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**(1973) 11 AHC CK 0012**  
**In the Allahabad High Court**  
**Case No : Writ Petition No. 398 of 1966**

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| Smt. Ram Rati and Others     | Vs | APPELLANT  |
| Gram Samaj, Jehwa and Others |    | RESPONDENT |

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**Date of Decision :** 08-11-1973

**Acts Referred:**

Constitution of India, 1950 — Article 348  
Uttar Pradesh Consolidation of Holdings Act, 1953 — Section 5(1)

**Citation :** AIR 1974 All 106 : (1974) RD 163

**Hon'ble Judges :** S.K. Kaul, J; R.L. Gulati, J; Prem Prakash, J; K.B. Srivastava, J; Jagmohan Lal, J

**Bench :** Full Bench

**Advocate :** C.S. Tewari, for the Appellant; B.R. Gupta, for the Respondent

**Final Decision :** Disposed Of

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## Judgement

Gulati, J.—This is a petition under Article 226 of the Constitution arising out of proceedings under the U. P. Consolidation of Holdings Act (hereinafter referred to as the Act).

2. One Smt. Dhanraj Kuar died leaving some grove and agricultural plots which she had inherited from her husband. She had acquired Bhumidhari rights in respect of the agricultural plots before her death. During the consolidation proceedings the Gaon Sabha, Jehwa moved an application before the Consolidation Officer claiming that as Smt. Dhanraj Kuar had died heirless her entire holding vested in the Gram Samaj. The original petitioners Bhagwan Singh and Laloo Singh filed objection laying claim to the estate of the deceased widow on the basis of:--

- (i) inheritance being her husband's brother's son's sons:
- (ii) Will executed by Smt. Dhanraj Kuar on 12-10-1962 in favour of Bhagwan Singh:
- (iii) Registered sale-deed dated 4-4-1963 executed by Smt. Dhanraj Kunwar in

respect of her entire holding including groves in favour of the petitioners. The petitioners' objection was rejected and the claim of the Gaon Sabha was upheld. The appeal filed by the petitioners was dismissed by the Settlement Officer (Consolidation) and their revision u/s 48 of the Act was also dismissed by the Deputy Director of Consolidation by his order dated 26-3-1966. The petitioners then moved the present writ Petition.

3. When the Writ Petition came up for hearing before Hari Swarup, J., he noticed that one of the questions that arose in the case was as to whether the widow was competent to transfer the whole of her agricultural holding without the prior permission of the Settlement Officer (Consolidation) as required by Section 5 (1) (c) (ii) of the Act.

4. Section 5 (1) (c) (ii) of the Act enacts that no tenure-holder, except with the permission in writing of the Settlement Officer (Consolidation) previously obtained shall transfer by way of sale, gift or exchange any part of his holding in the consolidation area. Full Bench of this court in Smt. Asharfunisa Begum Vs. Dy. Director of Consolidation Camp at Hardoi and Others, , has taken the view that the expression "any part of his holding" did not include the entire holding so that the ban applied only where a part of holding was transferred and not when the holding was transferred as a whole. The learned Judge noticed the Hindi version of Section 5 (1) (c) (ii) of the Act which reads:

"NA CHAKBANDI KSHETTRA ME SAMMILIT APKI JOT ATHWA USKE KISHI BHAG KO VIKRAYA DAN ATHWA BINIMAY DWARA HASTAN-TRIT KAREGA."

According to the Hindi version the ban would apply as much to the transfer of a part of the holding as to the whole. In his opinion the words in the English version were not clear and it was possible to interpret them in accordance with the Hindi version of the enactment. He accordingly referred the matter to Full Bench and that is how this petition has come up before us.

