

(2025) 03 AHC CK 0969
In the Allahabad High Court, Lucknow Bench
Case No : Writ Petition C No. 3000181 Of 1997

Surya Lal And Others

APPELLANT

Vs

State Of U.P. Through Secy.Revenue And Others

RESPONDENT

Date of Decision : 10-03-2025

Acts Referred:

Constitution of India, 1950 — Article 351A

Uttar Pradesh Government Servants(Discipline and Appeal) Rules, 1999 — Rule 7

Citation : (2025) 03 AHC CK 0969

Hon'ble Judges : Neeraj Tiwari, J

Bench : Single Bench

Advocate : Vikas Singh, Akshay Kumar Singh, Mahendra Bahadur Singh, Palak Jawa, S M Singh Royekwar, Raj Kumar Upadhyaya

Final Decision : Allowed

Judgement

Irshad Ali, J.

1. Heard Mohd. Arif Khan, learned Senior Counsel assisted by Sri Mohd. Aslam Khan, learned counsel for the petitioners and Sri S.P. Maurya, learned Additional CSC for respondent - State.

2. By means of present writ petition, the petitioners are challenging the impugned order dated 12.08.1997 passed by Additional Commissioner, Judiciary, Faizabad Division, Faizabad in Appeal No.47 (Ceiling) as well as against impugned order dated 31.12.1993 passed by the prescribed authority (Ceiling), Bahraich, in case No.812 under sub Section 2 of Section 10 of U.P. Imposition of Ceiling on Land Holdings Act.

3. Brief fact of the case is that a notice dated 10.11.1989 was issued in the name of the petitioners and their fathers requiring them to show cause why the land should not be declared surplus under sub section 1 of Section 10 of U.P. Imposition of Ceiling on Land Holdings Act. Earlier to the said notice issued against the petitioners, a notice dated 18.05.1989 was also issued in the name of

deceased Prabhoo after his death, who was the father of petitioner No.4 to 7 and grand father of petitioner Nos.1 to 3.

4. The petitioners objected to the said notice through their objections dated 11.01.1990 stating therein that the notice was illegal, arbitrary as the petitioners and their fore-fathers were not having land beyond the limitations prescribed under Imposition of Ceiling on Land Holdings Act because father of petitioner No.4 to 7 and grand - father of petitioner Nos.1 to 3 had already died much earlier. Not only this, but the land in dispute was already transferred to the petitioner Nos.4 to 7 and petitioner Nos.1 to 3 through registered sale deed dated 02.02.1970 and also on the ground that petitioner Nos.4 to 7 and father of petitioner Nos.1 to 3 were major on the date the ceiling Act was imposed in the year 1972 amongst other grounds.

5. Thereafter, oral and documentary evidences were produced through the witnesses to establish the case that the petitioner Nos.4 to 7 and father of petitioner Nos.1 to 3 were major at the time of imposition of ceiling on land holdings act and it was also proved that the sale deed was executed before 24.01.1971 and all the transferees were separately in possession of their land as well as two bighas land was grove land and about one acre land was Usar land.

6. Thereafter, the objection was decided by the prescribed authority (Ceiling), Bahraich vide order dated 31.12.1993 and rejected the objections without application of mind judicially in as much as failed to appreciate the evidence already on records.

7. Feeling aggrieved with the said arbitrary and illegal order, the petitioner filed appeal No.47 before the Commissioner, Faizabad Division, Faizabad on the ground that the order passed by the prescribed authority was grossly erroneous in law as no specific and relevant issues were framed and also on the ground that the prescribed authority failed to appreciate the sale deed in the name of the petitioners, executed in the year 1970. It was also alleged in the appeal that the assessment was erroneously done without considering the position of land in as much as was irrigated and un-irrigated.

8. The Additional Commissioner, Judicial decided the appeal of the petitioners vide order dated 12.08.1997 and rejected the same again without considering and examining the evidences on record only on the basis of extraneous and irrelevant facts.

9. The Court below failed to give any finding on the point of pleading that the petitioner Nos.4 to 7 and father of petitioner Nos.1 to 3 were major at the time of Imposition of Ceiling on Land Holdings Act in the year 1972 and so no benefit of additional 2 hectares of land to which all the major adult sons of deceased Prabhoo was given while determining ceiling area.

10. The Court below also failed to consider evidenciary value of the sale deed executed before 24.01.1971, whereas the provisions of Imposition of Ceiling on

Land Holdings Act clearly lays down that the sale deed executed before the said date would be taken into consideration while determining the ceiling area.

