

(2016) 08 MP CK 0022

In the Madhya Pradesh High Court

Case No : Writ Petition No. 11515 of 2013.

Smt. Gayatri Devi and Others - Petitioner @HASH State of Madhya Pradesh and another -State

Date of Decision : 17-08-2016

Acts Referred:

Urban Land (Ceiling And Regulation) Act, 1976 — Section 10(3)

Citation : (2016) 4 MPLJ 460

Hon'ble Judges : J.K. Maheshwari, J.

Bench : Single Bench

Advocate : Shri Brian D'silva, learned senior counsel assisted by Shri Abhijit Awasthy, counsel, for the Petitioner; Shri Bramhadatt Singh, learned Government Advocate, for the Respondents

Final Decision : Allowed

Judgement

J.K. Maheshwari, J. - Invoking the jurisdiction under Article 226 of the Constitution of India seeking quashment of the order Annexure P/10 dated 21.2.2013, passed by the competent authority with direction to abate the proceedings under the Urban Land (Ceiling & Regulation) Repeal Act; and the respondents be restrained to dispossess the petitioners, and also to remove the name of the State Government, with further direction to record the name of the petitioners in revenue records, this petition has been preferred.

2. The facts born out from the pleadings are that Smt. Godawari Bai was the holder of the Khasra No. 87 and 228/3 area 8536.32 square meters of village Purwa, Settlement No. 162, Patwari Halka No. 28, Tehsil and District Jabalpur. By an order dated 4.6.1981 passed by the competent authority the said land has been declared in surplus vesting in the State Government as per Section 10(3) of the Urban Land (Ceiling and Regulation) Act, 1976 (hereinafter after referred to as "the Principal Act"). After final notification, proceedings under Section 10(5) of the Act were initiated by the competent authority on 26.7.1986 and by issuing the notice delivery of possession of surplus land within thirty days was directed otherwise Tehsildar (Nazul) may take possession in accordance with law. It is the

contention of the petitioner that Godawari Bai was died on 13.9.1982, however notice issued under Section 10(5) by the Competent Authority in the name of dead person could not be served on her. As per service report, notice was received by one Mukesh Dubey, who was not having any blood relation with the deceased or the family of petitioners. It is said, he was not the person in possession of the surplus land. It is urged the notice issued in the name of a dead person is void, however showing service of the said notice on dead person delivery of possession is invalid. It is further contended, no notice was issued or served on the petitioners who are the legal heirs of the holder and in possession of the land. Thus plea taken by the respondents that possession has been taken from the holder or from the person in possession is factually incorrect and against the law laid down by Hon"ble the Supreme Court in the case of State of Uttar Pradesh v. Hari Ram, (2013) 4 SCC 280. The said judgment has been followed by this Court in the case of Thamman Chand Koshta v. State of M.P. and others, W.P. No. 407/2014 decided on 7.4.2015. Thus, as per the provisions contained in Section 4 of the Urban Land (Ceiling & Regulation) Repeal Act, 1999 (hereinafter after referred to as "the Repeal Act"), if possession has not taken on the date of commencement, all the proceedings pending before the Competent Authority under the Principal Act would abate. Learned senior counsel has referred the original record produced by the State Government and also the findings of the order impugned with regard to possession, thereby petitioners were found in actual physical possession though wrongly classified as unauthorized. Thus looking to the aforementioned facts, petitioners are in possession of the land in question and as per repeal act, these proceedings stood abate, however appropriate directions may be issued.

3. Per contra, learned Government Advocate representing the respondent-State has argued with vehemence, that after vesting of the land Competent Authority had issued the notice dated 26.7.1986 to Godawari Bai (land holder), which was served on Mukesh Dubey on 9.9.1986, who might be in the family or grand son of the deceased. As the possession was not voluntarily surrendered within the time specified, therefore, ex-parte possession has taken by the Naib Tehsildar (Nazul) on 19.8.1988 in front of two witnesses. However, the arguments as advanced by petitioner to abate the proceedings in the context of the Repeal Act is of no consequence. Learned Government Advocate placed reliance on the judgment of this Court in the case of Manohar Kumari Daga and others v. State of M.P. and others, 2012(3) MPLJ 75 and submitted that in case the notice was issued in the name of the deceased (holder of the land), and it was served on the grand son, however, no prejudice has been caused to the petitioners. On the above submission, it is prayed that the order passed by the Competent Authority may be upheld dismissing this petition.

