/2/1966 fixed 1/4/1966 the date u/s 30E of the Act of 1955 thereby, fixing limit of 30 standard acres of land as ceiling area, which could be held by a person or family consisting of less than five members. The Division Bench of this Court thus proceeded on the assumption that petitioner had purchased the land after 1/4/1966, which is the appointed date with reference to Section 30E. Argument raised on behalf of petitioner-NEI Ltd. is that sale-deed Ann. 1 was in fact executed and registered on 25/3/1966, a date much prior to 1/4/1966. In fact, Rao Rawal Rajeshwar Singh wrongly indicated the date 25/3/1967 as the date of transfer in favour of the petitioner-NEI before the Division Bench as this date itself was mentioned in the order of the Sub Divisional Officer, Amer dated 30/10/1971 (Ann. 2) in SBCWP No. 3566/1994 u/Ss. 30C & E of the Act of 1955.

13. Question that needs consideration is whether petitioner-NEI was entitled to be heard before reopening ceiling proceedings or before passing final order so as to acquire surplus land in the hands of the assessee from whom a parcel of land was purchased by the petitioner vide sale-deed Ann. 1? This argument was indeed raised by assessee-Rao Rawal Rajeshwar Singh before the Division Bench of this Court in Rajeshwar Singh supra. According to learned counsel for petitioner, despite that judgment, this argument requires fresh consideration for three reasons:--

(i) Division Bench proceeded on the assumption that date of transfer on which





30E. It would turn out on interpretation of those provisions whether transfer affected by the land owner should be recognized and taken into consideration while deciding his ceiling limit. Section 30D(1) of the Act of 1955 provides that for the purpose of determination of ceiling limit, ceiling area in relation to a person u/s 30C, any voluntary transfer effected by him on or after 25/2/1958, otherwise than - (i) by way of partition, or (ii) in favour of a person, who was a landless person before the said date and continue 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 recognized and taken into consideration; and the burden of proving whether any such transfer fails under clause (i) or clause (ii), shall lie on the transferor; Indisputably, the transfer made in favour of NEI does not fall in any of the above referred to two categories. Section 30DD inserted by Section 2 of Rajasthan Act No. 15 of 1970 on 18/8/1970 provides that 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, every transfer of land not exceeding thirty standard acres made by a person upto thirty first day of December, 1969 in favour of an agriculturist domicile of 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, shall be recognised. Even this provision would not cover transfer of land made in favour of petitioner-NEI by the assessee Rao Rawal Rajeshwar Singh. In fact, definite intention of the legislature as evident by subsection (2) of Section 30D of the Act is that every such transfer as is mentioned in sub-section (1) shall, notwithstanding anything contained in this Act or in any other law for the time being in force, in the whole or in any part of the State, be not enforceable as against the State Government in respect of any land forming the subject matter of such transfer and coming to the State Government u/S. 30E. Remedy that may be available to such transferee is mentioned in sub-section (3) of Section 30D, which stipulates that notwithstanding the provision contained in subsection (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.

16. In view of the combined reading of afore discussed provisions, mere reference of incorrect date of transfer in the judgment of the Division Bench *supra*, would not make any change in the position of law stated therein or for that matter, ratio of the judgment would not be changed thereby. Argument that observation made by the Division Bench in paras 22 and 23 of the judgment of Rajeshwar Singh *supra* should be treated as per incuriam is therefore rejected. This is because the right of the transferee to be heard before passing the final order of reopening the order deciding the ceiling limit in the new ceiling

proceedings has been set at rest by the authoritative judgment of the larger bench of this Court in *Kesa supra*. The question referred to the full bench consisting of three Hon'ble Judges of this Court was whether in a proceeding against land holder with reference to whom ceiling area is sought to be determined, the Sub Divisional Officer was required to issue notice to transferee? The reference became necessary because a Single Bench of this Court took the view that unlike in Section 30D of the Act, Section 30DD did-not exclude opportunity of hearing to the transferee. The argument was that both, Section 30D and Section 30DD deal with transfer, they may be read together for fixing the ceiling area, as a whole. While Section 30D is in negative form, Section 30DD is in positive form. Section 30DD only enlarges the scope of recognisable transfers by two clauses mentioned therein. The full bench held that though 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 with which Section 30DD begins, mainly relates to the date mentioned in Section 30D (25/2/1958) because by Section 30DD the date of recognisable transfer is extended to 31/12/1969, but thereby it does not make provision of Section 30D in that regard inapplicable to Section 30DD. The full bench thus affirmed such view, earlier expressed by the Division Bench in *Nandlal vs. State of Rajasthan*, RLV 1978 198 and held as under:--

39. In *Nandlal's case (1)*, 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 transfer 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 observe 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 (2)* the learned single Judge expressed that the principles enunciated in *Nandlal's case (1)* 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 (1)* 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.