11. The impugned orders passed by the courts below do not contain any finding on the point of irrigated and un-irrigated land as well as grove land, whereas on the said point, the petitioners had categorically pleaded and had tried to prove through the evidences and hence the orders passed by the Courts below are erroneous in the eye of law.

12. The petitioner had submitted documentary evidence i.e. true and certified copy of the family register showing the family members of the petitioners separately on the basis of basic year 1978 relevant in the determination of family members as petitioner's families were living separately before the year 1978 and were having cultivating transferred holdings separately but the courts below failed to examine the evidenciary value of the said document and decided the objection without taking into account the facts.

13. The registered sale deeds were executed on required stamp papers on the basis of valuation of the land transferred to petitioner Nos.4 to 7 and grand father of petitioner Nos.1 to 3 by the deceased Prabhoo, who was sole tenure holder of the holdings in question.

14. It is also stated that valuation was made properly on the rates fixed for the area and no dispute was raised at any stage by the registering authorities or any authority and as such the said sale deed executed in favour of the petitioners were relevant to take into consideration while determining the ceiling area but the prescribed authority failed to consider the said sale deeds executed on 02.02.1970 and on 03.02.1970, as such the impugned orders are not sustainable in the eyes of law.

15. The tenure holder, namely, Prabhoo had already died on 15.08.1988 before the issue of notice and the land was mutated in the name of petitioners even on the basis of sale deed and were living separately during the life of deceased Prabhoo. The matter was beyond jurisdiction of ceiling Act and no notice can be issued in the eyes of law.

16. A notice dated 18.05.1989 was issued in the name of deceased Prabhoo after his death, who was father of petitioner Nos.4 to 7 and grand father of petitioner Nos.1 to 3. The petitioners objected to the said notice through their objections dated 11.01.1990 stating that the notice was illegal, arbitrary as the petitioners and their fore-fathers were not having land beyond the limitation prescribed under Imposition of Ceiling on Land Holdings Act because father of petitioner Nos.4 to 7 and grand father of petitioner Nos.1 to 3 had already died much earlier. Not only this, but the land in dispute was already transferred to the petitioner Nos.4 to 7 and 1 to 3 through registered sale deed dated 02.02.1970 and on the ground that petitioner Nos.4 to 7 and father of petitioner Nos.1 to 3 were major on the date of ceiling Act was imposed in the year 1972.

17. The objection was decided by the prescribed authority (Ceiling), Bahraich vide order dated 31.12.1993 and was rejected. The petitioner, feeling aggrieved with the said order, filed Appeal No.47 before the Commissioner, Faizabad Division, Faizabad on the ground that the order passed by the prescribed authority was grossly erroneous in law as no specific and relevant issues were framed and also on the ground that that the prescribed authority failed to appreciate the sale deed in the name of the petitioners executed in the year 1970.

18. The Additional Commissioner, Judicial decided the appeal of the petitioners vide order dated 12.08.1997 and rejected the appeal again only on the basis of extraneous and irrelevant facts. Hence, the present writ petition has been filed before this Court.

19. Submission of learned Senior Counsel for the petitioner is that the impugned order was passed without applying the judicial mind while examining the evidence on record. He submitted that the courts below failed to give any finding on the point of pleading that the petitioner Nos.4 to 7 and father of petitioner Nos.1 to 3 were major at the time of Imposition of Ceiling of Land Holdings Act in the year 1972.

20. He next submitted that the courts below have also failed to consider the evidence of sale deed executed before 24.01.1971 in accordance with provisions of sub section 6 of Section 5 of the Act. He submitted that courts below passed the impugned orders without mentioning about pleadings and reasons raised by the petitioners.

21. He further submitted that the respondents failed to decide the dispute in accordance with law. He submitted that the tenure holder, namely, Prabhoo had died on 15.08.1988 before the issuance of notice and the land was mutated in the name of petitioners even on the basis of sale deed and were living separately during life of deceased Prabhoo. He submitted that the matter was beyond jurisdiction of Ceiling Act and no notice can be issued in the eyes of law, as such, the proceeding was illegal, arbitrary, and prejudicial to the the petitioners.