4. After having heard learned counsel appearing on behalf of both the parties and on perusal of the original record produced by State Government; in the facts, it is not in dispute that as per the order of the Competent Authority dated 4.6.1981 the land of Godawari Bai was declared surplus and final notification was

published on 14.3.1986. It is also not in dispute the holder of land Godawari Bai died on 13.9.1982 after the order of vesting of land and prior to its final notification in the official gazette. By filing W.P. No. 8372/2007, in the first round, petitioners made the challenge to the proceedings of Sections 10(5) and 10(6) of the Principal Act in the context of Section 4 of the repeal act, which was decided on 13.7.2007 directing Competent Authority to consider the factum of delivery of possession affording an opportunity of hearing to the petitioner and to decide all the contentions including the validity of the previous proceedings of taking over of the possession. In furtherance to the said direction, the competent authority has passed the order Annexure P/10 on 21.2.2013 holding that the notice issued to Godawari Bai under Section 10(5) of the Act was received by his son on 9.9.1986, but during course of argument it is said that notice under Section 10(5) was served on grand son Mukesh Dubey, and Naib Tehsildar (Nazul) had taken the possession on 10.9.1988 in accordance with law. It has also been said that at present the petitioners are in unauthorized possession on the land, which cannot be protected.

5. In the context of the said factual aspect, the issue cropped up for determination in this case are; whether on vesting of the land belong to Godawari Bai, and on her death, its possession has rightly been taken from the persons in possession (petitioners) following the procedure as prescribed under Sections 10(5) and 10 (6) of the Principal Act? If possession of the land is not taken as per procedure prescribed, would it amounting to the proceedings pending, and as per Section 4 of the Repeal Act it would abate?

6. To advert these issue, first of all the provisions of Section 10(5) and Section 10(6) of the Principal Act are relevant, however, reproduced as under:

"Section 10 (5) Where any vacant land is vested in the State Government under sub-section (3), the competent authority may, by notice in writing, order any person who may be in possession of it to surrender or deliver possession thereof to the State Government or to any person duly authorised by the State Government in this behalf within thirty days of the service of the notice.

(6) If any person refuses or fails to comply with an order made under sub-section (5), the competent authority may take possession of the vacant land or cause it to be given to the concerned State Government or to any person duly authorised by such State Government in this behalf and may for that purpose use such force as may be necessary." On perusal thereto, it is apparent that after vesting of the land in the State Government under sub-section (3) of Section 10, the Competent Authority under sub-section (5) of Section 10 may by notice in writing to any person, who may be in possession, direct to surrender or deliver possession thereof to the State Government or any person duly authorised by the Government in this behalf within thirty days from the date of service of notice. In compliance to the said notice if person refuses or fails to comply the orders, the Competent Authority may take possession of the land or cause it to be given to the concerned State Government or any person duly authorised or by

competent authority even by using force, if necessary, taking recourse as prescribed under subsection (6) of Section 10 of the Principal Act.

7. The scope and applicability of the provision of Section 10(5) and 10(6) of the Act has been duly considered by Hon''ble the Apex Court in the case of Hari Ram (Supra) and held as under:

Voluntary Surrender

31. The 'vesting' in sub-section (3) of Section 10, in our view, means vesting of title absolutely and not possession though nothing stands in the way of a person voluntarily surrendering or delivering possession. The court in *Maharaj Singh v. State of U.P. and Others* (1977) 1 SCC 155, while interpreting Section 117(1) of U.P. Zamindari Abolition and Land Reform Act, 1950 held that 'vesting' is a word of slippery import and has many meaning and the context controls the text and the purpose and scheme project the particular semantic shade or nuance of meaning. The court in *Rajendra Kumar v. Kalyan (dead) by Lrs.* (2000) 8 SCC 99 held as follows:

"28.We do find some contentious substance in the contextual facts, since vesting shall have to be a "vesting" certain. "To vest, generally means to give a property in." (Per Brett, L.J. *Coverdale v. Charlton*. *Stroud's Judicial Dictionary*, 5th edn. Vol. VI.) Vesting in favour of the unborn person and in the contextual facts on the basis of a subsequent adoption after about 50 years without any authorisation cannot however but be termed to be a contingent event. To "vest", cannot be termed to be an executor devise. Be it noted however, that "vested" does not necessarily and always mean "vest in possession" but includes "vest in interest" as well."

