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**(1993) 10 SC CK 0085**  
**In the Supreme Court Of India**  
**Case No : Civil Appeal No. 1665 Of 1984**

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|---------------------------------|----|------------|
| Ramadhar Singh                  | Vs | APPELLANT  |
| Prescribed Authority and Others |    | RESPONDENT |

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**Date of Decision :** 07-10-1993

**Acts Referred:**

Uttar Pradesh Imposition of Ceiling on Land Holdings Act, 1960 — Section 5(6)

**Citation :** (1994) 3 SCC 702 Supp

**Hon'ble Judges :** N. P. Singh, J; M. M. Punchhi, J

**Bench :** Division Bench

**Final Decision :** Allowed

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## Judgement

1. LEAVE was granted in this case confined to the validity of the Sale Deed dated 22/04/1969 executed by the appellant in favour of his son in the context of the U.P. Imposition of Ceiling on Land Holdings Act, 1960.

2. IT has to be seen under what provision of the Act can the validity of the sale executed prior to 24/01/1971, the appointed day, be gone into? Sub- section (6 of Section 5 of the said Act says that in determining the ceiling area applicable to a tenureholder, any transfer of land made after the 24th day of January, 1971, which but for the transfer would have been declared as surplus land under the Act shall be ignored and not taken into account. The proviso (b) thereto, inter alia, provides that a transfer proved to the satisfaction of the prescribed authority to be in good faith and for adequate consideration and an irrevocable instrument, not being of benami transaction or for immediate or deferred benefit for the tenureholder or other members of the family, is outside the scope of the aforesaid sub-section. Thereafter Explanation II provides that the burden of proving that a case falls within clause (b) of the proviso shall rest with the party claiming its benefit. Apparently, it is under this provision of law that the validity of the sale deed dated 22/04/1969 was put to test. The authorities under the Act took the view that the sale deed was not genuine because no consideration appears to have passed before the Sub-Registrar and that it was a transfer

between father and son raising a dust of suspicion. Otherwise it was not disputed on fact that the sale had been effected by means of a registered deed in which the passing of consideration was mentioned as a recital. The existence of the sale deed being not disputed and it having taken place, as said before, on February 24, 1969, prior to the appointed day that is 24/01/1971, the inquiry regarding the validity of the sale deed under subsection (6 of Section 5 was totally misplaced. Thereunder, as it appears to us, the appropriate authority had no jurisdiction to be put the validity of the sale deed to test since his jurisdiction arose only when the deed of transfer had been effected on or after the appointed day. Not only the first and the appellate authority under the Act persisted in that view, but the High court too proceeded on that basis. The effort of the appellant to have it declared that the authorities had no jurisdiction to invalidate the sale under Ss. (6 of Section 5 when read with Explanation II to Ss. (1 of Section 5 also was a futile attempt because the High court followed the path, as did the authorities under the Act, and rejected the writ petition. We are of the view that this was a wholly erroneous approach. Ss. (6 of Section 5 did not confer jurisdiction on the authorities to determine the validity of the sale and if that is so any finding of theirs as to the contents of the sale is of no assistance. In the result the appeal must succeed. Accordingly, allowing the same we set aside all the orders of the authorities below as also that of the High court. No costs.