IN THE HIGH COURT OF MADHYA PRADESH AT INDORE

BEFORE

HON'BLE SHRI JUSTICE SANDEEP N. BHATT

ON THE 8th OF SEPTEMBER, 2026

WRIT PETITION No. 37132 of 2025

RAJAT BUILDERS PRIVATE LIMITED THROUGH MR RAJENDRA BEESANI

Versus

THE STATE OF MADHYA PRADESH

Appearance:

Shri Vijay Kumar Asudani - Advocate for the petitioner.

Ms Pranjali Yajurvedi - Govt. Advocate for the respondent .

RESERVED ON : 02.09.2026
PRONOUNCED ON : 08.09.2026

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ORDER

The present petition under Article 226 of the Constitution of India has been filed praying for the following reliefs:

> "In light of the facts, circumstances and grounds set out above, the Petitioner most respectfully prays that it will be in the interest of justice and fitness of things if this Hon'ble Court may graciously be pleased to:
> a.Issue a writ of certiorari, or any other writ, order or direction as may be considered appropriate, quashing and setting aside the final order dated June 27, 2025 (Annexure --P/1) in Ref No. /01/90-b(3)/2025-26; and
> b. Issue a writ of certiorari, or any other writ, order or direction as may be considered appropriate, quashing and setting aside the draft statement dated April 13, 2000 (Annexure P/2) issued in the said proceedings by the Respondent, being without jurisdiction; and
> c. Issue a writ of certiorari, or any other writ, order or direction as may be considered appropriate, quashing and setting aside the proceedings in Case No. 2-A-10/B- 3/1977-78, carried out by the Respondent wherein the impugned orders under Annexure P/1 and P/2 above, have been passed; and
> d. Issue a writ of prohibition, or any other writ, order or direction as considered appropriate, arresting further continuation of any other proceedings in Case

No. 2-A- 10/B-3/1977-78; and Pvt.Ltd.
e. Allow this Petition with costs."

2. Brief facts giving rise to the present petition are as under:

The impugned order dated 27.06.2026 passed by the respondents whereby the petitioner's objection under Section 11(3) of the Madhya Pradesh Holdings Act, 1960[for brevity, referred to as "Ceiling Act, 1960" hereinafter] have been rejected. The impugned order is passed in utter and grave violation of principles of natural justice as the documents forming the basis of the entire proceedings were never supplied to the petitioner despite a categorical written request being made in that regard. The draft statement dated 13.04.2000 published by the respondent authority under Section 11(1) of the Ceiling Act, 1960. The entire proceedings were initiated by the respondent authority under the Ceiling Act, 1960. The notice issued under Section 10 of the Ceiling Act, 1960 was without jurisdiction as there was no satisfaction by the respondent as to whether the erstwhile owner was 'holder of the land on the appointed day and as to whether there was any 'failure' by the erstwhile owner to submit the return under Section 9 of the Ceiling Act, 1960. Proceeding should not have been initiated as the subject matter of the present case is a tank. The impugned order is entirely arbitrary, capricious and frivolous as the calculations of surplus land have been made in contravention to the settled principles of law. Hence, the present petition is filed.

3. Learned counsel for the petitioner submits that the petitioner is a

bonafide purchaser of the land in question admeasuring 1501 *bighas* situated in Village Banediya which included Banediya Tank. He has drawn my attention towards the chronology of events which is as under:

(i) On 30.05.1960, after coming into force, the M.P. Land Revenue Code, 1959[referred to as 'the Code' hereinafter], possession of property was taken over by the Tehsildar and since then, the State has been in possession.

(ii) On 15.11.1961, i.e on the appointed day, the Act, 1960 came to be notified. He further submitted that the original owner Sardar Madhav Rao Kibe who is owing the land passed away 12.10.1963. On 09.06.1964, report was submitted by SLR. On 15.07.1964, notice u/S 10 of the Act, 1960 was allegedly issued by the SDO in the name of a dead person (i.e. Sardar Madhav Rao Kibe). On 12.11.1964, a suit for possession was filed by the legal representatives of Sardar Madhav Rao Kibe.

(iii) On 07.05.1966, suit was decreed against the State Government and it was directed that possession be restored. On 22.12.1969, judgment and decree passed by the trial Court was upheld in first appeal.

(iv)In the meantime, in the year 1982, judgment and decree passed by the trial Court was upheld by this Court in Second Appeal filed by the State. On 30.04.1989, ceiling proceedings came to an end by virtue of law in terms of Section 11(9) of the Act,1960.On 09.05.1991, by order of Hon'ble Supreme Court, *mense* profit was granted. Thereafter, in the year 1994, execution proceedings were initiated by the legal representatives of Sardar Madhav Rao Kibe .