32. We are of the view that so far as the present case is concerned, the word "vesting" takes in every interest in the property including de jure possession and, not de facto but it is always open to a person to voluntarily surrender and deliver possession, under Section 10(3) of the Act.

33. Before we examine sub-section (5) and sub-section (6) of Section 10, let us examine the meaning of sub-section (4) of Section 10 of the Act, which says that during the period commencing on the date of publication under sub-section (1), ending with the day specified in the declaration made under subsection (3), no person shall transfer by way of sale, mortgage, gift or otherwise, any excess vacant land, specified in the notification and any such transfer made in contravention of the Act shall be deemed to be null and void. Further, it also says that no person shall alter or cause to be altered the use of such excess vacant land. Therefore, from the date of publication of the notification under sub-section (1) and ending with the date specified in the declaration made in sub-section (3), there is no question of disturbing the possession of a person, the possession, therefore, continues to be with the holder of the land.

Peaceful dispossession

34. Sub-section (5) of Section 10, for the first time, speaks of "possession" which says where any land is vested in the State Government under sub-section (3) of Section 10, the competent authority may, by notice in writing, order any person, who may be in possession of it to surrender or transfer possession to the State Government or to any other person, duly authorised by the State Government.

35. If de facto possession has already passed on to the State Government by the two deeming provisions under subsection (3) to Section 10, there is no necessity of using the expression "where any land is vested" under sub-section (5) to Section 10. Surrendering or transfer of possession under subsection (3) to Section 10 can be voluntary so that the person may get the compensation as provided under Section 11 of the Act early. Once there is no voluntary surrender or delivery of possession, necessarily the State Government has to issue notice in writing under sub-section (5) to Section 10 to surrender or deliver possession. Subsection (5) of Section 10 visualizes a situation of surrendering and delivering possession, peacefully while sub-section (6) of Section 10 contemplates a situation of forceful dispossession.

Forceful dispossession

36. The Act provides for forceful dispossession but only when a person refuses or fails to comply with an order under sub-section (5) of Section 10. Sub-section (6) to Section 10 again speaks of "possession" which says, if any person refuses or fails to comply with the order made under sub-section (5), the competent authority may take possession of the vacant land to be given to the State Government and for that purpose, force - as may be necessary - can be used. Sub-section (6), therefore, contemplates a situation of a person refusing or fails to comply with the order under sub-section (5), in the event of which the competent authority may take possession by use of force. Forcible dispossession of the land, therefore, is being resorted only in a situation which falls under sub-section (6) and not under subsection (5) to Section 10. Sub-sections (5) and (6), therefore, take care of both the situations, i.e. taking possession by giving notice that is "peaceful dispossession" and on failure to surrender or give delivery of possession under Section 10(5), than "forceful dispossession" under sub-section (6) of Section 10.

37. Requirement of giving notice under sub-sections (5) and (6) of Section 10 is mandatory. Though the word 'may' has been used therein, the word 'may' in both the sub-sections has to be understood as "shall" because a court charged with the task of enforcing the statute needs to decide the consequences that the legislature intended to follow from failure to implement the requirement. Effect of non-issue of notice under sub-section (5) or sub-section (6) of Section 10 is that it might result the land holder being dispossessed without notice, therefore, the word 'may' has to be read as 'shall'.

The judgment of Hari Ram (*supra*) has further been relied upon by a Three Judge Bench of the Apex Court in the case of D.R. Somayajulu, Secretary, Diesel Loco

Shed and South Eastern Railway House Building Cooperative Society Limited Visakhapatnam and others v. Attili Appala Swamy and others, (2015) 2 SCC 390 and after considering the effect of the provisions of Repeal Act, restating the principle of the judgment of Hari Ram (supra) the Apex Court remitted the matter to the High Court for determination of the issue of actual physical possession on the date of commencement of the Repeal Act.

