2026 INSC 652

REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 8705 OF 2026
(ARISING OUT OF S.L.P. (CIVIL) NO.24352/2017)

SARAFAT ALI (DECEASED) THROUGH LRS AND OTHERS .... **APPELLANT(S)**

VERSUS

DEPUTY DIRECTOR OF CONSOLIDATION HARIDWAR AND OTHERS .... **RESPONDENT(S)**

J U D G M E N T

PRASHANT KUMAR MISHRA, J.

1) Leave granted.

2) The *lis* at hand concerns a protracted dispute arising from the rights asserted by the appellants under a sale deed dated 04.06.1957. What initially commenced as proceedings for mutation gradually traversed into the realm of the U.P. Zamindari Abolition and Land Reforms Act,1950[1] and the consolidation framework, though its odyssey across multiple forums only culminated in futility, with the authorities below concurrently holding that the appellants had failed to prove the execution of the said sale deed, thereby compelling them to seek refuge before this Court.

FACTUAL MATRIX

3) The chequered trail of the *lis* can be adumbrated as thus: the predecessors of the appellants herein purchased the land measuring 15

[1] Hereinafter referred to as Abolition Act

bigha, 11 biswa, 0 Biswansi of Khasra No.70/32 situated in Narsipur Kalan village, Jwalapur Paragana, Roorki Tehsil, Haridwar District, through a registered sale deed dated 04.06.1957. It is to be noted that the predecessors of the appellants were minors at the time of purchase. Subsequently, the possession of the said land was transferred, and the appellants claim to be in possession since the date of purchase.

4) On 08.12.1983, the appellants moved an application under Section 34 of the Uttar Pradesh Land Revenue Act, 1901, before the Naib Tehsildar seeking mutation of the said land in their favour. Meanwhile, one of the sellers, namely, Hasmatullah filed an objection against the appellants' mutation application. Though, he subsequently withdrew the same and consented for the mutation. *Vide* order dated 03.04.1984, the Naib Tehsildar allowed the appellants' application and ordered for mutation of the land in the appellants favour.

5) Subsequently, in 1991, consolidation proceedings were initiated in the subject village and the name of the appellants could not be recorded in the revenue records. This prompted the appellants to file an objection under Section 9A of the Uttar Pradesh Consolidation of Holdings Act, 1953, claiming that they purchased the subject lands and the names of Hasmatullah and others be cancelled from the record, and their names be recorded. The Consolidation Officer after issuing notice to both the parties and considering that the Tehsildar has already passed an order of mutation in favour of the appellants, without any objection from the other side, allowed the appellants' application *ex-parte vide* order dated 13.09.1991

and directed that the names of the appellants be recorded as Bhumidhar on the basis of sale deed dated 04.06.1957.

6) Aggrieved by the above order, the sellers/respondents, namely, Rashideen widow of Inayutulla and Hasantulla son of Fateh Mohd, filed a restoration application dated 16.09.1991 seeking recall of the order dated 13.09.1991. The Consolidation Officer *vide* order dated 24.12.1991 allowed the recall application and set aside the order dated 13.09.1991 and directed the matter to be heard afresh on merits.

7) In the interregnum, Hasmatullah entered a compromise with the appellants on 08.06.1993, consented for the mutation and admitted that the appellants are in possession of the subject land since the execution of the sale deed dated 04.06.1957. Consequently, *vide* order dated 18.06.1993, the Consolidation Officer, considering the compromise entered into between the parties, ordered to enter the names of the appellants in the khata and deletion of the names of the original Khatedars, namely, Abdul Mazeed, Hasmatullah and Rasheedan from the revenue records. However, it is pertinent to take note that the said compromise was not entered into by all the co-tenure holders and was later disputed, as a result of which, the proceedings continued and were adjudicated on merits.

8) In the course of the proceedings, evidence was led by both the sides, including the statement of the appellant Sarafat Ali and the statement of the attesting witness, namely Baru. Upon appreciation of the entire material on record, the Consolidation Officer, *vide* order dated 30.12.1999, rejected the claim of the appellants, *inter alia* holding that the execution of the sale deed dated 04.06.1957 had not been duly proved, particularly in view of the

inconsistencies relating to the identity of the attesting witness and the lack of cogent documentary evidence.

9) Aggrieved thereby, the appellants preferred Appeal No.813/2000 under Section 11(1) of the Uttar Pradesh Consolidation of Holdings Act before the Settlement Officer. The Appellate Authority, *vide* order dated 17.09.2001, dismissed the appeal and affirmed the findings of the Consolidation Officer.

10) The appellants thereafter preferred revisions being Revision Nos.328/2001 and 331/2001 before the District Deputy Director of Consolidation. The revisional authority, *vide* common order dated 14.01.2003, dismissed the revisions and concurred with the findings of the Authorities below. It was further held that the alleged sale was hit by the provisions of Section 154 of the Abolition Act, rendering the sale deed void.

11) Thereafter, the appellants filed Civil Writ Petition No.59/2003, challenging the orders of the Forums below. Upon consideration, the High Court *vide* impugned judgment dated 18.08.2017, dismissed the Writ Petition and upheld the concurrent findings of the Authorities below, *inter alia* holding that the appellants had failed to prove the execution of the sale deed *vis-a-vis* the subject land and further held that the sale deed was executed in contravention of Section 154 of the Abolition Act rendering it void.