(v)On 09.08.1999, ceiling proceedings were resumed by the Collector with a view to defeat the decree. On 13.04.2000, direction to prepare draft statement was given. On 24.05.2000, final statement u/S 11(6) of the Ceiling Act, 1960 was published. On 25.02.2005, legal representatives of Sardar Madhavrao Kibe preferred Civil suit which was dismissed. On 21.10.2024, legal reprsentatives of Sardar Madhavrao Kibe preferred first appeal.On 17.12.2024, first appeal was allowed by this Court in part. On 16.01.2025, petitioner filed objection which was dismissed by the Collector *vide* order dated 27.06.2025, which is *ex-facie* bad in the eyes of law and is without jurisdiction. Hence, the present petition is filed.

5. Learned counsel for the petitioner has raised the followings contentions:

(i) As per Section 9 of the Act, 1960, every holder who on the 'appointed day' holds land in excess of the ceiling area is required to furnish a return before the competent authority. However, in case if the person holding the land fails to do so, then the competent authority may issue a notice under Section 10 of the Act, 1960 requiring such person to furnish the return. He further submitted that it is crystal clear that under the scheme of the Act, 1960, proceedings can be initiated only against a 'holder' (and not the owner) who holds land in excess of the ceiling area on the appointed day. The term 'holder' is defined under Section 2(h) to mean a tenure holder or an occupancy tenant or a government lessee of land within the State.

(ii) It is further submitted that it is pertinent to mention here that

Madhavrao Kibe (to whom the notice u/s 10 was issued) was neither a tenure holder, nor an occupancy tenant and nor a government lessee of the subject property. (iii) It is submitted that it is the case of the petitioner that Madhavrao Kibe (to whom the notice u/s 10 was issued) was not the holder of the subject property on the appointed day (15/11/1961) for the reason that Madhavrao Kibe had already been dispossessed by the State on 30/05/1960 itself, which is an admitted position. In fact, since 30/05/1960, the State has been in possession till date and, therefore, it can by no stretch of imagination be contended that Madhavrao Kibe or his legal representatives were the holder of the subject property on the appointed day. Therefore, the Act, 1960 itself is not applicable in the present case.

(iv) It is contended that admittedly the subject matter of the present case is a tank which has been declared as surplus land under the Act, 1960 and tank is not included within the definition of land as defined under Section 2(k) of the Act, 1960. Even on that count the Act, 1960 is not applicable to the present case.

(v) Learned counsel has referred to Section 2(k) of the Act, 1960, which defines land to mean land held for an agricultural purpose but does not include land diverted to or used for non-agricultural purpose, thereby, excluding a tank from the definition of land.

(vi) It is further contended that Section 2(p) provides that the words and expressions used but not defined in the Act, 1960 and defined in the Madhya Pradesh Land Revenue Code, 1959 ("the Code, 1959") shall have the meaning assigned to them in the Code.

(vii) He has further drawn the attention to Section 2(h) of the Code of 1959 which defines land to mean a portion of the earth's surface whether or not under water. Thus, the definition of land under the Code of 1959 expressly includes even that portion which is under water. However, at the time of enactment of the Ceiling Act, 1960, the legislature chose to make a conscious departure from this definition and excluded a tank from the definition of land under the Ceiling Act, 1960. The legislative intent is therefore very clear that a tank is not land for the purposes of the Ceiling Act, 1960.

(viii) He further submitted that even as per the definition of land under the Ceiling Act, 1960, there is no material on record to show that the tank was being used for agricultural purposes on the appointed date and there is no finding in this regard. Mere use of the tank for agricultural purposes for a brief period that too much prior to the appointed date will not suffice in this regard.

(ix) It is also submitted that as per Section 2(e)(ii) of the Ceiling Act, 1960, as the subject property admittedly falls in two different sub-divisions, the competent authority is only the District Collector. However, in the present case, the alleged notice under Section 10 was issued by the Sub-Divisional Officer, who had no jurisdiction whatsoever. As such, the proceedings initiated by a person having no jurisdiction is no proceeding in the eyes of law and hence void.

(x) Even otherwise, without prejudice to the foregoing, it is submitted that the mandate of the competent authority had expired and it had lost its jurisdiction in terms of Section 11(9) of the Act, 1960, which provides that after expiry of 6 months from 01/11/1988, the competent authority loses its jurisdiction to proceed with the matter and the proceedings come to an end. Such proceedings can be continued only on fulfilling the condition that prior to the proceedings coming to an end, the competent authority having sent a request for extension of time to the commissioner, who thereafter extends the time for completion of the proceedings.

(xi) It is further contended that in the present case, neither any such request has been sent nor has any extension been granted by the commissioner. As such, the proceedings have already come to an end by operation of law and therefore, also the authority has acted without jurisdiction.

(xii) Lastly, he has raised another contention that notice was issued to a dead person and such a notice is required to be considered in nullity and the entire proceedings initiated pursuant to such a notice are rendered void.

(xiii) Learned counsel also submitted that in the present case, Madhavrao Kibe died on 12.10.1963 whereas the notice under Section 10 of the Ceiling Act, 1960 was issued to Madhavrao Kibe in the year 1964. It is pertinent to mention here that no notice was ever issued to any of the legal representatives of Madhavrao Kibe.Since the notice itself has been issued to a dead person, the same is non- est in law and hence, the entire proceedings are required to be quashed on this ground itself.

