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**(1999) 06 AHC CK 0009**  
**In the Allahabad High Court**  
**Case No : Reference No. 10 of 1996-97**

Sheesh Ram

APPELLANT

Vs

Harbansh

RESPONDENT

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**Date of Decision :** 24-06-1999

**Acts Referred:**

Uttar Pradesh Zamindari Abolition and Land Reforms Act, 1950 — Section 161

**Citation :** (1999) 06 AHC CK 0009

**Hon'ble Judges :** Ram Janam Singh, J

**Final Decision :** Allowed

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## Judgement

Ram Janam Singh, Member.

1. This is a reference made by learned Additional Commissioner, Moradabad Division, Moradabad by his order dated 2461996 passed in Revision No. 58 of 199596 recommending that the revision be allowed; the order dated 3041992 passed by the trial Court be set aside and exchange permitted by trial Court be rejected.

2., Briefly, stated the facts of the case are that Harbansh, who happens to be a cotenant of plot No. 35 Min area 1115 moved an application for exchange of Gaon Sabha plot No. 36 area 040 and plot No. 37 area 045 with his plot No. 35. Cheta Singh and others who are cotenant of the same plot had moved an application on 2421988 praying that plot Nos. 35 and 36 be exchanged with their land. This application was rejected on 1911989. Appeal filed by Cheta Singh and others had also been dismissed on 7121989. On 7121991 Harbansh alone moved an application praying for exchange. The learned trial "Court on 3041992 permitted the exchange. Feeling aggrieved by this order. Sheesh Ram filed a revision before the learned Additional Commissioner from which the present reference has arisen. Revision No. 38 of 199596 filed by Sheesh Ram against the order dated 2071994 was rejected by the learned Additional Commissioner as having become infructuous.

3. I have heard the learned Counsel for the parties and have gone through the record.

4. A perusal of the record shows that plot No. 36 is recorded as Manure pit and plot No. 37 is recorded as Rasta. Both the plots are thus land of public utility and could not be subjected to any exchange. It is also worthy of note that Harbansh is recorded as cotenant of plot No. 35 alongwith several other persons. There is nothing on record to indicate as to how he became the owner of an area of 9 biswas 2 dhurs out of plot No. 35. Khatauni 1396F to 1401 Fasli indicates that Harbansh is not the only tenant. In view of this the application for exchange filed by Harbansh was not maintainable and deserved to be thrown out on this ground alone. The Gaon Sabha plot which are sought to be given in exchange are land of public utility. The learned Additional Commissioner has considered the entire matter in its right perspective and has come to the conclusion that the trial Court acted illegally in allowing the exchange.

5. After having considered the matter carefully I am in agreement with the view of the learned Additional Commissioner. Agreeing with the recommendation of the learned Additional Commissioner revision is allowed and the order of the trial Court dated 30/4/1992 is set aside. The application dated 10/12/1991 moved by Harbansh seeking exchange of Gaon Sabha plots with his own plots stands rejected.

Revision allowed.