8. In the matter of taking over of the possession in the context of the Land Acquisition Act, the Apex Court in the case of Velaxan Kumar v. Union of India and reported in (2015) 4 SCC 325 has held that the manner to take over the possession of the land acquired must be the procedure enshrined for taking over of the possession as per the provisions of law. If the possession has not been taken following the procedure as laid down it is not amounting to delivery of possession. In the said judgment the Apex Court has also relied upon on the judgment of Sitaram Bhandar Society v. Govt. (NCT of Delhi) reported in (2009) 10 SCC 501. The Apex Court in the case of Raghbir Singh Sehrawat v. State of Haryana and others reported in (2012) 1 SCC 792 has interpreted the word vesting of the land into the Government on taking of the possession. While dealing the said issue it is held by the Court that taking of possession means of taking the actual physical possession and not symbolic or possession on paper.

9. In view of the said legal position, in the context of the facts of the present case, it is to be examined whether actual physical possession of surplus land has already been taken by the State Government following the procedure prescribed or it is with the petitioner. On perusal of the original record, it reveals that after vesting of the land in the State Government under Section 10(3), the Competent Authority passed an order on 26.7.1986 to issue notice for taking the possession of surplus land. The said notice was issued in the name of holder Godawari Bai, though she was died on 13.9.1982, prior to the date of issuance. But by this notice she was asked to surrender or deliver the possession to Naib Tehsildar (Nazul) within thirty days, otherwise directed him to take possession. Looking to the above said facts, it is apparent, notice under Section 10(5) was issued after four years of the death of Godawari Bai (holder of land) on 26.7.1986, however it cannot be served on dead person. As per the requirement of Section 10(5) the said notice ought to be issued in the name of the persons who are in possession after vesting of the land, but it was not issued in the name of the person in possession. On perusal of the proceedings of the competent authority dated 4.6.1981 it reveals that Godawari was having four sons and one daughter-in-law namely Jugal Kishre, Nand Kishore, Harishanker, Umashankar and Gayatri Devi. Thus competent authority was aware about the names of legal heirs and the notice may be issued to them who are the persons in possession. But the notice was issued in the name of deceased holder Godawari Bai, who was already dead. In my considered opinion, the issuance of the said notice under Section 10(5) of the Act, is invalid, however, treating it to be served on the deceased indicating service on one Mukesh, requirement of Section 10(5) asking voluntarily surrender of possession within thirty days, from the date of service has not been

satisfied.

10. Reverting to the arguments advanced by learned Government Advocate that the notice was served on one Mukesh Dubey, who presumably or might be the grand son of late Godawari Bai, but nothing has brought on record to substantiate the said argument, more so in the order impugned (Annexure P-10), Mukesh Dubey has said to be the son of deceased, however both the said plea is without any material hence not acceptable looking to their own order dated 4.6.1981. It is also not on record that Mukesh Dubey was the person in possession, however, relying upon the service of notice on Mukesh Dubey possession taken ex parte by Tehsildar (Nazul) is against the procedure prescribed. In the case of Hari Ram (supra) the Apex Court has clarified the meaning of voluntary surrender of possession, peaceful dispossession and forceful dispossession. In this regard, on perusal of the document dated 19.8.1988 of the Tehsildar attached with the original record, the possession has been taken ex-parte from the Godawari Bai in front of two witnesses though she was dead as long as more than six years back. However, service of notice on dead person and to take possession ex parte from the dead person cannot treated to be the compliance of Section 10(5) of the Principal Act. It is also to be noted here that possession has also not taken from the Mukesh Dubey the alleged son or grand son. In case notice was received by Mukesh Dubey, and on failure to comply the order of the competent authority, proceedings under Section 10(6) of the Principal Act ought to be drawn against the holders or against him and by issuing notice, if peaceful possession has not delivered, then it may be taken forcefully by the person authorised by the State Government in this behalf or by the competent authority. But, no proceedings of Section 10(6) of the Principal Act has drawn on record. Thus, in absence of any proceedings under Section 10(6), even in case of peaceful dispossession the document showing delivery of possession in front of two witnesses dated 9.8.1988 is of no consequence. In addition, the record of Tehsildar further indicates that another notice under Section 10(5) dated 21.2.1992 was issued to late Godawari Bai for delivery of possession on or before 3.3.1992 and by an undated document available in the original record the possession has again been taken, without drawing any proceeding under Section 10(6) of the Act. Meaning thereby, both the proceedings indicting delivery of possession on 19.8.1988 or on 3.3.1992 were on papers and de facto possession has not taken following the procedure prescribed. In view of the forgoing discussion it is crystal clear that after vesting of the land, possession has not been taken from the holder, or from the person in possession complying the provisions of Section 10(5) and 10(6) of the Act by the Competent Authority or by the person authorised or by the State Government, therefore it can safely be held that actual physical possession has not been taken following the procedure established by law.