40. The learned Judge in *Bhera Ram's case (2)* 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 R.14 of the

Rules. According to his Lordship the word "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 and person. From the 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.

41. It is pertinent to note that a transfer effected upto 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 Sec. 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 third person is a necessary party to the proceedings. The transfer is recognised only when the transferor satisfies the authorised officer that the transfer out of the land under consideration before him is recognisable according to clauses (i) and (ii) of Sec. 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.

42. 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 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 reimbursed and transferor is bound to restore to him the advantage obtained by him and that the farmer can claim reimbursement from the compensation money payable to the transferor by the State Government u/s. 30C of the Act. This being the position of law it was held in Nand Lal's case (1) that under the scheme of Chapter IIIB of the Act 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.

17. Contention of Shri Mahendra Singh, learned counsel for petitioner-NEI that since the order passed by the Sub Divisional Officer recognizing the transfer in favour of the petitioner has been upheld upto the Board of Revenue and in fact appeal filed by the State there against has been rejected by the Revenue Appellate Authority, which having not been assailed thereafter, has attained finality, order of Sub Divisional Officer cannot be reopened and further contention that third proviso to sub-section (2) of Section 15 of the Act of 1973 has intended a finality to be given to the order passed by the Board, cannot be upheld for the reasons to be stated just now. Third proviso to sub-section (2) of Section 15 on which reliance is placed, stipulates that no final order passed by the Board, in the matter of sub-section (1) or sub-section (2), shall be directed to be reopened and decided afresh under the said sub-section unless State Government is satisfied that such order is required to be reopened on account of discovery of new and important matter or evidence, which has since come to its notice as well as an error apparent on the face of record. What has been discussed above is that the transfer made in favour of petitioner-NEI was not recognizable after 25/2/1958 in any of the clauses of Section 30D or Section 30DD of the Act of 1955, which would indeed justify reopening of the matter as this fact amounted to discovery of new and important matter and also an error apparent on the face of record with regard to which sufficient evidence had come to the notice of the State. This proviso, rather clarifies that even those ceiling orders passed under the old ceiling law, which have been upheld even upto the Board, are not immune and can be reopened subject of course to conditions provided therein.

18. Contention of Shri Mahendra Singh, learned counsel for petitioner-NEI that land holder had to first surrender un-encumbered land and it is only when the unencumbered land is not sufficient or not available, then the land to the extent of short fall can be recovered from the transferee, has to be accepted. In view of the Division Bench judgment of this Court in Badrilal supra, the government is expected to first take possession of un-encumbered land in possession of the assessee and if it falls short of the surplus land to be recovered, remaining land to the extent of short fall has to be recovered from transferees, and petitioner-NEI in this case, subject of course to their right u/s. 30D(3) of refund of the sale consideration, which shall be charged on the compensation money payable by the State Government to the assessee in respect of such land.

19. Argument of Shri Sudhir Gupta, learned senior counsel appearing for assessee is that according to second proviso to sub-Section (2) of Section 30E of the Act of 1955, an option has been given to the land holder to either first surrender an un-encumbered land or encumbered land because that proviso is not couched in a mandatory language and only stipulates that where the person surrendering excess land holds such land, of which, some are encumbered and