SUBMISSIONS

12) Learned senior counsel appearing on behalf of the appellants assailed the concurrent findings rendered by the High Court and the Consolidation Authorities on multiple grounds. It was contended that the sale deed dated

04.06.1957 was erroneously held to be in contravention of Section 154 of the Abolition Act. Learned senior counsel submitted that on the date of execution of the sale deed, the ceiling prescribed under Section 154 was 30 acres and not 12.5 acres, the latter having been introduced subsequently by U.P. Act 37 of 1958. It was further contended that even assuming Section 154 stood attracted; a transfer in contravention thereof was not *void ab initio* but merely voidable at the instance of the Gaon Sabha under the statutory framework then prevailing.

13) Further, it was contended that the Consolidation Authorities lacked jurisdiction to adjudicate upon the validity of the registered sale deed. According to the learned senior counsel, unless a document is *void ab initio,* the same remains binding and operative until cancelled by a competent Court of law. Since the sale deed in question was at best voidable and not void, the Consolidation Authorities could not have ignored the same while deciding title.

14) On the third count, learned senior counsel submitted that the subject sale deed being a registered document of over thirty years old carried a statutory presumption as to its due execution and authenticity. It was urged that the Consolidation Authorities below erred in discarding the document solely on the basis of alleged discrepancies relating to the attesting witness, particularly when a registered sale deed does not mandatorily require attestation. On the aforesaid grounds, the learned senior counsel seeks intervention of this Court to set aside the concurrent findings rendered by the High Court and the Consolidation Authorities below.

15) Conversely, the learned counsel appearing for the respondents supported the impugned judgment of the High Court upholding the orders of the Consolidation Authorities. It was submitted that the sale deed executed by the appellants is in contravention of Section 154 of the Abolition Act and is void.

16) It was further contended that as the consolidation proceedings commenced only in 1984, the law as on the date of proceedings should be applicable and the subject land which is in violation of the provisions of the Act as under Section 166 of the Abolition Act, will vest in the State as provided under Section 167 of the Abolition Act.

17) It was also put forth by the learned counsel for the respondents that the appellants have failed to prove the execution of the sale deed dated 04.06.1957. It was pointed out that there was a discrepancy in the attesting witness and, therefore, the execution of the document stood unproved.

18) Predicating upon the aforesaid submissions, the learned counsel for the respondents prayed for the dismissal of the present Appeal.

ANALYSIS AND FINDINGS

19) Heard the learned counsel for either side and perused the material on record. It is now incumbent upon us to examine the correctness of the concurrent findings rendered by the High Court and the Authorities below.

20) We are cognizant that the jurisdiction of this Court under Article 136 of the Constitution of India is limited in the matters wherein concurrent findings have been rendered. Nevertheless, this Court can examine such

findings where they suffer from perversity or manifest illegality so as to warrant interference.

21) In the *lis* at hand, the High Court as well as the Consolidation Authorities below have concurrently held against the appellants primarily on the following grounds:

A. That the sale deed executed in favour of the appellants was in contravention of Section 154 of the Abolition Act, rendering the deed void; and

B. The execution of the subject sale deed could not be proven due to discrepancy in the attesting witness produced.

22) To examine the dispute in better light, it is necessary to reproduce the relevant provision. The germane part of Section 154 of the Abolition Act reads as follows :

> "**154. Restriction on transfer by a bhumidhar.—** (1) Save as provided in sub-section (2), no bhumidhar shall have the right to transfer by sale or gift, any land other than tea garden to any person where the transferee shall, as a result of such sale or gift, become entitled to land which together with land, if any, held by his family will in the aggregate, exceed 5.0586 hectares (12.50 acres) in Uttar Pradesh.
>
> *[Explanation.*— For the removal of doubt it is hereby declared that in this sub-section the expression "person" shall include and be deemed to have included on June 15, 1976 a "Co-operative Society" :
>
> Provided that where the transferee is a Co-operative Society, the land held by it having been pooled by its members under Clause (a) of sub-section (1) of Section 77 of the Uttar Pradesh Co-operative Societies Act, 1965 shall not be taken into account in computing the 5.0586 hectares (12.50 acres) land held by it.][2]
>
> (2) Subject to the provisions of any other law relating to the land tenures for the time being in force, the State Government may, by general or special order, authorise transfer in excess of the limit prescribed in sub-section (1) if it is of the opinion that such transfer is in favour of a registered co-operative society or an

[2] Inserted by U.P. Act No. 20 of 1997.

institution established for a charitable purpose, which does not have land sufficient for its need or that the transfer is in the interest of general public.

Explanation.—For the purposes of this section, the expression 'family' shall mean the transferee, his or her wife or husband (as the case may be) and minor children and where the transferee is a minor also his or her parents.