11. The Urban Land (Ceiling and Regulation) Act, 1976 has been repealed by the Urban Land (Ceiling and Regulation) Repeal Act, 1999. Section 3 deals the "saving", as per Section 3(1) of the Repeal Act makes it clear that the repeal of

the Principal Act shall not affect after vesting of the land where the possession has been taken over by the State Government or any person duly authorised by the Government or by the competent authority. Sub-Section 2 of Section 3 makes it further clear that after vesting of the land under sub-section (3) of Section 10 of the Principal Act if possession has not been taken over by the State Government or any person duly authorised by the Government in this behalf or by the competent authority and any amount has been paid by the State Government with respect to such land then such land shall not be restored unless the amount paid has not been refunded to the State Government. In the present case, as discussed here in above, it is apparent that after vesting of the land, the possession following the procedure under Section 10(5) and 10(6) has not been taken, and as per the return of the State Government amount has not been calculated or paid to the petitioners or to the holder of the land. In absence thereto as per Section 3(2) and proviso of Section 4 of the Repeal Act, the proceedings relating to any order made or purported to be made under the Principal Act shall be pending immediately before the commencement of the repeal act, before the Court/Tribunal or authority and it shall abate. The judgment of the Apex Court in the case of Hariram (supra) is on the same context wherein it is held that after vesting of the land under Section 10(3) of the principal Act for the purpose of delivery of possession of the said land service of the notice under Section 10(5) and 10(6) of the Act is mandatory. The Apex Court observed that sub-section (5) of Section 10 of the Act, first time, speaks about "possession" using the word that "where any land is vested" in the State Government under sub-section (3) of Section 10, the competent authority may, by notice in writing, order any person, who may be in possession of it to surrender or transfer possession to the State Government or to any other person duly authorised by the State Government. In para-35 of the said judgment it has been observed that if de facto possession has already been passed on to the State Government by two deeming provisions under sub-section (3) of Section 10 there was no necessity of using the expression "where any land is vested" under sub-section 5 of Section 10. Thus, surrendering or transferring of possession under sub-section (5) of Section 10 can be voluntary so that the person may get the compensation as provided under Section 11 of the Act at an early date. Once there is no voluntary surrender or delivery of possession, the State Government has to issue the notice in writing necessarily under sub-section (5) of Section 10 to surrender or deliver possession. The said sub-section visualizes the situation of surrendering and delivering possession peacefully while sub-section (6) of Section 10 contemplates situation of peaceful dispossession or forceful dispossession. Thus, looking to the statutory mandate, interpreted by the Apex Court expressing the method and manner to comply the provisions of Section 10(5) and (6), the arguments advanced by the respondents that no prejudice is caused to petitioners in view of the judgment of Manohar Kumari Daga (supra) requires consideration.

12. To advert the said argument first of all it is required to understand what is

theory of prejudice, which means to allow exclusion of relevant evidence if probative value is substantially outweighed by danger of unfair prejudice. As per Black's Law Dictionary the word "prejudice" is defined a fore judgment; bias, partiality, preconceived opinion. A leaning towards one side of a cause for some reason other than a conviction of its justice. As per Venkataramaiya's Law Lexicon the word "prejudice" has been considered in the context of Section 11 of the Suits Valuation Act in the judgment of Kiran Singh v. Chaman Paswan-AIR 1954 SC 340 which reads as under:

"What is meant by "prejudice" in Section 11 of the Suits Valuation Act. Does it include errors in findings on questions of fact in issue between the parties? If it does, then it will be obligatory on the Court hearing the second appeal to examine the evidence in full and decide whether the conclusion reached by the Lower Appellate Court are right. If it agrees with those findings, then it will affirm the judgment; if it does not, it will reverse it. That means that the Court of second appeal is virtually in the position of a court of first appeal. So far, the definition of "prejudice" has been negative in terms-that it cannot be mere change of forum or mere error in the decision on the merits. What then is positively prejudice for the purpose of Section 11. That is a question which has agitated courts in India ever since the enactment of the section. It has been suggested that if there was no proper hearing of the suit or appeal and that had resulted in injustice, that would be prejudice within Section 11 of the Suits Valuation Act. Another instance of prejudice is when a suit which ought to have been filed as an original suit is filed as a result of under-valuation on the small cause side. The procedure for trial of suits in the Small Cause Court is summary; there are no provisions for discovery or inspection; evidence is not recorded in extenso, and there is no right of appeal against its decision."