some are not encumbered, the un-encumbered lands, shall "so far as may be", be surrendered in preference to encumbered lands. Argument is that use of the words "so far as may be" indicates that this provision is only directory and not mandatory. This argument is noted to be rejected for the simple reason that the words "so far as may be", has been used only because if un-encumbered lands are not sufficient to satisfy requirement of entire excess land then, even encumbered lands can be taken possession of to the extent of short fall. This argument merits rejection also in the light of the Division Bench judgment of this Court in *Badrilal supra*, wherein it was categorically so held by the Division Bench while interpreting Sections 16(4) and 18 of the Act of 1973, which inter-alia provides that transferee has to first surrender unencumbered land and it is only when un-encumbered land is not sufficient or not available then balance of the surplus land has to be recovered from the transferee, who shall be paid price of the land on compensation payable to the transferee by the State, Conjoint reading of Sections 16(4) and 18 makes such intention of the Legislature clear, which is reflected even in first proviso to sub-Section (2) of Section 30E of the Act of 1955, which provides that if any person holding or acquiring land in excess of the ceiling area applicable to him holds" land in more than one Tehsil, he shall have the option to choose, which of the lands held by him in different Tehsils should be surrendered but the second proviso puts a rider on it by providing that option afforded by the foregoing provisions shall be subject to the limitation that, where the person surrendering excess land under this sub-section holds lands, of which some are encumbered and some are not encumbered, the un-encumbered lands, shall so far as may be, be surrendered in preference to encumbered lands. This very legislative intention is reflected from sub-section (4) of Section 16 of the Act of 1973 (new ceiling law), wherein it is provided that if transfer of land is not recognized in determining the ceiling area applicable to the transferor, surrender of surplus land shall be made by the transferor out of the land remaining with him after the transfer and the balance of surplus land remaining, if any, shall be recovered from the transferee by his ejectment. In that case, price paid by him for such land or portion thereof shall be deducted from the amount of compensation payable to the transferor and paid to him. Same intention of the Legislature is evident from second proviso to Section 18 of New Ceiling Law, which stipulates that where a person holds or acquires land of which some are encumbered and some are not, the selection under this section, so far as practicable; be made in favour of encumbered land in preference to un-encumbered land, to retain in his possession.

20. Adverting now to the case of *Smt. Roop Raj Laxmi* for treating her as independent unit, we may begin with first considering two questions formulated by the Division Bench before embarking on examining merits of the case. The writ petition was earlier allowed by the Single Bench vide order dated 13/09/2000 but the Division Bench set-aside the said judgment vide judgment dated. 12/08/2008 and remanded the matter to the Single Bench to decide the writ petition afresh and while doing so, also decide two questions formulated in

its judgment dated 12/08/2008. The first issue was whether after reopening of the case in exercise of powers u/s 15(2) of the Act of 1973, the orders dated 30/10/1971, 6/3/1974 and 6/8/1976 can be challenged? And second whether Smt. Roop Raj Laxmi, who was not party in the ceiling proceedings initiated against Rao Rajeshwar Singh, could challenge these orders? Answering the second question first, it would be evident from the orders passed by the Revenue Appellate Authority and the Board of Revenue that Smt. Roop Raj Laxmi was indeed an appellant before both these Courts, although in the case initially set up by Rao Rajeshwar Singh before the Sub Divisional Officer, she was not described as an independent, unit. Only a partition deed was shown to have been executed transferring, apart from certain land in favour of his wife and two sons, also in favour of Smt. Roop Raj Laxmi. This would therefore answer the first question. And therefore, all the above three orders could be challenged by her.

21. Now, coming back to the merits of the case, whether or not petitioner-Smt. Roop Raj Laxmi could be treated as separate unit and not a member of the family as per Section 30B of Schedule III-B of the Act of 1955, reference in this connection may be made to full bench decision of this Court consisting of five Hon"ble Judges in Banshidhar and Others Vs. State, The full bench in Bansidhar supra, made an authoritative pronouncement that proceedings for determination of ceiling and surplus area of land holder commence under Chapter III-B prior to repeal, have to be considered under that law only. In para 46 of the judgment, while dealing with applicability of the old ceiling law even in cases of reopening in Section 15(2) of the Act of 1973, it was held by the full bench, as under:--

As regards the application of the old Law in cases re-opened u/s 15 of the new Act, it is obvious that it is only an enabling section which empowers the authorities under the Act to determine the ceiling area in accordance with the provisions of the old Law. It is but natural that if the ceiling area has once been determined by the authorities under the provisions of the old Law and if for one reason or the other, case is re-opened u/s 15 of the new Act then it is in all fairness that such a determination must be made in accordance with the provisions of the old ceiling Law which were employed while determining the ceiling area. This provision, therefore, does not throw any light on the intention of the legislature and it cannot be said that the legislature by introducing Section 15(2) in the Act wanted to rule out the application of Section 6(c) and (e) of the General Clauses Act. We, therefore, do not find any substance in this argument either.