[(3) For every transfer of land in excess of the limit prescribed under sub-section (1) prior approval of the State Government shall be necessary :

Provided that where the prior approval of the State Government is not obtained under this sub-section, the State Government may on an application give its approval afterward in such manner and on payment in such manner of an amount, as fine, equal to twenty five per cent of the cost of the land as may be prescribed. The cost of the land shall be such as determined by the Collector for stamp duty.][3]

[Provided further that where the State Government is satisfied that any transfer has been made in public interest, it may exempt any such transferee from the payment of fine under this sub-section.][4]

[UTTARAKHAND][5] AMENDMENT

[(3) A bhumidhar with transferable rights may sell his land to any of the categories of tenure holders in the State of Uttaranchal as mentioned in Section 129 or such owner of any immovable property in Uttaranchal who has acquired it on or before 12.9.2003 or to any member of the 'family', which means husband, his wife and their children, including step or adopted children, and includes parents, grandparents, brothers and unmarried, widowed, separated and divorced sisters of such tenure holder of the owner, as the case may be.][6]

[(4)[(1)(a) Subject to other restrictions and save as otherwise provided in this Act, "any person for his own or on behalf of his family (which means husband, his wife, minor children, unmarried sons, unmarried daughters and dependent parents) even though he is not a tenure holder under Section 129 or the owner of any immovable property in Uttarakhand, may purchase land not exceeding 250 sq. mts. for residential purpose in his lifetime without the permission;][7]

(b) A registered agreement to sell the land executed on or before 12.9.2003 shall be valid if the sale deed on the basis of such agreement is executed on or before 31.3.2004, irrespective of any time limit provided in the agreement, unless extended by the Collector of the district for reasons to be recorded in writing."

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[3] Inserted by U.P. Act No. 13 of 2005 (w.e.f. 29.03.2005).
[4] Inserted by U.P. Act No. 36 of 2006.
[5] The word 'Uttaranchal' substituted by Section 3 of Act No. 52 of 2006 (w.e.f. 01.01.2007).
[6] Added by Uttaranchal Act No. 29 of 2003 (w.e.f. 15.01.2004)
[7] Substituted by Uttarakhand Act No. 3 of 2007.

23) A careful perusal of the present statutory framework indicates that Section 154 merely imposes a restriction upon transfers exceeding the prescribed ceiling limit. Significantly, sub-section (3) contemplates that even where a transfer is made in excess of the prescribed limit without prior approval, the State Government may subsequently grant approval upon such terms as stipulated therein. The statutory scheme, therefore, demonstrates that a transfer in contravention of Section 154 is not rendered *void ipso facto*, but remains capable of ratification in accordance with law.

24) However, the position which obtains as on date cannot be mechanically extended to transactions executed at a point of time when the statutory framework was materially different. It is a settled principle that the legality of a transfer must be adjudged with reference to the law as it stood on the date of execution of the instrument. Section 154 as on the date of the execution of the sale deed stood thus:

> "**154. Restrictions on the transfers by a bhumidhar.**—No bhumidhar shall have the right to transfer, by sale or gift, any land other than tea gardens, to any person (other than an institution established for a charitable purpose) where such person shall, as a result of the sale or gift, become entitled to land which together with land, if any, held by himself, or together with his family will, in the aggregate, **exceed 30 acres in Uttar Pradesh.**
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> *Explanation.*—For the purposes of this section a person's family shall, if the members are living jointly, consist of the person himself, his minor children, his wife or her husband, as the case may be, and if the person himself is a minor his father and mother."
>
> (emphasis supplied)

25) At this juncture, it is necessary to note that though the ceiling of 12.5 acres came to be introduced by U.P. Act 37 of 1958, the amending enactment expressly provided under Section 1(2) that the Act shall be

deemed to have come into force from 1st July, 1952, save and except Sections 37, 38 and 60 of the Abolition Act which were brought into force at once. Consequently, the ceiling provision prescribing the limit of 12.5 acres stood retrospectively applicable even on the date of execution of the subject sale deed dated 04.06.1957.

26) Moreover, even under the said provision, the embargo was not upon every transfer simpliciter, but only upon such transfer whereby the transferee, together with the land already held by him or his family, would in the aggregate exceed 12.5 acres. Therefore, unless it was established that the transferee's aggregate holding crossed the prescribed ceiling, mere execution of the sale deed could not *ipso facto* attract Section 154.

27) As a corollary, any transfer which violates section 154 , directly traces to Section 163[8] of the Abolition Act, which reads as under:

> "**163. Transfer in contravention of this Act.**—(1) Where a transfer of any holding or part thereof has been made in contravention of the provisions of section 154, the transferee shall, notwithstanding anything in any law, "**be liable to ejectment from such holding or part on the suit of the Gaon Sabha, which shall thereupon become vacant land;** but nothing in this section will prejudice the right of the transferor to realize the whole or portion of the price remaining unpaid, or the right of any other person other than the transferee to proceed against such holding or land in enforcement of any claim thereto.
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> (2) To every suit for ejectment under this section the transferor shall be made a party."
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> (emphasis supplied)

28) On a bare reading of the said provision, it is evident that when a transfer is made in contravention of Section 154, the transferee is liable for ejectment, albeit, only upon the suit filed by the Goan Sabha. The statutory scheme, therefore, does not *ipso facto* render the transfer void, but merely

[8] Omitted by U.P Act No.20 of 1982 (w.e.f 03.06.1981)

exposes the transferee to the consequence of ejectment, contingent upon the suit filed by the Goan Sabha.