13. On perusal of the aforesaid, it is apparent that prejudice means the element of bias, partiality, preconceived opinion or pre-designed judgment or thought process towards one side without out-viewing other part of the argument would mean the unfair prejudice. In the case of Kiran Singh (supra) in the context of suit valuation the issue was considered. On consideration, it was found that if valuation changes and suit is required to be filed in a court as a result of under-valuation then the proceedings of Small Causes Court which is summary in nature would attract, therefore, the change thereof may cause prejudice. In the said context, the theory of prejudice requires consideration in the present case.

14. In the facts of the case, first of all it is required to explain that if any statute or rule contemplates to do a thing in a particular manner specifying its compliance to follow in the manner so prescribed, it ought to be done in the same manner. In the case in hand, where the property was belong to the deceased holder declared surplus vesting it in the State Government. Petitioners are the legal heirs of deceased, who may inherit the property if it is not vested in State Government. As discussed above, the notice was issued in the name of a dead person which cannot be served on him, but the possession was taken in

front of two witnesses from the said dead person without issuing and serving to the petitioners and following the procedure as contemplated under Section 10(5) and 10(6) explained by the judgment of Hari Ram (supra) of the Apex Court. The petitioners are the legal heirs and were found in possession as per the findings recorded in the order impugned Annexure P/10 though their possession is said as unauthorized. However on discussion it is apparent the actual physical possession has not been taken from them following the procedure prescribed, thus on conjoint reading of Section 3(2) and Section 4 of the Repeal Act, such proceeding be deemed to pending and it shall abate by commencement of the Repeal Act in the year 2000. Meaning thereby, if possession has not been taken over on the date of commencement of the Repeal Act then it would amounting to the proceedings pending under the Principal Act and such proceedings would abate and in consequence thereto the legal heirs of the deceased holder would retain the same property as inherited from the deceased holder. But, in case the possession has been taken over on the land as per the procedure prescribed then it would not amounting to the proceedings pending and the Repeal Act would not attract in the case. Therefore, the discussion made here in above and in the light of the judgment of the Apex Court in the case of Hari Ram (supra) where it has been clarified that what would be the voluntary surrender of possession, peaceful dispossession, forceful dispossession and how it can be possible following the procedure as per Section 10(5) and 10(6). In case the de facto possession is not taken, then by operation of the subsequent law i.e. repeal act, such proceeding is having no consequence and the theory of prejudice cannot be applied in such cases. In view of the aforesaid discussion and in the light of Apex Court judgment of Hari Ram (supra), judgment of this Court in the case of Manohar Kumar Daga (supra) is hereby explained.

15. In the present case the notice under Section 10(5) of the Act was issued in the name of the holder of land, who was already died on the date of its issue and the notice was not issued in the name of persons who were in possession of the land on drawing the proceedings under Sections 10(5) of the Act. As discussed presuming service of the said notice on the dead person, if possession has taken in front of witnesses ex-parte, without drawing the proceedings of Section 10(6) of the Act, the said procedure is not known under the Principal Act, and as interpreted by the judgment of Apex Court in Hari Ram (supra). Thus, in my considered opinion, it is to be held that the actual physical possession of the land bearing Khasra No. 87 and 228/3 area 8536.32 square meters of village Purwa, Settlement No. 162, Patwari Halka No. 28, Tehsil and District Jabalpur has not been taken, following the procedure prescribed, by the competent authority or by Naib Tehsildar (Nazul), on the date of commencement of the Repeal Act, therefore, these proceedings shall abate. Accordingly the questions as posed for discussion are answered in favour of the petitioners against respondents.

16. Consequently, this petition succeeds and is allowed. The order impugned Annexure P/10 dated 21.2.2013 is hereby set aside. It is held that possession of the surplus land has not been taken as per procedure prescribed under Section

10(5) and 10(6) of the Principal Act, however, as per Section 4 of the repeal act, such proceedings stood abate. However, it is directed that the name of the petitioners be restored in the revenue records deleting the name of State Government within the period of three months from the date of communication of this order. In the facts of the case, parties are directed to bear their own costs.