This law was reiterated by the Division Bench of this Court in State of Rajasthan Vs. Prithvi Singh and Others, following the full bench judgment in Bansidhar supra. We have to therefore for the purpose of deciding claim of Smt. Roop Raj Laxmi of independent share as a separate unit look into the definition of "family" contained in Section 30B in contradistinction to definition of "family" given in Section 2(f) of the Act of 1973. When the assessment order was passed under the old Act by the Sub Divisional Officer on 30/10/1971, Rao Rawal Rajeshwar

Singh claimed that a family partition had taken place on 1/6/1970, according to which, land measuring 150 bighas has been transferred in favour of his mother-Smt. Roop Raj Laxmi, 113.6 bighas to his wife Smt. Jayanti Kumari, 165 bighas 11 biswas to his son Raghvendra Singh and 160 bighas 8 biswas of land to another son Yadvendra Singh.

The Sub Divisional Officer held as per definition of "family" given in Section 30B(a), wife and minor children are part of the same family and therefore no transfer can be treated as recognizable by way of partition-deed, if any, executed after the cut off date. In the present case, transfer by way of partition has been made much after 25/2/1958, the cut off date given in Section 30D and even after the appointed date 1/4/1966 u/s 30E.

22. Shri Sudhir Gupta, learned senior counsel for the assessee has relied on the judgment of the Supreme Court in V.N. Sarin *supra*, which was a case of joint Hindu family, wherein the Supreme Court held that coparcener has an antecedent title to the said property, though its extent is not determined until partition takes place. All the coparceners had subsisting title to the totality of the property of the family jointly, that joint title is transformed by partition into separate titles of the individual coparceners in respect of several items of properties allotted to their share respectively. Shri Sudhir Gupta, learned senior counsel has relied on the judgment of the Madhya Pradesh High Court in Chandradatta Shankardatta *supra*, wherein it was held that on the death of a coparcener, if he is survived by female or male relative as is specified in the proviso to Section 6, by operation of Explanation I to that proviso, a notional partition is deemed to have been effected immediately before the death of such coparcener, by which the share of the deceased is separated. The share so separated thus devolves, by virtue of the proviso, on the personal heirs of the deceased, instead of vesting in the other coparceners by survivorship.

23. That now takes me to the question whether Smt. Roop Raj Laxmi, mother of the original assessee Rao Rawal Rajeshwar Singh would be held entitled to independent unit and should not be treated as member of the family with reference to definition of "family" contained in Section 30B of the Act of 1955? Family in clause (a) of Section 30B of the Act of 1955 has been defined to mean a family consisting of a husband and wife, their children and grand-children being dependent on them and the widowed mother of the husband so dependent (emphasis supplied). As per full bench judgment of this Court consisting of five Hon'ble Judges in Bansidhar *supra*, case of the petitioner to be dealt with in accordance with old ceiling law and therefore we have to rely on the definition of "family" so given in Section 30B of the old ceiling law. Concept of the term "family" in Chapter III-B is not to be confused with the term "joint family" in the Hindu Law. Chapter III-B governs all persons regardless their religion and all of them are equally governed by the provisions of the Ceiling Law. The expression "family" used in Section 30B of Part III cannot be equated with an undivided family known to personal law applicable to the land owner. For the purpose of



computation of ceiling limit under old ceiling, there cannot be any other meaning of family than the "family" consisting of husband, wife, their children and grand children being dependent on them. Therefore, a partition taking place after the cut off date (25/2/1958) and also the appointed date (1/4/1966) has to be ignored and has rightly been disallowed by the Sub Divisional Officer for determining and calculating total holdings of Rao Rawal Rajeshwar Singh.