29) Be that as it may, the question as to whether a transfer is void or voidable when hit by Section 154 of the Abolition Act was examined and concretely clarified by this Court in the case of ***Kripashanker vs. Director of Consolidation and Others***[9] the germane observations are reproduced herein below:

> "6. At the outset (sic) it may be noticed that the legislature has made a distinction between a transfer made by a bhumidhar in contravention of Section 154 and a transfer made by a sirdar or asami in contravention of the provisions of the Act. Unlike Section 166 whereunder any transfer made on behalf of a sirdar or asami in contravention of the provisions of Chapter VIII has been declared to be void, a transfer by a bhumidhar in contravention of Section 154 has not been so declared. **Section 163 merely indicates that such contravention would entail ejectment of the transferee at the instance of the Gaon Sabha but till action is taken by the Gaon Sabha the transferee continues in enjoyment**. **Further the very fact that by an amendment of Section 163 made by U.P. Act 35 of 1976 it was provided for the first time that a transfer by a bhumidhar in contravention of Section 154 could be declared to be void emphasizes the position that under Section 163 as it stood prior to the amendment such transfer would not be void.**
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> 7. Secondly, sub-section (1) of Section 154 merely places a restriction on transfers by a bhumidhar but does not deal with the effect of a deed executed in breach of the restriction imposed. The effect of the contravention of Section 154 has been specified in Section 163 and all that Section 163 provides is that where such a transfer in contravention of Section 154 has been made the transferee shall be liable to ejectment but the question is from what portion he is liable to be ejected? **The section provides "the transferee shall, notwithstanding anything in law, be liable to ejectment from such holding or part". The expression "holding or part", which undoubtedly refers to the holding or part that has been transferred by the bhumidhar, is preceded by the word "such" and that whole expression "such holding or part" clearly means that holding or part thereof which has been transferred in contravention of Section 154**. In other words, the use of the word "such" clearly suggests that the ejectment should be from the land transferred in contravention of Section 154, that is to say, from the land in excess of the prescribed limit. **Reading Sections 154 and 163 together, therefore, it**

[9] (1979) 4 SCC 199

> **seems to us clear that any transfer by a bhumidhar in contravention of Section 154 is not void but voidable at the instance of the Gaon Sabha only to the extent of the contravention, that is to say, only to the extent of excess over and above the prescribed limit**. Section 189, on which reliance was placed by counsel for the respondents, deals with extinction of interest of a transferor-bhumidhar who has effected a transfer in contravention of Section 154 and has no bearing on the question as to how and to what extent the transferee is affected by the contravention."
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> (emphasis supplied)

30) It is also pertinent to note that under the statutory framework the proceedings for ejectment under Section 163 were circumscribed by limitation. Rule 338 read with Appendix III and Serial No.19 of Uttar Pradesh Zamindari Abolition and Land Reforms Rules 1952, prescribes a six year limitation for institution of a suit under Section 163, reckoned from the date of the alleged illegal transfer. Admittedly, in the present *lis, no* such suit was filed during or even beyond the prescribed limitation period.

31) The legislative history of the provisions further fortifies the above interpretation. Prior to the amendment brought into force w.e.f. 03.06.1981, Section 166 merely declared transfers made by a sirdar or asami in contravention of the Act to be void. Transfers by a bhumidhar falling under Section 154 were separately governed by Section 163 and were not expressly declared void.

32) However, by U.P. Act No.20 of 1982, enforced w.e.f. 03.06.1981, Section 163 came to be omitted and Section 166 was amended so as to include and widen the scope of its operation, to encompass all the transfers made in contravention of the provisions of the Act and to render such transfers void. The consequential provisions under Section 167 (post amendment) were also amended to provide for vesting of such land in the

State from the date of the transfer itself. The relevant amended provisions as reproduced below:

> **"**[**166.** Every transfer made in contravention of the provisions of this Act, shall be void.][10]
>
> **[167.**(1) The following consequences shall ensue in respect of every transfer which is void by virtue of Section 166, namely-
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> (a) **the subject-matter of transfer shall with effect from the date of transfer, be deemed to have vested in the State Government free from all encumbrances;**
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> (b) the trees, crops and wells existing on the land on the date of transfer shall, with effect from the said date, be deemed to have vested in the State Government free from all encumbrances; and
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> (c) the transferee may remove other moveable property or the materials of any immovable property existing on such land on the date of transfer within such time as may be prescribed.
>
> (2) Where any land or other property has vested in the State Government under sub-section (1), it shall be lawful for the Collector to take over possession over such land or other property and to direct that any person occupying such land or property be evicted therefrom. For the purposes of taking over such possession or evicting such unauthorised occupants, the Collector may use or cause to be used such force as may be necessary.][11]"
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> (emphasis supplied)

33) This statutory evolution is not without significance. The omission of Section 163 and the simultaneous expansion of the ambit of Sections 166 and 167 of the Abolition Act clearly demonstrate that prior to the amendment, transfers made in contravention of Section 154 were not treated as void. Had such transfers already been void under the unamended statutory regime, there would have been no necessity for the legislature to omit Section 163 and correspondingly expand the operation of Sections 166 and 167 so as to expressly render such transfers void and provide for automatic vesting in the State. In this regard, it is apposite to refer to the

[10] Substituted by U.P. Act No. 20 of 1982 (w.e.f. 03.06.1981).
[11] Substituted by U.P. Act No. 20 of 1982 (w.e.f. 03.06.1981).

Prefatory Note No-3 appended to the Statement of Objects and Reasons attached to the Bill pertaining to U.P. Act No.20 of 1982, which reads as under:

> *"3. Under the existing provisions the transfers made in contravention of the provisions of the* ***said Act are declared void after following the given procedure. It has been considered necessary to provide that such transfers shall be deemed to be void and no declaration shall be necessary therefor."***
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> (emphasis supplied)

34) Thus, in view of the aforesaid discussion, the sale deed dated 04.06.1957 could not have been treated as void by High Court and the Consolidation Authorities below.