22. He next submitted that the impugned orders do not contain any evidence on the point of irrigated and un-irrigated land as well as grabbed land area. He submitted that certified copy of the family register showing the family members of the petitioners separately on the basis of basic year 1978 relevant in determination of family members. He submitted that the registered sale deeds were executed on required stamp papers on the basis of valuation of land transferred to the petitioner Nos.4 to 7 and grand father of petitioners Nos.1 to 3 by the deceased Prabhoo, who was the sole tenure holder of the holdings in question. The valuation was made properly on the rates fixed for the area and no dispute was raised at any stage by the registering authorities and as such, the whole proceeding was illegal, arbitrary and prejudicial to the petitioners. In support of his submissions, he placed reliance upon following judgments:

a) Raja Mahipal Singh (Deceased) Through LRs Vs. State of U.P. and others; 2007 SCC Online All 2334 : (2007) 102 RD 792.

b) Vyas Prasad Vs. Addl. Commissioner, Gorakhpur & others; Writ-C No.55503 of 2002 decided on 20.07.2017.

23. On the other hand, learned Additional CSC for the respondents - State submitted that the Courts below have given concurrent finding against the petitioners and held that the sale deed in question was a fake transaction between the father and son and therefore, the vendees are only ostensible owners. The contention of the petitioners that the notice has been issued in the name of dead person is not correct because under Rule 19 of the rules framed under U.P. Imposition of Ceiling Act provides that if the tenure holder was alive on 08.06.1973 then the notices shall always be issued in the name of deceased tenure holders and service shall be effected on the heirs of the deceased tenure holders.

24. He further submitted that the alleged sale deed was fake transaction made to avoid and forfeit the purpose of provisions of Ceiling Act. Moreover, the alleged sale deeds are not genuine because the sale deed is between the father and son and it cannot reasonably be presumed that no consideration passed between the vender and vendees, therefore, there is no illegality in the orders impugned and the writ petition is not maintainable and deserves to be dismissed. In support of his submissions, he placed reliance upon following judgments:

a) Bachhaj Nahar Vs. Nilima Mandal & ors. ; Civil Appeal Nos.5798-5799 of 2008 (arising out of SLP (C) Nos.23766-67 of 2005) D/- 23-9-2008.

b) State of U.P. Appellant Vs. Amar Singh etc., respondents ; AIR 1997 Supreme Court 1534.

25. I have considered the submissions advanced by learned counsel for the parties and perused the material on record as well as the judgments relied upon by learned counsel for the parties.

26. To resolve the controversy involved in the matter, the judgments relied upon by learned counsel for the parties are being quoted herein below:

i) Judgments relied upon by learned counsel for the petitioner:

a) Raja Mahipal Singh (Deceased) Through LRs (Supra):

5) From the above it is quite clear that the appellate Court judged the four gift deeds and one sale deed in favour of Dhani Ram on the touch stone of section 5(6)(b). In this regard appellate Court was not correct. Section 5(6)(b) deals with the transfer deeds made after 24.1.1971. Of Course in certain circumstances even the deeds prior to 24.1.1971 may be ignored after holding them to be sham, fictitious or collusive transactions. However, some distinction has to be drawn in between the deeds prior to 24.1.1971 and after the said date. The same criteria which is applicable to post 24.1.1971 deed can not be applied

to pre 24.1.1971 deed.

6. Learned Counsel for the petitioner has cited a division bench authority of this Court in *Yadunath v. State*. In para 18 of the said judgment it has been held that transfer deeds executed before 24.1.1971 may also be looked into by the prescribed authority to ascertain as to whether the transaction was sham, fictitious and collusive or not.

b) *Vyas Prasad Vs. Addl. Commissioner, Gorakhpur & others* (Supra):

15. In the said judgment, the Hon'ble Supreme Court held that under the provisions of the Act itself, the validity of the sale deed executed prior to 24th January 1971, the appointed day, could not be gone into by the Prescribed Authority. Sub-Section 6 of Section 5 of the said Act says that in determining ceiling area applicable to a tenure-holder, any transfer of land made after 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 a benami transaction or for immediate or deferred benefit of the tenure-holder or other members of his family, is outside the scope of the aforesaid sub-Section. Thereafter Explanation (ii) provides that the burden of proving that a case was within clause (b) of the proviso shall rest with the party claiming its benefit.