24. In *Ram Ratan vs. State of Rajasthan & Ors.*, 1982 RLR 939, the question before the Division Bench arose whether transfer affected by decree of partition passed by Sub Divisional Officer on 19/11/1970 can be for the purpose of Sections 30D and 30DD recognized? What can be deduced from judgment of this Court in *Rajeshwar Singh supra*, is that only two categories of transfers made on or after 25/2/1958 are recognizable with reference to clause (i) and (ii) of sub-section (2) of Section 30D subject to second proviso thereto that even such transfer falling in clause (ii) thereof shall not be recognized if it has been made after 9/12/1959 but there is a further rider that such transfers can be recognized only if they have been made prior to 1/4/1966 and not otherwise. But an exception to this rule has been carved out by Section 30DD, in which the cut off date has been extended to 31/12/1969 and 1/6/1970, respectively. In those facts, it was held by the Division Bench of this Court in *Ram Ratan supra* that transfer by way of partition having taken place on 19/11/1970, cannot be recognized even u/s 30DD.

25. The Supreme Court in *State of Maharashtra Vs. wasudeo and another*, held that provisions of Section 4 of the Maharashtra Agricultural Lands (Ceiling on Holdings) Act is to prevail and held that High Court had not taken logical view to come to the conclusion that partition effected through surplus area by giving two separate units to the father and son respectively. Judgment of the High Court was not approved. In *State of Maharashtra Vs. Narayan Rao Sham Rao Deshmukh and Others*, the issue was dealt with in regard to joint Hindu family consisted of Karta, son, wife and mother. On death of Karta, surviving members continued to remain joint. Even then it was held by the Supreme Court that all members together are entitled to one ceiling unit only. Judgment of Bombay High Court holding to the contrary was reversed. It was held that when a female member, who inherits an interest in the joint family u/s 6 of the Hindu Succession Act files a suit for partition expressing her willingness to go out of the family, she would be entitled to get both the interest she has inherited and the share which would have been notionally allotted to her, as stated in Explanation I to Section 6 of the Act. But she does not cease to be a member of the family on the death of a male member of the family whose interest in the family property devolves on her without her volition to separate herself from the family.

26. In *Vengadasalam Pillai Vs. Union Territory of Pondicherry*, while dealing with the case of ceiling law in respect of agricultural land, it was held by their lordships of the Supreme Court that it is an erroneous assumption that the "family" referred to in the ceiling act must conform to the concept of the joint

family as known to Hindu Law. Provisions of the Act are applicable to all holders of land in the Union Territory of Pondicherry irrespective of religion, community etc. The lands may be held by Hindus, Christians, Muslims or by persons belonging to other religious faiths. All of them are equally governed by the provisions of the Act. Concept of a joint family is totally foreign to the personal laws of some of these communities.

27. The Supreme Court while considering a case arising out of T.N. Land Reforms (Fixation of Ceiling on Land) Act, 1961, in A.G. Varadarajulu and Another Vs. The State of Tamilnadu and Others, followed and reiterated the view expressed in S.A. Jain College Trust and Managing Society Vs. State of Haryana and Another, and in para 30 of the judgment, held as under:-

30. We are in respectful agreement with the above view and the above principle is equally applicable to the case before us. Like section 3(3) (i) of the Maharashtra Act, the provision in Section 5(3) of the Madras act, 1961 also provides for notional computation of the share of persons who basically hold a share in joint family property under Hindu law. But such a provision dealing with mode of computation is attracted only to persons who, at the date of commencement of the madras Act (15.2.1970), "hold" an undivided share in the property of the Hindu joint family. It must, therefore, be held that section 5(3) read with the Explanation permits notional computation only in respect of those who "hold" an undivided interest in the joint family property at the date of commencement of the Act. As in the case of unmarried daughters, in the Maharashtra Case, the second appellant before us had no basic right to a share in the joint family property inhering in her on 15.2.1970 and she cannot therefore be said to be "holding" "stridhana land" as on the date of commencement of the Act, i.e. 15.2.1970, within section 3(42) of the Act. Therefore the fact that she had as on 15.2.1970, a right to maintenance against this property which later crystallised into the allotment of this property in her favour on 24.9.1970 is not sufficient. Neither under the customary Hindu law, nor under the Hindu Marriage Act, 1955 nor under the Hindu Succession Act, 1956 nor under the Hindu Adoptions and Maintenance Act, 1956 is there any provision which gives a share to a wife in the joint family property held by her husband nor to a mother in the joint family property allotted to her son in a partition.