RETROSPECTIVE OPERATION OF THE AMENDED STATUTORY REGME AND CONSEQUENCES THEREOF ON ACCRUED RIGHTS

35) In view of the contention advanced on behalf of the respondents that the law prevailing on the date of commencement of the consolidation proceedings would govern the present dispute, the next question which arises for consideration is whether the amended provision of Sections 166 and 167 of the Abolition Act, brought into w.e.f. 03.06.1981, could retrospectively operate upon the sale deed dated 04.06.1957 so as to render the transfer void and vest the subject land in the state.

36) Before examining the effect of amended provisions, it is necessary to advert to the settled principles governing retrospective operation of statutes. In ***Zile Singh vs. State of Haryana and Others***[12], this Court succinctly explained that retrospective operation may be inferred where the

[12] (2004) 8 SCC 1

amendment merely explains the prior law, cures an acknowledged defect, or supplies an obvious omission. The following observations are pertinent:

> "**13**. It is a cardinal principle of construction that every statute is prima facie prospective unless it is expressly or by necessary implication made to have a retrospective operation. **But the rule in general is applicable where the object of the statute is to affect vested rights or to impose new burdens or to impair existing obligations. Unless there are words in the statute sufficient to show the intention of the legislature to affect existing rights, it is deemed to be prospective only — "*nova constitutio futuris formam imponere debet non praeteritis*" — a new law ought to regulate what is to follow, not the past. (See *Principles of Statutory Interpretation* by Justice G.P. Singh,** 9th Edn., 2004 at p. 438.) It is not necessary that an express provision be made to make a statute retrospective and the presumption against retrospectivity may be rebutted by necessary implication especially in a case where the new law is made to cure an acknowledged evil for the benefit of the community as a whole (*ibid.*, p. 440).
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> **14.** The presumption against retrospective operation is not applicable to declaratory statutes.... In determining, therefore, the nature of the Act, regard must be had to the substance rather than to the form. **If a new Act is "to explain" an earlier Act, it would be without object unless construed retrospectively. An explanatory Act is generally passed to supply an obvious omission or to clear up doubts as to the meaning of the previous Act. It is well settled that if a statute is curative or merely declaratory of the previous law retrospective operation is generally intended....** An amending Act may be purely declaratory to clear a meaning of a provision of the principal Act which was already implicit. A clarificatory amendment of this nature will have retrospective effect (*ibid.*, pp. 468-69).
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> **15.** Though retrospectivity is not to be presumed and rather there is presumption against retrospectivity, according to Craies (*Statute Law*, 7th Edn.), it is open for the legislature to enact laws having retrospective operation. **This can be achieved by express enactment or by necessary implication from the language employed. If it is a necessary implication from the language employed that the legislature intended a particular section to have a retrospective operation, the courts will give it such an operation.** In the absence of a retrospective operation having been expressly given, the courts may be called upon to construe the provisions and answer the question whether the legislature had sufficiently expressed that intention giving the statute retrospectivity. Four factors are suggested as relevant: **(*i*) general scope and purview of the statute; (*ii*) the remedy sought to be applied; (*iii*) the former state of the law; and (*iv*) what it was the legislature contemplated.** (p. 388) The rule against retrospectivity does not extend to protect from the effect of a repeal, a privilege which did not amount to accrued right. (p. 392)"
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> (emphasis supplied)

37) The principles enunciated in ***Zile Singh*** (supra) make it abundantly clear that retrospective operation may ordinarily be inferred where the amendment is declaratory, clarificatory, curative, or intended to explain an obvious omission in the prior law. However, the amendment brought about to Sections 166 and 167 of the Abolition Act w.e.f. 03.06.1981 does not answer any such description. Prior to the amendment, transfers falling foul of Section 154 were governed by Section 163, which merely rendered the transferee liable to ejectment at the instance of the Gaon Sabha. By the amendment, Section 163 came to be omitted and the ambit of Sections 166 and 167 was simultaneously enlarged so as to render such transfers void and provide for vesting in the State. The amendment therefore did not merely clarify the existing law but introduced a substantive alteration in the legal consequences attached to such transfers.

38) In contrast to statutes dealing with substantive rights, statutes dealing merely with matters of procedure are presumed to be retrospective unless such construction is textually inadmissible. However, even a procedural statute should not generally speaking be applied retrospectively where the result would be to create new disabilities or obligations or to impose new duties in respect of transactions already accomplished. Further, a statute which not only changes the procedure but also creates new rights and obligations shall ordinarily be construed to be prospective unless otherwise provided either expressly or by necessary implication.

39) It is equally settled that statutes regulating transfers are ordinarily prospective in operation. Statutes prescribing formalities for effecting transfers are not applicable to transfers made prior to their enforcement,

and similarly statutes dispensing with earlier formalities do not validate prior transactions lacking such formalities. Likewise, a transfer valid when made is not invalidated by a subsequent statutory prohibition. ***[See: Thakoor Hurdeo Bux v. Thakoor Jowahir Singh, (1879) 6 IA 161; State of Kerala v. Philomina, (1976) 4 SCC 314].***

40) At this juncture, it is also apposite to refer to the provisions of the U.P. General Clauses Act, 1904. Section 6(c) thereof provides that unless a different intention appears, the repeal of an enactment shall not affect any right, privilege, obligation or liability acquired, accrued or incurred under the repealed enactment. Similarly, Section 6(e) stipulates that repeal shall not affect any remedy or legal proceeding in respect of such rights or liabilities and that the same may be continued as if the repealing enactment had not been passed. Further, Section 4(13) defines the expression "enactment" to include any provision contained in an Act. Thus, the omission of Section 163 and the subsequent enlargement of the ambit of Sections 166 and 167 cannot, in absence of a contrary intention, retrospectively alter the legal consequences already attached to transactions governed by the pre-amended statutory regime.