16. The Supreme Court held in *Ramadhar Singh* (supra) that the existence of the sale deed being a registered sale deed was not questioned and the fact that it was executed prior to January 24, 1971 was also not in dispute therefore any inquiry regarding the validity of such a sale deed under sub-Section (6) of Section 5 was totally misplaced. The Prescribed Authority had no jurisdiction to put the validity of sale deed to test since its jurisdiction arose only when the deed of transfer had been effected on or after the appointed day. Sub-section 6 of Section 5 did not confer jurisdiction on the authorities to determine the validity of the sale and therefore the findings recorded by such an authority on the contents of the sale deed or the adequacy or otherwise of the sale consideration could also not be gone into. 17. With regard to the argument made on behalf of the petitioner that the registered sale deed made in favour of alleged Moti Ram Naik being of a date prior to the appointed day and thus could not be looked into at all on the basis reliance placed on the judgment rendered in the case of *Ramadhar Singh Vs. Prescribed Authority & others* 1994 Supp (3) SCC 702, the said argument is wholly misconceived and hence liable to be rejected.

18. The judgment in the case of *Ramadhar Singh* (supra) was held to be per incurium and in *Sant Singh Vs. ADJ. Jhansi* 1996 (3) SCC 400. The Hon'ble Supreme Court in *Sant Singh* (supra) has held that in view of the specific language used in Section 5 (6) of the Rural Ceiling Act. The Prescribed Authority

in determining the ceiling applicable to a tenure-holder shall ignore any transfer of land made after the 24.1.1971, which, but for the transfer would have been declared as surplus land under the Act. However, the proviso further says thus "provided that nothing in the sub-section shall apply to ----- (a) a transfer in favour of any person (including the Government) referred to in sub-section 2 (b) a transfer proved to the satisfaction of the Prescribed Authority to be in good faith and for adequate consideration and under an irrevocable instrument, not being a benami transaction, or for immediate or deferred benefit of the tenure-holder, 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.

ii) Judgments relied upon by learned counsel for the respondent:

a) Bachhaj Nahar Vs. Nilima Mandal & ors. (Supra):

9. The object and purpose of pleadings and issues is to ensure that the litigants come to trial with all issues clearly defined and to prevent cases being expanded or grounds being shifted during trial. Its object is also to ensure that each side is fully alive to the questions that are likely to be raised or considered so that they may have an opportunity of placing the relevant evidence appropriate to the issues before the court for its consideration. This Court has repeatedly held that the pleadings are meant to give to each side intimation of the case of other so that it may be met, to enable courts to determine what is really at issue between the parties, and to prevent any deviation from the course which litigation on particular causes must take.

b) State of U.P. Appellant Vs. Amar Singh etc. (Supra):

5. Thus, on and from the date the Amendment Act came into force, namely, January 21, 1971, the tenure-holder shall not hold throughout the State of Uttar Pradesh, any land in the aggregate in excess of ceiling area applicable to him. Explanation I adumbrates that in determining ceiling area applicable to a tenure-holder, all lands held by him in his own right, whether in his own name or ostensibly in the name of any other person, shall be taken into account. In other words, as on the date the Amendment Act came into force, the land must held by tenure-holder in his own right and the lands ostensibly in the name of any other person shall be taken into account. In this case, admittedly, the alienations came to be made by Kishun Singh in favour of his sons and daughters-in-law. Normally, one would expect that if there is any compelling legal necessity to alienate the land, one would sell the land to third parties and that too, as prudent vender for valuable consideration not to the sons and daughters-in-law. The object appears to be, as rightly pointed out by the District Judge, that the alienations were made by registered instruments in favour of his sons and daughters-in-law only to see that the provisions of the Act are defeated and the lands do not pass into the hands of strangers. It is true that the evidence was

adduced by the respondents as regards proof of mutation. Mutation was effected on the basis that sale deeds came to be executed in favour of sons and daughters-in-law. Therefore the mutation officer was not concerned at that stage to find out whether the sales were benami or ostensibly intended to defeat the provisions of the Act. It is settled law that mutation entries are only for the purpose of enabling the State to collect the land revenue from the person in possession but it does not confer any title to the land. The title would be derived from an instrument executed by the owner in favour of an alienee as per Stamp Act and registered under Registration Act. The alienees being sons and daughters-in-law the tenure-holder remained to be the owner and holder of the land. The sons and daughters-in-law are only ostensible owners under Explanation I to Section 5(1) of the Act. It is true that Lekh Pal has not categorically stated whether the respondents remained in possession in their own right after the alienation. It is not in dispute that the father and sons remained to be members of the joint family and were cultivating the land. Under these circumstances, one would normally expect that Lekh Pal may not be in a position to categorical assert whether respondents remained in possession in their own right as owners or were cultivating land on their own or on behalf of the coparceners. Under these circumstances, the findings of the High Court are illegal. The case falls under Explanation I of Section 5(1) and the burden is always only on the respondents to establish that they were not ostensibly owing the land but remained in their own right as owners. Accordingly, we hold that Kishun Singh was the holder of the land. He was a tenure-holder as on the date and, therefore, ceiling area has to be computed treating him to be the owner of the land; besides himself, he had eight sons who are entitled to the respective additional ceiling area given to them under the Act. The authorities are, therefore, directed to compute the ceiling area accordingly and take possession of the surplus land.