5. To begin with, we might state that although the learned Judge has not indicated as to whether the entire case has to be decided by Full Bench or only the question relating to the interpretation of Section 5 (1) (c) (ii) of the Act, yet having regard to the fact and the circumstances of the case the intention of the learned Judge was to refer only the limited question relating to the interpretation of Section 5 (1) (c) (ii) and not the whole case, because even if the petitioners fail on this ground their alternative pleas will have to be examined. We shall accordingly restrict ourselves to the short question as to whether the ban incorporated in Section 5 (1) (c) (ii) applies to the transfer of an agricultural holding as a whole or applies only when a part of the holding is transferred. Clause (c) of Section 5 (1) was added in the Act by Section 4 of the U. P. Consolidation of Holdings (Amendment) Act, 1958 (U. P. Act XXXVIII of 1958) and reads as under:--

"(c) Notwithstanding anything contained in the U. P. Zamindari Abolition and Land Reforms Act, 1950, no tenure-holder, except with the permission in writing

of the Settlement Officer Consolidation previously obtained shall-

- (i) Use his holdings or any part thereof for purpose not connected with agriculture, horticulture or animal husbandry including pisci-culture and poultry farming; or
- (ii) transfer by way of sale, gift or exchange any part of his holding in the consolidation area;

Provided that a tenure-holder may continue to use his holding, or any part thereof, for any purpose for which it was in use prior to the date specified in the notification issued under Sub-section (2) of Section 4."

It may at once be noticed that Clause (ii) is flanked by Clause (i) and the proviso at the end of Clause (ii). Clause (i) and the proviso deal with the ban on non-agricultural use of a holding while Clause (ii) imposes a ban on the transfer of a holding. In Clause (i) the expression used is "holding or any part thereof". The same expression is used in the proviso, which in fact, is a proviso to Clause (i) so that ban on the user of agricultural holding for non-agricultural purpose extends to the holding as a whole as also to a part thereof. But when we come to Clause (ii) the expression used is "any part of his holding". Obviously the ban contemplated under Clause (i) is not co-extensive with the ban contained in Clause (ii) otherwise there is no reason why the expression "holding or any part thereof" should not have been used in Clause (ii) also. The expression "holding or any part thereof" is not synonymous with the expression "any part of the holding" if regard is had to the jurisdiction of Clause (ii). If Clause (ii) had stood alone it could be possible to interpret the expression "any part of the holding" as meaning every part of the holding. But having regard to the terminology employed in the preceding clause and the succeeding proviso, no other meaning can be assigned to it except that it means "a part" as distinguished from "the whole": It is true that grammatically, the expression "a part" would have been more apt than the expression "any part". But when the intention of the Legislature is clear, nothing will turn upon this grammatical error. According to the dictionary meaning also "any" is sometimes used for the adjective "a". It is not necessary, however, to dwell upon this point any further because the question has been the subject-matter of previous decisions of this court which have unanimously interpreted the expression "any part" to mean "a part". The first decision is of G. D. Sahgal, J., in *Munna Lal Shukla v. Deputy Director of Consolidation* 1966 All WR 818 His Lordship held that the prohibition in Clause (ii) of Section 5 (1) (c) extended to the transfer of a part of the holding and not to the whole holding so that the whole holding could be transferred by a tenure-holder without the permission of the Settlement Officer (Consolidation). This decision has been affirmed on special appeal by Oak, C. J. and U. S. Srivastava, J., in *Ram Behari Shukla v. Munnalal Shukla* 1968 All LJ 223 . The question was again considered by another Full Bench of which two of us were members in the case *Smt. Asharfunisa Begum Vs. Dy. Director of Consolidation Camp at Hardoi and Others*, when the view taken in the earlier cases was affirmed. There is yet

another decision of a Full Bench of this court consisting of S. N. Dwivedi, C. S. Lal, and R. B. Misra, JJ., in *Smt. Rajeshwari v. Dy. Director of Consolidation* 1970 RD 130. The Full Bench agreed with the view taken by the earlier Full Bench in the case of *Smt. Asharfunisa Begum* (Supra). Thus so far this court is concerned, the matter stands concluded.

6. If one has regard to the object underlying the provisions in question it becomes quite clear as to why the ban in Clauses (i) and (ii) is not co-extensive. The object underlying Clause (i) is to preserve the land for agricultural purposes and that is why a complete ban has been placed on the use of the land for non-agricultural purposes. A ban on a part of the land only would not have served the purpose. Under Clause (ii) the ban was intended to prevent the fragmentation of holdings and, as such, it was placed only on a transfer of a part of the holding. There could be no objection to the transfer of the holding as a whole because it would not involve fragmentation but would involve only a change in ownership. The scheme underlying the Act was to consolidate agricultural holdings and to prevent their further fragmentation and also to preserve the land for agricultural purpose. It was not the intention to restrict the right of an owner to deal with his property by way of sale, exchange or transfer except to the extent that was necessary to carry out the objects of the Act. That is why a ban of a limited nature has been placed on transfers while a complete ban has been placed on the user of agricultural land for non-agricultural purposes. Having regard to all these circumstances it is not possible to take a different view.