(xiv) Learned counsel has further drawn my attention towards Sections 9 and 10 of the Ceiling Act, 1960 which reveals that prior to initiation of the proceedings, the competent authority is required to apply its mind and come to a *prima facie* satisfaction that the person to whom the notice is being issued is the holder, such person holds the land in excess of the ceiling limit and there has been a failure on the part of such holder to submit the return under Section 9 of the Ceiling Act, 1960.

(xv) In the present case, the notice under Section 10 of the Ceiling Act, 1960 has been issued in a completely mechanical manner, without even considering the fact that he was in any case not the holder. Further, the issuance of notice is based on borrowed satisfaction as the notice was issued solely on the basis of a report of the SLR dated 09.06.1964, thereby showing non-application of mind. Hence, the entire proceedings since its inception are without jurisdiction.

(xvi) It is also contended that in any case, no notice under Section 10 of the Ceiling Act, 1960 was ever issued by the Collector, who was the competent authority. Once a new case was registered in the year 1978, then it was incumbent upon the Collector to issue a fresh notice under Section 10. In the absence of the same, the entire proceedings before the Collector are a nullity.

6. In support of his contentions , learned counsel for the petitioner has relied on various judgments which are follows:

S.No.	Particulars of Judgments Relied
1.	State of Uttar Pradesh Vs. Singhara Singh **AIR 1964 SC 358**
2	Babu Verghese Vs. Bar Council of Kerala **(1999) 3 SCC 422**
3	Dhananjaya Reddy Vs. State of Karnataka **(2001) 4 SCC 9**
4	CIT Vs. Anjum M.H. Ghaswala **(2002) 1 SCC 633**
5	Bhavnagar University Vs. Palitana Sugar Mill **(2003) 2 SCC 111**
6	Tata Chemicals Vs. Commissioner **(2015) 11 SCC 628**
7	Brajendra Singh Yambem Vs. Union of India **(2016) 9 SCC 20**
8	A.P. Electrical Equipment Corporation Vs. Tehsildar **2025 SCC Online SC 447**
9	Calcutta Discount Co. Ltd. Vs. ITO **1960 SCC Online SC 10**
10	Ashok Transport Agency Vs. Awadesh Kumar **(1998) 5 SCC 567**
11	C. Muttu Vs. Bharath Match Works **1963 SCC Online Kar 88**
12	Sarup Singh Vs. Union of India **(2011) 11 SCC 198**

7. Learned counsel for the State opposed the same by drawing my attention towards the written submissions filed and has made the following submissions:

(i) It is submitted that in fact the legal representatives of original person Madhav Rao Kibe have participated in the proceedings and therefore it cannot be said that the proceedings are proceeded against a dead person. It is also contended by referring to the reply in the present petition that otherwise also petitioner is required to be shown the alleged defect of the service on dead person was and merely formulative assertion of relative is not sufficient.

(ii) She has further submitted that the decisive legal test it is whether a person entitled to be noticed and to be head when in fact given opportunity to be heard and whether any procedural infirmity occasioned had actual prejudice whereby record shows that the matter had proceeded to the draft and final settlement stages that objections lodged by interested persons and that hearings were recorded of matters which are on record and therefore the answering respondents submitted that the petitioner's formal objection abut initial addressing of notice, without specific proof of prejudice or denial of opportunity, does not automatically vitiate the entire statutory scheme.

(iii) She has submitted that the statutory time limits and procedural provision must be construed in the light of object and purpose of provision. When a superior Court has remitted the matter and has directed statutory authority to proceed in accordance with law. Such remind authorizes the authority has to act pursuant to judicial direction and to take fresh decision.

(iv) She has referred to remand orders of this Court expressly authorizing fresh consideration. The Collector proceeded in accordance with law and has passed the impugned order on 27.06.2025 after hearing the parties.

(v) Lastly, she has submitted by referring to the judgment passed by the Hon'ble Apex Court passed in the case of ***Central Council for Research In Ayurvedic Sciences and Anr. Vs. Bikhartan Das & Ors. [Civil Appeal No. 3339/2023]*** wherein the scope of Article 226 of the Constitution of India for exercising jurisdiction by the High Court has been discussed, more particularly for issuance of writ of *certiorari*,

(vi) Learned counsel for the State by referring to the judgment passed in the case of ***Radha Krishan Industries Vs. State of Himachal Pradesh and Others*** reported in ***2021(6) SCC 771*** objected to the maintainability of writ petition, when the alternative remedy is available to the present petitioner.

(vii) She has further referred to the judgment passed by this Court in the case of ***Mehr Taj Nawab Sultan Vs. The State of M.P. & Ors*** reported in ***AIR 1977 MP 193***.

8. On all these grounds, learned counsel for the State prayed that the petition filed by the petitioner may be dismissed.