27. A notice dated 18.05.1989 was issued in the name of deceased Prabhoo after his death, who was the father of petitioner No.4 to 7 and grand father of petitioner Nos.1 to 3. The petitioners objected to the said notice through their objections dated 11.01.1990 stating therein that the notice was illegal, arbitrary as the petitioners and their fore-fathers were not having land beyond the limitations prescribed under Imposition of Ceiling on Land Holdings Act because father of petitioner No.4 to 7 and grand - father of petitioner Nos.1 to 3 had already died much earlier. Not only this, but the land in dispute was already transferred to the petitioner Nos.4 to 7 and petitioner Nos.1 to 3 through registered sale deed dated 02.02.1970 much prior to the amendment incorporated vide amendment dated 24.01.1971, therefore, the sale deed executed in favour of petitioner Nos.4 to 7 and grand father of petitioner Nos.1 to 3 are genuine documents and do not suffer from any infirmity or illegality. The judgment relied upon by learned counsel for the petitioner in the case of Raja Mahipal Singh (Deceased) Through LRs (Supra) is fully applicable to the present facts and circumstances of the case.

28. The objection was decided by the prescribed authority (Ceiling) Bahraich vide order dated 31.12.1993 and was rejected. The petitioner feeling aggrieved filed appeal No.47 before the Commissioner, Faizabad Division, Faizabad on the ground that the order passed by the prescribed authority was grossly erroneous in law as no specific and relevant issues were framed and also on the ground that the prescribed authority failed to appreciate the sale deed in the name of the petitioners, executed in the year 1970 much prior to the amendment incorporated under Ceiling Act, 1952, therefore, due to non framing of issues on the evidence, the impugned orders apparent illegality and are liable to be set aside.

29. The Additional Commissioner, Judicial decided the appeal of the petitioners vide order dated 12.08.1997 and rejected the appeal again only on the basis of extraneous and irrelevant facts. Hence, the present writ petition has been filed before this Court. The impugned orders have been passed without applying the judicial mind while examining the evidence on record. The courts below failed to give any finding on the point of pleading that the petitioner Nos.4 to 7 and father of petitioner Nos.1 to 3 were major at the time of Imposition of Ceiling of Land Holdings Act in the year 1972.

30. The courts below have also failed to consider the evidence of sale deed executed before 24.01.1971 in accordance with provisions of sub section 6 of Section 5 of the Act. The courts below passed the impugned orders without mentioning about pleadings and reasons raised by the petitioners.

31. The respondents failed to decide the dispute in accordance with law. The tenure holder, namely, Prabhoo had died on 15.08.1988 before the issuance of notice and the land was mutated in the name of petitioners even on the basis of sale deed and were living separately during life of deceased Prabhoo. The matter was beyond jurisdiction of Ceiling Act and no notice can be issued in the eyes of law, as such, the proceeding was illegal, arbitrary, and prejudicial to the petitioners.

32. The impugned orders do not contain any finding on the point of irrigated and un-irrigated land as well as grove land. Certified copy of the family register showing the family members of the petitioners separately on the basis of basic year 1978 relevant in the determination of family members. The registered sale deeds were executed on required stamp papers on the basis of valuation of the land transferred to petitioner Nos.4 to 7 and grand father of petitioner Nos.1 to 3 by the deceased Prabhoo, who was sole tenure holder of the holdings in question. The valuation was made properly on the rates fixed for the area and no dispute was raised at any stage by the registering authorities, as such the whole proceeding was illegal and arbitrary and prejudicial to the petitioners.

33. Learned ACSC has urged that courts below have given concurrent finding against the petitioners and held that the sale deed in question was a fake transaction between the father and son and therefore, the vendees are only

ostensible owners. Other submission of learned ACSC is that under Rule 19 of the rules framed under U.P. Imposition of Ceiling Act provides that if the tenure holder was alive on 08.06.1973, notices shall always be issued in the name of deceased tenure holders and service shall be effected on the heirs of the deceased tenure holders. In this regard, it is stated that it is quite clear that the appellate court has not considered the sale deed executed in favour of the petitioner Nos.4 to 7 and grand father of petitioner Nos.1 to 3.