7. The learned counsel for the petitioners submitted that the law having been settled by a series of decisions of this court it should not be unsettled by taking a different view as it would lead to a lot of confusion and give rise to a spate of litigation. For this he relied upon the decision of the Supreme Court in *Raj Narain Pandey and Others Vs. Sant Prasad Tewari and Others*, where it has been observed:

"..... to take a contrary view from the law laid down would have the effect of unsettling the law established for a number of years. In the matter of interpretation of a local statute the view taken by the High Court over a number of years should normally be adhered to and not disturbed. A different view would not only introduce an element of an uncertainty and confusion, it would also have the effect of unsettling transactions which might have been entered on the faith of those decisions. The doctrine of stare devisis can be invoked in such a situation."

There is a lot of force in this contention also but it is not necessary to invoke the doctrine of stare devisis, because we are of the firm view that there is no ambiguity whatsoever in the language in which this provision is couched and having regard to all the facts and the circumstances of the case it is not possible to interpret it differently.

8. It is no doubt true that the Hindi version is in conflict with the English version.

The Hindi version expressly says that the ban shall apply to the holding as a whole as also to a part thereof. The question arises as to whether in such a situation we should give preference to the English version or to the Hindi version. For this purpose we have to turn to Article 348 of the Constitution. It is necessary to reproduce that Article. It enacts:--

"348 (1) Notwithstanding anything in the foregoing provisions of this Part, until Parliament by law otherwise provides-

(a) all proceedings in the Supreme Court and every High Court,

(b) the authoritative texts-

(i) of all Bills to be introduced or amendments thereto to be moved in either House of Parliament or in the House or either House of the Legislature of a State.

(ii) of all Acts passed by Parliament or the Legislature of a State and of all ordinances promulgated by the President or the Governor of a State, and

(iii) of all orders, rules, regulations and bye-laws issued under this Constitution or under any law made by Parliament or the Legislature of a State, shall be in the English language.

(2) Notwithstanding anything in Sub-clause (a) of Clause (1) the Governor of a State may, with the previous consent of the President, authorise the use of the Hindi language, or any other language used for any official purpose of the State, in proceedings in the High Court having its principal seat in that State:

Provided that nothing in this Clause shall apply to any judgment, decree or order passed or made by such High Court.

(3) Notwithstanding anything in Sub-clause (b) of Clause (1) where the Legislature of a state has prescribed any language other than the English language for use in Bills introduced in, or Acts passed by, the Legislature of the State or in Ordinances promulgated of the Governor of the state or in any order, rule, regulation or bye-law referred to in paragraph (iii) of that sub-clause, a translation of the same in the English language published under the authority of the Governor of the State in the official Gazette of that State shall be deemed to be the authoritative text thereof in the English language under this Article."

Under this Article two things have been provided. Firstly all proceedings in the Supreme Court and in every High Court have to be in the English language except when under Clause (2) the Governor of a State with the previous consent of the President authorises the use of the Hindi language or any other local language in proceedings in the High Court of that State. We are not concerned with that question in this case. Secondly the authoritative text of all Bills and Acts of the Parliament and of the State Legislature has to be in the English language. However, the State Legislatures are authorised to prescribe any language other than the English language for this purpose, but, in such an event Clause (3) provides that a translation in the English language of any Bill

introduced in or Act passed by a State Legislature in a language other than the English language has to be published under the authority of the Governor of the State in the Official Gazette of the state and such translation shall be deemed to be the authoritative text of such a Bill and Act. Whenever a question arises as to what is the authoritative text of a particular Act or an Ordinance etc., of a State Legislature one has to turn to its English translation if it was enacted in a language other than the English language. The authoritative text of a Bill, Act or Ordinance of a State Legislature cannot be in a language other than the English language unless the Parliament by law otherwise provides. Thus the power to declare that the authoritative text of any Ordinance, Act etc., of a State Legislature shall, be in a language other than the English language has been vested exclusively in the Parliament. The Parliament has not made any such provision so far. The official language of the State of Uttar Pradesh is Hindi, so that the Legislature of this State can pass Ordinance, Acts etc., in the Hindi Language. Thus even though the U. P. Consolidation of Holdings Act was passed by the State Legislature in Hindi, yet its translation in the English Language shall be regarded its authoritative text and shall prevail over its Hindi version.