9. I have heard contentions advanced by the rival parties and perused the record.

10. It is relevant to reproduce the chronology of events:

Dates	Events
15.11.1961	Ceiling Act brought into force (Notification dated 04.11.1961 published in Gazette 10.11.1961)
12.10.1963	Madhav Rao Kibe passed away
09.06.1964	Report submitted by SLR
15.07.1964	Notice u/S 10 issued to Madhav Rao Kibe by SDO
12.11.1964	Lr's of Madhav Rao Kibe filed a Civil Suit 95A/1964
07.05.1966	Civil Suit decreed directing State to put LR's in possession
22.12.1969	First Appeal filed by State dismissed (Appeal 15/1969)
04.03.1982	Second Appeal filed by State dismissed (SA/95/1970)
01.11.1988	11A introduced
09.05.1991	Mesne Profit granted by Hon'ble Supreme Court in SLP(C) No 6241/1982 (Civil Appeal 2445/91) amount ot Rs. 25,000/- wit interest @12%
01.07.1994	Rajat Builders purchased decretal rights

09.08.1999	To defeat decree - Respondents resumed Ceiling proceedings agains LRs'
13.04.2000	Direction to prepare draft statement
24.05.2000	Final Statement u/S 11(6) published
25.02.2005	LRs' preferred Civil Suit 20A/2003(15A/2004) assailing order date 24.05.2000 which was dismissed
21.10.2024	LRs' preferred First Appeal (FA/287/2005) Petition directed to be impleaded
17.12.2024	FA/287/2005 allowed in part
16.01.2005	Petition filed objection
27.06.2025	Objection dismissed

11. It also transpires that the petitioner has mainly raised five contentions which are as under:

1. Madhya Pradesh Ceiling on Agricultural Holdings Act, 1960 is not applicable to the case in hand.
2. Tank is not included in the definition of 'Land'.
3. Jurisdiction of the competent authority
4. Notice issued to a dead person is a nullity.
5. Section 10 notice is vitiated on account of non-application of mind.

12. For this purpose, various Sections of the Act of 1960 relevant of adjudication of the present case are worthy of reference, which reads as under:

9. Submission of return by person holding land in excess of ceiling.

Every holder who on the appointed day holds land in excess of the veiling area shall in respect of all land held by him including exempted land, i any, furnish within the period of three months from the appointed day to the, competent authority a return containing the following information :-(i)full particulars of land held by him within the State; (ii) full particulars of the encumbrances, if any, on such land together with the name and address of his creditor; (iii)[x x x] [Omitted by M.P. Act No. 2 of 1976. (w.e.f. 25-2-1976)](iii-a) full *particulars of any transfers or partition of land effected by him on or after [the 1st January, 1971] [Substituted by M.P, Act No 20 of 1974, (w.e.f. 7-3-1974.)] and before the appointed day; (iv)[full particulars of any pending litigation respecting such land or part thereof, [Clauses (iv) and (v) Substituted by M.P. Act No. 13 of 1974. (w.e.f. 7-3-1974.)](v)full names, ages and addresses of the members of his family, their relation with him and land held by each of them]; [(v-a) full names, ages and addresses of his major sons and land held by each of them as on 1st January, 1971;] [Substituted by M.P. Act No. 20 of 1974. (w.e.f. 7-3-1974.)] (vi) full description of the land which he desires to retain; and(vii)such other information as may be prescribed : Provided that if the holder is a minor, lunatic or idiot, the return on his behalf shall be filed by his guardian. Explanation. - Any person having lawful custody of the minor, lunatic or idiot or of his property, for the time being, shall be deemed to be his guardian: Provided further that where land is held by a joint Hindu family, a joint return may be filed by the manager of such family in respect of such land specifying therein the portion of the land which the family desires to retain.*

10. Collection of information.

(1)If any person holding land in excess of the ceiling area fails to submit the return under Section 9, the competent authority may, by a notice in such form and served in such mannar as may be prescribed, require such person to furnish the return within the time specified in the notice and on his failure to do so obtain the necessary information in such manner as may be prescribed.(2)[x x x] [Omitted by M.P. Act No. 12 of 1974. (w.e.f. 7-3-1974.)

2 (e)"competent authority" means-(i)[in respect of a holder whose entire land is situate within a Sub-Division the Sub-Divisional Officer and/or such other Revenue Officer, not below the rank of a Deputy Collector as may be appointed by the State Government; [Substituted by M.P. Act No. 37 of 1976 (w.e.f. 16-7-1976.)](ii)in respect of a holder whose entire land is situate in more than one Sub-Division of the same district, the Collector or the Additional Collector and where there is no Additional Collector for the district such Deputy Collector, as may be empowered by the State Government to exercise the powers of Collector under the Madhya Pradesh Land Revenue Code, 1959 (No. 20 of 1959) for the purpose; and] (iii)in respect of a holder whose land is situate in more than one district such authority as may be appointed by the State Government;

2(h)["holder" means a tenure holder or an occupancy tenant or a Government lessee of land within the State and the expression to hold land" or "holding land" shall be construed accordingly; [Substituted by M.P. Act No. 12 of 1974 (w.e.f. 7-3-1974.)]