41) Even arguendo, if the contention advanced on behalf of the respondents is accepted and Sections 166 and 167 are retrospectively applied to transactions already governed by Section 163, the same would create an irreconcilable dichotomy within the statutory framework itself. Under the unamended regime, Section 163 specifically contemplated a situation where a transfer made in contravention of Section 154 would merely render the transferee liable to ejectment at the instance of the Gaon

Sabha. The illegality under Section 163 was therefore neither automatic nor self-operative, but conditional upon the institution of proceedings by the Gaon Sabha. In contrast, the amended framework under Sections 166 and 167 treats such transfer itself as void and contemplates automatic vesting of the land in the State. If both consequences are retrospectively superimposed upon the same transaction, it would lead to a manifest statutory inconsistency and an administrative cul-de-sac, thereby defeating the very legislative scheme underlying the unamended provisions. Such an interpretation, apart from unsettling vested rights, would attribute to the legislature an intention to create two mutually inconsistent consequences governing the same transaction, which plainly cannot be sustained. Such a construction must be eschewed, for it is a settled principle that statutory interpretation ought to suppress the mischief and advance the remedy rather than create internal inconsistency within the enactment itself. **[*See: Bengal Immunity Co. Ltd v State of Bihar, 1955 1 SCC 763.*]**

42) In the present case, neither the language of the amending Act of 1982 nor the scheme of the amended provisions discloses any express intention to give retrospective operation to the enlarged scope of Sections 166 and 167 of the U.P.Z.L.R.A. Equally, no such intention can be gathered by necessary implication, particularly when the amendment substantially altered the legal consequences attached to transfers previously governed by Section 163. The amendment, being substantive in nature and affecting accrued rights and liabilities, must therefore operate prospectively. Consequently, the sale deed dated 04.06.1957 could not have been rendered void nor could the land vest in the State by retrospective application of the amended provisions.

THE STATUTORY COMPETENCE OF CONSOLIDATION AUTHORITIES VIS-À-VIS REGISTERED INSTRUMENTS

43) This now brings us to the next contention advanced on behalf of the appellants, namely, whether the Consolidation Authorities were competent to disregard the registered sale deed dated 04.06.1957 while adjudicating title under the provisions of the U.P. Consolidation of Holdings Act,1953.

44) Section 5(2)(a) of the Uttar Pradesh Consolidation of Holdings Act,1953, provides that upon issuance of a notification under Section 4(2), every suit or proceeding relating to declaration or adjudication of rights and interests in land situated within the consolidation area shall stand abated, insofar as such matters can or ought to be adjudicated under the Act. Similarly, Section 49 of the U.P. Consolidation of Holdings Act,1953, expressly bars the jurisdiction of Civil and Revenue Courts in respect of matters relating to declaration and adjudication of rights of tenure holders, or any other question which could or ought to be determined by the consolidation authorities under the statutory scheme. The combined effect of the aforesaid provisions is that once consolidation operations commence, the jurisdiction to adjudicate rights and interests in the subject land stands exclusively vested in the consolidation authorities.

45) In the present *lis*, the consolidation authorities have proceeded on multiple grounds to reject the appellants' claim under the sale deed dated 04.06.1957. *Inter alia*, it has been held that the said sale deed is hit by Section 154 of the Abolition Act and is, therefore, *void ab initio*. Additionally, reliance has also been placed upon alleged discrepancies in the evidence regarding execution of the document, including variations in the particulars

of the attesting witness, to doubt its due execution. Proceeding on these cumulative findings, the authorities declined to accept the sale deed as conferring valid title upon the appellants.

46) To counter the reasoning of the Consolidation Authorities, the first limb of the submission advanced on behalf of the appellants rests upon the decision of this Court in ***Gorakh Nath Dube vs. Hari Narain Singh and Others***[13]. In the said decision, this Court drew a distinction between documents which are wholly or partially invalid and can be disregarded in appropriate proceedings, and those which require cancellation by a competent court before they cease to have legal effect. It was further held that while Consolidation Authorities may examine the effect of an invalid alienation, they cannot ignore a document whose legal effect can only be taken away by a decree of cancellation. The relevant observations read as under:

> "**5.** .....a distinction can be made between cases where a document is wholly or partially invalid so that it can be disregarded by any court or authority and one where it has to be actually set aside before it can cease to have legal effect. An alienation made in excess of power to transfer would be, to the extent of the excess of power, invalid. An adjudication on the effect of such a purported alienation would be necessarily implied in the decision of a dispute involving conflicting claims to rights or interests in land which are the subject-matter of consolidation proceedings. **The existence and quantum of rights claimed or denied will have to be declared by the consolidation authorities which would be deemed to be invested with jurisdiction, by the necessary implication of their statutory powers to adjudicate upon such rights and interests in land, to declare such documents effective or ineffective, but, where there is a document the legal effect of which can only be taken away by setting it aside or its cancellation, it could be urged that the consolidation authorities have no power to cancel the deed, and, therefore, it must be held to be binding on them so long as it is not cancelled by a court having the power to cancel it.....**"
>
> (emphasis supplied)