28. As on the appointed date, land has been entered in the revenue records in the name of Rao Rawal Rajeshwar Singh, and as per definition of "family" given u/s 30B(a), Smt. Roop Raj Laxmi, his mother, dependent on him, would also be part of the family, thus, not entitled to separate unit.

29. Coming now to the writ petition filed by petitioner Surendra Pal Colony Vikas Samiti, according to members of this Samiti, they were allotted residential plots by Moti Bhawan Grah Nirman Sahakari Samiti Ltd., which had purchased the land in dispute from Rao Rawal Rajeshwar Singh. Now that the said land has been declared to be surplus land in the hands of Rao Rawal Rajeshwar Singh, the

Jaipur Development Authority treating this as a government land, is demanding Rs. 345/- per square yards as the rate for regularization of their plots, whereas in the cases of land of other societies, the respondent Jaipur Development Authority is regularizing such plots on charge of only @ Rs. 65/- or Rs. 90/- per square yards. According to the Jaipur Development Authority, petitioners have failed to prove the title of respondent No. 3-Samiti though Jaipur Development Authority has also additionally stated in their reply that this land was in fact resumed by the government under the Rajasthan Land Reforms and Acquisition of Land Owners Estates Act, 1963. If the land has been resumed under the Act of 1963 or is sought to be acquired treating it to be surplus land with reference to ceiling law, in any case, it has to be accepted as government land and therefore, Jaipur Development Authority is demanding from the members of the petitioner-society, the premium of the land. The Jaipur Development Authority would be well within its right in doing so as this include element of consideration of the land, land being that of the government. Petitioner cannot therefore compare this land with the land of plot holders of other societies, who might have purchased the land from khatedars or land holders and then allotted the plots to its members. Reliance has been placed on the Division Bench judgment of this Court in Mohan Singh Vs. State of Rajasthan and Another, which can be of no assistance to the petitioner firstly because facts of that case are not very clear as the judgment is rendered only in one and half pages and secondly, that order is partly based on the concession by the counsel representing Jaipur Development Authority, which is evident from para 2.

30. Before concluding, it would be appropriate to deal with an unusual submission made by Shri Sudhir Gupta, learned senior counsel appearing for the assessee that since the government as per its policy, have been regularizing large number of-encroachments, therefore, it should consider regularizing possession of petitioner-NEI for the land in dispute in 1966 for last more than 47 years. Admittedly, respondents proceeded to take possession of their land transferred by the assessee to the petitioner-NEI on 5/6/1994 whereupon, it approached this Court and thereafter its possession has remained protected on account of the interim-order of this Court dated 15/6/1994. passed in S.B..Civil Writ Petition No. 3566/1994 restraining the respondents from dispossessing petitioner from the land bearing Khasra No. 10, 17, 92 and 93 situated in Village, Hasanpura. Their possession even for earlier period, cannot be a basis for this Court to direct the respondents-State to regularize the land in their favour. Whatever may have been the contributions of the petitioner-NEI, I am afraid, this Court in the scope of present writ petition, where it is called upon to pronounce upon the validity of the orders passed by the State authorities within the parameters of law, cannot issue such directions. It is entirely upto the State Government as to whether or not, it would like to take possession of the land?

31. In view of above discussion, while upholding orders 8/8/1991 passed by Additional Collector and order dated 20/5/1994 passed by the S.D.M. impugned in SBCWP No. 3566/1999, writ petition filed by petitioner-N.E.I. Ltd. succeeds in

part, other two writ petitions filed by petitioners Smt. Roop Raj Laxmi and Surendra Pal Colony Vikas Samiti fail.

32. In the result, S.B. Civil Writ Petition No. 3566/1994 : N.E.I. Ltd. vs. State is partly allowed to the limited extent of holding that respondent-State shall first take possession of un-encumbered land of the assessee-Rao Rawal Rajeshwar Singh/his legal representatives and if such land falls short, then only, it shall proceed to acquire and take possession of the land of the petitioner-NEI to the extent of land to be acquired. However, orders dated 8/8/1991 (Ann. 10) and order dated 20/5/1994 (Ann. 11) are upheld. S.B. Civil Writ Petition Nos. 1416/1976 : Smt. Roop Raj Laxmi vs. S.D.O. Amber and 3927/2001 : Surendra Pal Colony Vikas Samiti vs. State & Ors. are however dismissed. There shall be no order as to costs.