2(k)"land" means land held for an agricultural purpose but does not include land diverted to or used for non-agricultural purpose;

2(p)words and expressions used but not defined in this Act, and defined in the Madhya Pradesh Land Revenue Code, 1959 (20 of 1959), shall have the *meaning respectively assigned to them in that Code*

Section 11 - Preparation of statement of land held in excess of the ceiling area.

> *(9) [The competent authority shall dispose of the case-(i)to which Section 11-A applies, within six months from 1st November, 1988;(ii) which is pending with him on the 1st November, 1988 or which has been be remanded to him or initiated after 1st November 1988 within six months from the date of rema remanded to him before such date within six months from the 1st November, 1988; (iii)which may or intimation as the case may be :Provided that if the competent authority is unable to dispose of t case within the period aforesaid, it shall make report to-(i)the Board of Revenue where the competent authority is the Commissioner or Settlement Commissioner; (ii)the Commissioner where the competent authority is any other Revenue Officer; before the expiry of such period stating therein the reasons for its inability to do so and the Board of Revenue or the Commissioner as the case may be, may allow it such further period as it/he may consider necessary to dispose of such case. No record of the case or proceedings relating thereto shall be forwarded along with the report unless specially called for by the Board of Revenue/the Commissioner] [Inserted by M.P. Act No. 8 of 1989. (w.e.f. 1-11-1988)].*

13. This Court has already recorded the contentions of rival parties, which need not to be reiterated.

14. The relevant para of judgments cited by the rival parties are required to be reproduced, which are as follows:

15. In the case of *State of Uttar Pradesh Vs. Singhara Singh* reported in *AIR 1964 SC 358,* it has been held that:

> *"The rule adopted in Taylor v. Taylor is well recognised and is founded on sound principle. Its result is that if a statute has conferred a power to do an act and has laid down the method in which that power has to be exercised, it necessarily prohibits the doing of the act in any other manner than that which has been prescribed. The principle behind the rule is that if this were not so, the statutory provision might as well not have been enacted. A Magistrate, therefore, cannot in the course of investigation record a confession except in the manner laid down in Section 164. The power to record the confession had obviously been given so that the confession might be proved by the record of it made in the*

manner laid down. If proof of the confession by other means was permissible, the whole provision of Section 164 including the safeguards contained in it for the protection of accused persons would be rendered nugatory. The section, therefore, by conferring on Magistrates the power to record statements or confessions, by necessary implication, prohibited a Magistrate from giving oral evidence of the statements or confessions made to him."

16. In the case of ***Babu Verghese Vs. Bar Council of Kerela*** reported in *(1999) 3 SCC 422,* it has been held that:

> *"31. It is the basic principle of law long settled that if the manner of doing a particular act is prescribed under any statute, the act must be done in that manner or not at all. The origin of this rule is traceable to the decision in Taylor v. Taylor' which was followed by Lord Roche in Nazir Ahmad v. King Emperor who stated as under:*
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> > *"[W]here a power is given to do a certain thing in a certain way, the thing must be done in that way or not at all."*

17. *In the case of* **Dhananjaya Reddy Vs. State of Karnataka** *reported in (2001) 4 SCC 9,* it has been held that:

> *26. Relying upon Nazir Ahmad case and applying the principles laid down in Taylor v. Taylor this Court in Singhara Singh cases held: (AIR e p. 361, para 8)*
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> > *"8. The rule adopted in Taylor v. Taylor is well recognised and is founded on sound principle. Its result is that if a statute has conferred a power to do an act and has laid down the method in which that power has to be exercised, it necessarily prohibits the doing of the act in any other manner than that which has been prescribed. The principle behind the f rule is that if this were not so, the statutory provision might as well not have been enacted. A Magistrate, therefore, cannot in the course of investigation record a confession except in the manner laid down in Section 164. The power to record the confession had obviously been given so that the confession might be proved by the record of it made in the manner laid down. If proof of the confession by other means was 9 permissible, the whole provision of Section 164 including the safeguards contained in it for the protection of accused persons would be rendered nugatory. The section,*

therefore, by conferring on Magistrates the power to record statements or confessions, by necessary implication, prohibited a Magistrate from giving oral evidence of the statements or confessions made to him."

18. In the case of *CIT Vs. Anjum m.H. Ghaswala* reported in *(2002) 1 SCC 633,* it has been held that:.

27. Then it is to be seen that the Act requires the Board to exercise the power under Section 119 in a particular manner i.e. by way of issuance of orders, instructions and directions. These orders, instructions and directions are meant to be issued to other income tax authorities for proper administration of the Act. The Commission while exercising its quasi-judicial f power of arriving at a settlement under Section 245-D cannot have the administrative power of issuing directions to other income tax authorities. It is a normal rule of construction that when a statute vests certain power in an authority to be exercised in a particular manner then the said authority has to exercise it only in the manner provided in the statute itself. If that be so, since the Commission cannot exercise the power of relaxation found in Section g

119(2)(a) in the manner provided therein it cannot invoke that power under Section 119(2)(a) to exercise the same in its judicial proceedings by following a procedure contrary to that provided in sub-section (2) of Section 119