[13] (1973) 2 SCC 535

47) At this juncture, it would be apposite to elucidate the distinction between void and voidable transactions, which becomes germane for appreciating the principle laid down in ***Gorakh Nath Dube*** (supra). In this regard, a beneficial reference can be made to the case of ***Ningawwa vs. Byrappa Shiddappa Hireknrabar and Others***[14], wherein the legal position was explained as follows:

> "**4.....**It is well established that **a contract or other transaction induced or tainted by fraud is not void, but only voidable at the option of the party defrauded. Until it is avoided, the transaction is valid, so that third parties without notice of the fraud may in the meantime acquire rights and interests in the matter which they may enforce against the party defrauded.** "The fact that the contract has been induced by fraud does not make the contract void or prevent the property from passing, but merely gives the party defrauded a right on discovering the fraud to elect whether he shall continue to treat the contract as binding or disaffirm the contract and resume the property. If it can be shown that 'the party defrauded' has at any time after knowledge of the fraud either by express words or by unequivocal acts affirmed the contract, 'his' election is determined for ever. The party defrauded may keep the question open so long as he does nothing to affirm the contact." (*Clough* v. *L. & N.W. Ry.*) [(1871) LRs 7 Ex 26, 34] .
>
> **5. The legal position will be different if there is a fraudulent misrepresentation not merely as to the contents of the document but as to its character. The authorities make a clear distinction between fraudulent misrepresentation as to the character of the document and fraudulent misrepresentation as to the contents thereof. With reference to the former, it has been held that the transaction is void, while in the case of the latter, it is merely voidable.** In *Foster* v. *Mackinon* [(1869) 4 CP 704] the action was by the endorsee of a bill of exchange. The defendant pleaded that he endorsed the bill on a fraudulent representation by the acceptor that he was signing a guarantee. In holding that such a plea was admissible, the Court observed:
>
> "It (signature) is invalid not merely on the ground of fraud, where fraud exists, but on the ground that the mind of the signer did not accompany the signature; in other words, that he never intended to sign, and therefore in contemplation of law never did sign, the contract to which his name is appended.... The defendant never intended to sign that contract or any such contract. He never intended to put his name to any instrument that then was or thereafter might become negotiable. He was deceived, not merely as to the legal effect, but as to the 'actual contents' of the instrument."
>
> (emphasis supplied)

[14] 1968 SCC OnLine SC 206

48) The aforesaid distinction between void and voidable instruments in the context of consolidation proceedings has been recently reiterated by this Court in ***Khursheed and Another vs. Shaqoor***[15], wherein, after considering ***Ningawwa*** (supra) and ***Gorakh Nath Dube*** (supra), the legal position was succinctly restated in the following terms:

> "**10.** This Court, in *Dularia Devi* v. *Janardan Singh*, 1990 Supp SCC 216 : AIR 1990 SC 1173 relying upon the law laid down in *Ningawwa* (supra) and *Gorakh Nath Dube* (supra) had **held that a "voidable" document continues to be in force until it is set aside and such a document can only be set aside by a competent civil court. Further, such documents were held to be binding upon the Consolidation Authorities so long as they are not cancelled or set aside by a Court vested with the jurisdiction to do so**. Moreover, in *Ram Sakal Singh* v. *Mosamat Monako Devi*, (1997) 5 SCC 192 this Court has held that the **consolidation authorities do not have the jurisdiction and power to cancel a document, which is required to be set aside or cancelled and the document will continue to be valid till it is cancelled by a Competent Court i.e. a Civil Court.** This court also held that if the document is void, it would be open for the Consolidation Authorities to disregard such a document & in such a case, they would get the exclusive jurisdiction to proceed with the matter. **But if the document is voidable, the Civil Court is vested with the jurisdiction to declare the same to be voidable. In the case of voidable documents, not only would the Consolidation Authorities have no power to cancel such documents, but even the proceedings pending before any competent Civil Court would not abate**."
>
> (emphasis supplied)

49) Thus, it is clear from the above principles that Consolidation Authorities cannot brush away from considering a sale deed which is voidable, until and unless, the same stands cancelled by a competent Civil Court.

THE PRESUMPTION OF GENUINENESS AND DUE EXECUTION

50) We will now advert to the next facet of the *lis,* namely, whether the Consolidation Authorities and the High Court were justified in doubting the

[15] 2024 SCC OnLine SC 2929

genuineness and due execution of the registered sale deed dated 04.06.1957 based on alleged discrepancies relating to the attesting witness.

51) At the outset, it is necessary to note that the original sale deed dated 04.06.1957 was a registered document. The original deed having not been available, a certified copy thereof was produced before the Consolidation Authorities. It is trite law that a registered document carries a presumption of valid execution and genuineness unless rebutted by cogent evidence. In this regard, it would be apposite to refer to the recent decision of this Court in ***Hemalatha (D) by Legal Representatives v. Tukaram (D) by Legal Representatives and Others***[16], wherein the relevant observation read thus:

> "**31**. It is a settled position of law that a registered Sale Deed carries with it a formidable presumption of validity and genuineness. Registration is not a mere procedural formality but a solemn act that imparts high degree of sanctity to the document. Consequently, a Court must not lightly or casually declare a registered instrument as a "*sham*". Adopting the principles enunciated in *Prem Singh* v. *Birbal*, (2006) 5 SCC 353[1], *Jamila Begum (Dead) Through Lrs.* v. *Shami Mohd. (Dead) Through Lrs.*, (2019) 2 SCC 727[2], and *Rattan Singh* v. *Nirmal Gill*, (2021) 15 SCC 300[3], **this Court reiterates that the burden of proof to displace this presumption rests heavily upon the challenger. Such a challenge can only be sustained if the party provides material particulars and cogent evidence to demonstrate that the Deed was never intended to operate as a *bona fide* transfer of title.**
>
> **32.** The grounds typically accepted to challenge a registered Deed at the instance of the vendee/executant are fraud or want of capacity in any party or mistake of fact or fundamental illegality like where the Deed was executed under deceit or sold by a fraudster who did not own the land or where the Deed was executed without consideration, namely, if no money or value was actually exchanged despite recitals in the Deeds or where there was coercion or intimidation like where the seller was forced to sign without free consent.
>
> **33.** While the aforementioned grounds are illustrative and not exhaustive, this Court must caution against the growing tendency to challenge registered instruments '*at the drop of a hat*'. If the sanctity of registered documents is diluted, it would erode public confidence in property transactions and jeopardize the security of titles. In a society governed by the Rule of Law, registered documents must inspire certainty; they cannot be rendered precarious by frivolous litigation."
>
> (emphasis supplied)

[16] 2026 SCC OnLine SC 106

52) The aforesaid observations leave little room for doubt that a registered conveyance cannot be lightly brushed aside on conjectures or insignificant discrepancies. The burden to dislodge the presumption attaching to such an instrument lies heavily upon the party assailing it, and such burden can be discharged only through clear, cogent and convincing evidence establishing fraud, fabrication, want of execution or any other circumstance striking at the root of the transaction itself.

53) At this juncture, it is also necessary to note that attestation is not a statutory requirement for the validity of a sale deed. Unlike instruments such as wills or gifts, a sale deed does not derive its validity from attestation. Consequently, minor discrepancies relating to the particulars of an attesting witness cannot, by themselves, render the execution of a registered sale deed doubtful, particularly where the document otherwise carries the statutory presumption attached to registered instruments. In this regard, Section 79 of the Indian Evidence Act, 1872 further provides that the Court shall presume to be genuine every certified copy which is by law declared admissible in evidence and which purports to be duly certified by a public officer in the manner directed by law. Thus, the certified copy of the registered sale deed produced in the present case carried a presumption as regards its genuineness and due certification, particularly when the genuineness of the sale deed itself has never been questioned.

54) In the present *lis*, one of the principal circumstances which weighed with the Consolidation Authorities and the High Court while doubting the execution of the sale deed was the discrepancy in the description of the

attesting witness Baru. In the witness statement recorded on 07.09.1995, the witness described himself as *"Baru son of Nathu, resident of Nasirpur Kalan"*, whereas in the certified copy of the registered sale deed the attesting witness was described *as "Baru resident of Nihandpur Suthari"*. Proceeding on this discrepancy, the authorities below doubted the due execution of the sale deed itself.

55) In our considered opinion, the aforesaid discrepancy was wholly inconsequential and incapable of dislodging the presumption attaching to a registered conveyance executed nearly four decades earlier. The sale deed in question was executed on 04.06.1957, whereas the testimony of the attesting witness came to be recorded after approximately 38 years on 07.09.1995. In such circumstances, minor variations in the description of residence or village particulars could hardly be treated as material contradictions striking at the root of the transaction itself, particularly when both villages are admittedly proximate to each other.

56) More importantly, a careful reading of the cross-examination of the witness Baru does not disclose that any suggestion whatsoever was put to him that he was a fictitious or fraudulent witness, or that the discrepancy in the village description rendered his testimony suspicious. The cross-examination substantially revolved around his memory regarding surrounding circumstances, boundaries, consideration, and ancillary details relating to a transaction which had taken place several decades prior. Significantly, despite lengthy cross-examination, the witness consistently maintained that he had witnessed the execution of the sale deed and that possession had been delivered pursuant thereto. No material contradiction

was elicited to impeach his credibility or to establish fabrication of the document.

57) Equally, it is not even the pleaded case of the respondents that the sale deed was forged, executed under coercion, impersonation or fraudulent misrepresentation as contemplated in ***Ningawwa*** (supra). The challenge was not founded upon any allegation that the executants were deceived as to the character of the document, nor that the transaction suffered from fraud of such nature as would render the instrument *void ab initio*. At the highest, the objections raised pertained only to peripheral discrepancies in proof. Such circumstances, by no stretch, could justify disregarding a registered conveyance carrying a presumption of validity in law.

58) Further, the appellants have consistently asserted possession pursuant to the sale deed, and significantly, such assertion has not been effectively controverted by the respondents. The cumulative effect of the registered sale deed, the presumption attaching thereto, the absence of any substantive challenge alleging forgery or fraud, and the failure of the respondents to elicit any material contradiction in the testimony of the attesting witness, clearly render the findings recorded by the Consolidation Authorities and affirmed by the High Court unsustainable in law.

59) In view of the foregoing discussion, we are of the considered opinion that the High Court as well as the Consolidation Authorities committed manifest error in treating the sale deed dated 04.06.1957 as *void* and in disregarding the same based on immaterial discrepancies relating to the attesting witness.

60) The impugned judgment and orders, therefore, cannot be sustained and are accordingly set aside and it is directed that the names of the appellants be recorded in the revenue records.

61) The Civil Appeal stands allowed. No order as to costs.

.....J.
(PRASHANT KUMAR MISHRA)

.....J.
(N.V.ANJARIA)

NEW DELHI;
JUNE 23, 2026.