9. The learned Counsel for the respondents referred to Articles 345, 346 and 347 of the Constitution. Article 345 makes a provision for official language of a State and provides that the State Legislature may by law adopt any one or more of the languages in use in the State or the Hindi as the language or languages to be used for all or any of the official purposes. Article 346 makes a provision about the official language for communication between one State and another or between a State and the Union. In Article 347 a provision has been made that on a demand being made the President may direct that a language other than the English language shall be officially recognised in a State or any part thereof for such purposes as may be specified. These Articles have no bearing upon the question before us. We are not concerned with the official language of a State but are concerned with the question of the language in which the Bills and Acts have to be passed by a State Legislature and that subject has been specifically dealt with in Article 348, which provides that notwithstanding anything in the foregoing provisions of this part of the Constitution, all Acts etc., shall be in the English language. It is thus clear that the provisions contained in Articles 345, 346 and 347 are subject to the provisions contained in Article 348.

10. The other argument is that in Clause (3) of Article 348 the use of words "notwithstanding anything in Sub-clause (b) of Clause (1)" suggests that this clause will override Clause (1). This interpretation is not correct. It only means that a State Legislature may prescribe any language other than the English Language for use in Bills introduced in or Acts passed by the State Legislature and that Clause (1) (b) shall not create an impediment in its way. As we have already indicated above, when a Bill is introduced or an Act is passed in a language other than the English language by a State Legislature, an authoritative translation thereof in the English language has to be provided and that translation shall for the purposes of Clause (1) (b) be deemed to be the

authoritative text thereof. Indeed, it will be beyond the competence of a State Legislature to provide that the authoritative text of its Act and Ordinance etc., shall be in a language other than the English language, because such a power vests only in the Parliament. Thus, when there is a conflict between the English version of a Statute of a State Legislature and its version in a local language, the version in English language will prevail over the version in the local language. A Division Bench of this court in *Sagir Ahmad and Others Vs. The Govt. of the State of Uttar Pradesh and Others*, while referring to Article 348 of the Constitution has at page 278 in paragraph 83 observed:--

"In view of this provision of the Constitution the notification appearing in English must prevail over the notification appearing in Hindi."

A Full Bench of this Court in *Jaswant Sugar Mills Ltd. Vs. The Presiding Officer, Industrial Tribunal (III) and Others*, has held that in U. P. after the passing of the U. P. Acts No. 1 of 1950 (U. P. Language Bills Act) and 26 of 1951 (U. P. Official Language Act) the State Legislature has prescribed Hindi as the language for the official use in the State, and both, the Hindi version as also the English translation of a Bill or Act etc., published in the Official Gazette are valid and authorised and both of them can be looked into and put to official use. There is no competition between the two. It is only in case of conflict or divergence between the two versions that the English version may reign supreme and supersede the Hindi one. Following this Full Bench decision a learned Single Judge in *Medical Officer of Health, Municipal Corporation Vs. Gulzari*, has held that although Hindi was the official language of the State of U. P., in case of divergence between the Hindi and the English versions, of the official gazette the English version reigned supreme and superseded the Hindi version. The same view has been taken by the Rajasthan High Court in *Bhikam Chand and Others Vs. The State and Others*, .

11. This being the position we are clearly of the opinion that in the present case it is the English text which shall prevail over the Hindi version and according to the English text the expression "any holding" occurring in Clause (ii) of Section 5 (1) (c) of the Act does not include the "Whole holding" so that it is not necessary to obtain the permission of the Settlement Officer (Consolidation) for the transfer of the holding as a whole.

12. With this answer, we direct the writ Petition to be placed before a learned Single Judge for disposal.