19. In the case of **Bhavnagar University Vs. Palitana Sugar Mill** *reported in* ***(2003) 2 SCC 111,*** it has been held that:

"40. The statutory interdict of use and enjoyment of the property must be strictly construed. It is well settled that when a statutory authority is required to do a thing in a particular manner, the same must be done in that manner or not at all. The State and other authorities while acting under the said Act are only creature of statute. They must act within the four corners thereof"

20. In the case of *Tata Chemicals Vs. Commissioner* reported in *(2015) 11 SCC 628,* it has been held that:

"18. The Tribunal's judgment has proceeded on the basis that

even though the samples were drawn contrary to law, the appellants would be estopped because their representative was present when the samples were drawn and they did not object immediately. This is a completely perverse finding both on fact and law. On fact, it has been more than amply proved that no representative of the appellant was, in fact, present at the time the Customs Inspector took the samples. Shri K.M. Jani who was allegedly present not only stated that he did not represent the clearing agent of the appellants in that he was not their employee but also stated that he was not present when the samples were taken. In fact, therefore, there was no representative of the appellants when the samples were taken. In law equally the Tribunal ought to have realised that there can be no estoppel against law. If the law requires that something be done in a particular manner, it must be done in that manner, and if not done in that manner has no existence in the eye of the law at all. The Customs Authorities are not absolved from following the law depending upon the acts of a particular assessee. Something that is illegal cannot convert itself into something legal by the act of a third person."

21. In the case of *Brajendra Singh Yambem Vs. Union of India* reported in *(2016) 9 SCC 2,* it has been held that:

"36. Similarly, in the case involving the contraband ganja, the Single Judge of the High Court by way of the judgment and order dated 16-6-2006 passed in Writ Petition (C) No. 805 of 2005 quashed the departmental enquiry under the memorandum of charges dated 14-5-1998. The Division Bench dismissed Writ Appeal (C) No. 25 of 2007 filed by the respondents vide judgment and order dated 13-11-2008 and upheld the order of the learned Single Judge. It was pursuant to this that the fresh departmental enquiry was initiated against the appellant on 16-10-2009 after obtaining sanction from the President of India under Rule 9(2)(b)(i) of the CCS (Pension) Rules, 1972.

37. The appellant challenged the correctness of the sanction and charges framed against him before the High Court of Gauhati, Imphal Bench in WP (C) No. 264 of 2010. The High Court quashed the memorandum of charges on the ground that it was issued after four years from the date of the alleged incident. Therefore, it was held that the said action of the disciplinary authority in initiating disciplinary proceedings is not valid in law as the same was barred by limitation as per the provision of Rule 9(2)(b)(ii) of the CCS (Pension) Rules, 1972.

This important legal aspect of the case was not considered by the Division Bench of the High Court while setting aside the common judgment.

38. It is a well-established principle of law that if the manner of doing a particular act is prescribed under any statute then the act must be done in that manner or not at all. The aforesaid legal position has been laid down by this Court in Babu Verghese v. Bar Council of Kerala, the relevant paragraphs of which are extracted hereunder: (SCC pp. 432-33, paras 31-32)

> "31. It is the basic principle of law long settled that if the manner of doing a particular act is prescribed under any statute, the act must be done in that manner or not at all. The origin of this rule is traceable to the decision in Taylor v. Taylor which was followed by Lord Roche in Nazir Ahmad v. King Emperor 10 who stated as under: (Nazir Ahmad case 10, SCC OnLine PC)
>
> '[W]here a power is given to do a certain thing in a certain way, the thing must be done in that way or not at all.'
>
> 32. This rule has since been approved by this Court in Rao Shiv Bahadur Singh v. State of Vindhya Pradesh[11] and again in Deep Chand v. State of Rajasthan 12. These cases were considered by a three-Judge Bench of this Court in State of U.P. v. Singhara Singh 13 and the rule laid down in Nazir Ahmad case10 was again upheld. This rule has since been applied to the exercise of jurisdiction by courts and has also been recognised as a salutary principle of administrative law."

The aforesaid important aspect of the case should have been considered by the Division Bench of the High Court instead of mechanically accepting the argument advanced on behalf of the respondents that the case of the appellant squarely falls under Rule 9(2)(b)(i) read with Rule 9(2)(b)(ii) of the CCS (Pension) Rules, 1972. Therefore, the findings recorded by the Division Bench in the impugned judgment are erroneous in law and are liable to be set aside."