34. It is quite clear that the appellate Court judged the four gift deeds and one sale deed in favour of Dhani Ram on the touch stone of section 5(6)(b). In this regard appellate Court was not correct. Section 5(6)(b) deals with the transfer deeds made after 24.1.1971. Of Course in certain circumstances even the deeds prior to 24.1.1971 may be ignored after holding them to be sham, fictitious or collusive transactions. However, some distinction has to be drawn in between the deeds prior to 24.1.1971 and after the said date. The same criteria which is applicable to post 24.1.1971 deed can not be applied to pre 24.1.1971 deed. Transfer deeds executed before 24.1.1971 may also be looked into by the prescribed authority to ascertain as to whether the transaction was sham, fictitious and collusive or not.

35. In the present case, without there being any material on record, the prescribed authority as well as appellate court have come to the conclusion that the sale deed executed in favour of petitioner Nos.4 to 7 and grand father of petitioner Nos.1 to 3 are sham transaction without any basis in law. Hon'ble Supreme Court in the case of Vyas Prasad (Supra) held that while considering the validity of sale deed executed prior to 24.01.1971, the appointed day, could not be gone into by the Prescribed Authority. Sub-Section 6 of Section 5 of the said Act says that in determining ceiling area applicable to a tenure-holder, any transfer of land made after 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 a benami transaction or for immediate or deferred benefit of the tenure-holder or other members of his family, is outside the scope of the aforesaid sub-Section. Thereafter Explanation (ii) provides that the burden of proving that a case was within clause (b) of the proviso shall rest with the party claiming its benefit.

36. In the case of Ram Adhar (Supra), Hon'ble Supreme Court has held that the existence of the sale deed being a registered sale deed was not questioned and the fact that it was executed prior to January 24, 1971 was also not in dispute therefore any inquiry regarding the validity of such a sale deed under sub-Section (6) of Section 5 was totally misplaced. The Prescribed Authority had no jurisdiction to put the validity of sale deed to test since its jurisdiction arose only when the deed of transfer had been effected on or after the appointed day. The sale deed executed in favour of petitioner Nos.4 to 7 and grand father of

petitioner Nos.1 to 3 have never been challenged before any forum nor cancelled at any point of time, therefore, the finding recorded by both the courts below are not tenable in law and is liable to be set aside. Sub-section 6 of Section 5 did not confer jurisdiction on the authorities to determine the validity of the sale and therefore the findings recorded by such an authority on the contents of the sale deed or the adequacy or otherwise of the sale consideration could also not be gone into. With regard to the argument made on behalf of the petitioner that the registered sale deed made in favour of petitioner Nos.4 to 7 and grand fatehr of petitioner Nos.1 to 3 being of a date prior to the appointed day and thus could not be looked into at all on the basis reliance placed on the judgment rendered in the case of Ramadhar Singh Vs. Prescribed Authority & others 1994 Supp (3) SCC 702.

37. The arguments advanced on behalf of learned ACSC are totally misconceived and the finding returned by both the courts below are not tenable in law. The object and purpose of pleadings and issues is to ensure that the litigants come to trial with all issues clearly defined and to prevent cases being expanded or grounds being shifted during trial. Its object is also to ensure that each side is fully alive to the questions that are likely to be raised or considered so that they may have an opportunity of placing the relevant evidence appropriate to the issues before the court for its consideration. This Court has repeatedly held that the pleadings are meant to give to each side intimation of the case of other so that it may be met, to enable courts to determine what is really at issue between the parties, and to prevent any deviation from the course which litigation on particular causes must take.

38. In the present case, both the courts below have failed to take into consideration the evidence on record and the finding returned on perverse grounds are not liable to be accepted.

39. In view of findings returned herein above, the order dated 12.08.1997 passed by Additional Commissioner, Judiciary, Faizabad Division, Faizabad in Appeal No.47 (Ceiling) as well as order dated 31.12.1993 passed by the prescribed authority (Ceiling), Bahraich, in case No.812 under sub Section 2 of Section 10 of U.P. Imposition of Ceiling on Land Holdings Act are wholly erroneous and are not sustainable in the eyes of law and are hereby quashed.

40. The writ petition succeeds and is allowed.

41. The matter is remanded back to the prescribed authority to lead evidence on the subject matter involved in the present writ petition and to record finding in regard to sale deed that how it is a fake transaction, once it has been executed by paying sufficient stamp duty and on other points raised by the petitioners.

42. No order as to costs.