22. In the case of *A.P. Electrical Equipment Corporation Vs. Tehsildar* reported in *2025 SCC Online SC 447,* it has been held that:

"24. This Court in the case of Bhavnagar University v. Palitana Sugar Mill (P) Ltd., (2003) 2 SCC. 111, in the context of the Gujarat Town Planning and Urban Development Act, 1976 held thus:-

> *<u>"The statutory interdict of use and enjoyment of the property must be strictly construed. It is well settled that when a statutory authority is required to do a thing in a particular manner, the</u>*

same done in that manner or not at all. The state and other authorities while acting under the said Act are only creature of statute. They must act within the four corners thereof".

supplied)

25. Thus, applying the principle of strict construction as explained in the aforesaid two decisions, the authorities are required to act strictly in accordance with the statutory provisions. Thus, when sub-section (5) of Section 10 mandates giving notice of an order under the said sub- section to the person in possession, the same is required to be complied with in its true letter and spirit. Considering the nature of rights involved, mere issuance of notice without service thereof, cannot be said to be due compliance with the provisions of the statute. Besides, the provisions of subsection (6) of Section 10 can be resorted to only if the person fails to comply with an order under sub-section (5) thereof, within a period of thirty days of service of notice. Hence, possession cannot be taken over under Section 10(6) of the Act, 1976 unless a period of thirty days from the date of service of notice has elapsed. In absence of service of notice under sub-section (5) of Section 10, there will be no starting point for calculating the period of thirty days. In other words, time will not start running, hence the question of taking over possession under sub-section (6) of Section 10 of the Act, 1976 will not arise at all. In this view of the matter, in the case on hand, it was not open to the respondent authorities to resort to the provisions of sub-section (6) of Section 10 of the Act, 1976 without first strictly complying with the provisions of sub-section (5) thereof. Hence, such action being in contravention of the statutory provisions cannot be sustained and deserves to be struck down."

23. In the case of *Calcutta Discount Co. Ltd. Vs. ITO* reported in *1960 SCC Online SC 10.*

24. In the case of *Ashok Transport Agency Vs. Awadesh Kumar* reported in *(1998) 5 SCC 567,* it has been held that:

"9. In the circumstances, we are unable to uphold the impugned judgment of the High Court. In our opinion, the executing court has rightly taken the view that the suit having been filed against the dead person, the decree was a nullity and could not be executed. The appeal is accordingly allowed, the

impugned judgment of the High Court is set aside and the order passed by the executing court is restored. No order as to costs"

25. In the case of ***C. Muttu Vs. Bharath Match Works*** reported in ***1963 SCC Online Kar 88,*** it has been held that:

> *"10. It is thus clear that a suit filed by the petitioner against a dead person was a nullity and that the learned Subordinate Judge was perfectly justified in dismissing the suit on the ground that the respondent could not be substituted in the place of the Original defendant who was dead on the date of the presentation of the suit. We do not find any good ground to interfere with the order passed by the learned Subordinate Judge."*

26. In the case of ***Sarup Singh Vs. Union of India*** reported in ***(2011) 11 SCC 198,*** it has been held that:

> *20. Insofar as the second issue is concerned, it is true that the executing Court cannot go behind the decree and grant interest not granted in the decree as submitted by the counsel appearing for the appellants in the light of the decision rendered by this Court in State of Punjab v. Krishan Dayal Sharma[2]. But, if a decree is found to be a nullity, the same could be challenged and interfered with at any subsequent stage, say, at the execution stage or even in a collateral proceeding. This is in view of the fact that if a particular court lacks inherent jurisdiction in passing a decree or an making an order, a decree or an order passed by such court would be without jurisdiction and the same is non est and void ab initio.*
>
> *21. The aforesaid position is well settled and not open for any dispute as the defect of jurisdiction strikes at the very root and authority of the court to pass decree which cannot be cured by consent or waiver of the parties. This Court in several decisions has specifically laid down that validity of any such decree or order could be challenged at any stage. In Union of India v. Sube Ram[3] this Court held thus: (SCC pp. 70-71, para 5)*
>
> > *5. ... here is the case of entertaining the application itself; in other words, the question of jurisdiction of the court. Since the appellate court has no power to amend the decree and grant the enhanced compensation by way of solatium*

and interest under Section 23(2) and proviso to Section 28 of the Act, as amended by Act 68 of 1984, it is a question of jurisdiction of the court. Since courts have no jurisdiction, it is the settled legal position that it is a nullity and it can be raised at any stage."

22. In yet another case of Amrit Bhikaji Kale v. Kashinath Janardhan b Trade this Court has held that when a tribunal of limited jurisdiction erroneously assumes jurisdiction by ignoring a statutory provision and its consequences in law on the status of parties or by a decision are wholly unwarranted with regard to the jurisdictional fact, its decision is a nullity and its validity can be raised in collateral proceeding.

23. In *Balvant N. Viswamitra v. Yadav Sadashiv Mule* this Court stated thus: (SCC p. 712, para 9)

"9. The main question which arises for our consideration is whether the decree passed by the trial court can be said to be 'null' and 'void'. In our opinion, the law on the point is well settled. The distinction between a decree which is void and a decree which is wrong, incorrect, irregular or not in accordance with law cannot be overlooked or ignored. Where a court lacks inherent jurisdiction in passing a decree or making an order, a decree or order passed by such court would be without jurisdiction, non est and void ab initio. A defect of jurisdiction of the court goes to the root of the matter and strikes at the very authority of the court to pass a decree or make an order. Such defect has always been treated as basic and fundamental and a decree or order passed by a court or an authority having no jurisdiction is a nullity. Validity of such decree or order can be challenged at any stage, even in execution or collateral proceedings."

(emphasis supplied)

24. In *Chiranjilal Shrilal Goenka v. Jasjit Singh* this Court stated thus: (SCC pp. 517-18, para 18), it has been held that:

"18. It is settled law that a decree passed by a court without jurisdiction on the subject-matter or on the grounds on which the decree made which goes to the root of its jurisdiction or lacks inherent jurisdiction is a coram non judice. A decree passed by such a court is a nullity and is non est. Its invalidity can be set up

whenever it is sought to be enforced or is acted upon as a foundation for a right, even at the stage of execution or in collateral proceedings. The defect of jurisdiction strikes at the very authority of the court to pass decree which cannot be cured by consent or waiver of the party."

27. Learned counsel for the respondent/State has relied upon the following judgments in support of her contentions. Relevant paragraphs of the judgments are reproduced below for ready reference:

(i) Central Council for Research In Ayurvedic Sciences and Anr. Vs. Bikhartan Das & Ors. [Civil Appeal No. 3339/2023], by referring to para 50, in particular.

"The first cardinal principle of law that governs the exercise of extraordinary jurisdiction under Article 226 of the Constitution, more particularly when it comes to the issue of a writ of certiorari is that in granting such a writ, the High Court does not exercise the powers of Appellate Tribunal. It does not review or reweigh the evidence upon which the determination of the inferior tribunal purports to be based. If demolishes the order which it considers to be without jurisdiction or palpably erroneous but does not substitute its own views for those of the inferior tribunal. The writ of certiorari can be issued if an error of law is apparent on the face of the record. A writ of certiorari, being a high prerogative writ, should not be issued on mere asking"

(ii) In the case of *Radha Krishan Industries Vs. State of Himachal Pradesh and Others* reported in *2021(6) SCC 771* that maintainability of writ petition when the alternative remedy is available to the present petitioner.

(iii) In the case of *Mehr Taj Nawab Sultan Vs. The State of M.P. & Ors* reported in *AIR 1977 MP 193* Para 27 & 28 in particular.

"27. In final analysis, it must be held that within their limited jurisdiction, the Competent Authority and the Board of Revenue were not in error when they regarded the petitioner as a tenure-holder

(Bhumiswami) for the purposes of the Ceiling Act and, therefore, a "holder" within the meaning of Sections 9 and 10 of that Act. The petitioner has no case for a writ. She may, if so advised, take recourse to appropriate remedy for declaration that she is still entitled to 'full ownership' of the lands in question (which are contained in the inventory made and agreed upon under Article V of the Merger Agreement).

28. A preliminary objection was noised by the learned Advocate General that the petitioner had an alternative remedy under the Ceiling Act and, therefore, this petition is hit by Cl. (3) of Article 226 of the Constitution. His argument is that as soon as it is found in a statute that remedy is provided, the bar of Cl. (3) of Article 226 of the Constitution comes into play and the bar subsists even though the remedy so provided has been exhausted."

28. At this stage to consider the aspect about exercising jurisdiction under Article, 226 of the Constitution of India, even when alternative remedy is available, it is fruitful to refer to the following judgments for consideration of the facts of present case.

A. In the case of ***Tamilnadu Cements Corp Vs. Unicon Engineers.*** reported in ***2025(4) SCC 1,*** it has been held as under:

"54. The access to High Courts by way of a writ petition under Article 226 of the Constitution of India, is not just a constitutional right but also a part of the basic structure. It is available to every citizen whenever there is a violation of their constitutional rights or even statutory rights. This is an inalienable right and the rule of availability of alternative remedy is not an omnibus rule of exclusion of the writ jurisdiction, but a principle applied by the High Courts as a form of judicial restraint and refrain in exercising the jurisdiction. The power to issue prerogative writs under Article 226 of the Constitution is plenary in nature and the same is not limited by any provision of the Constitution and cannot be restricted or circumscribed by a statute. [Whirlpool Corpn. v. Registrar, Trade Marks, (1998) 8 SCC 1. See also, L. Chandra Kumar v. Union of India, (1997) 3 SCC 261 : 1997 SCC (L&S) 577 : (1997) 228 ITR 725; S.N. Mukherjee v. Union of India, (1990) 4 SCC 594 : 1990 SCC (Cri) 669 : 1991 SCC (L&S) 242; Union of India v. Parashotam Dass, (2025) 5 SCC 786.]

55. It has been well-settled through a legion of judicial pronouncements of this Court that the writ courts, despite the availability of alternative remedies, may exercise writ jurisdiction at least in three contingencies — (i) where there is a violation of principles of natural justice or fundamental rights; (ii) where an order in a proceeding is wholly without jurisdiction; or (iii) where the vires of an Act is challenged. Noticeably, Msefc as a statutory authority performs a statutory role and functions within the four corners of the law.

56. Following the aforesaid dictum, this Court in Harbanslal Sahnia v. Indian Oil Corpn. Ltd. [Harbanslal Sahnia v. Indian Oil Corpn. Ltd., (2003) 2 SCC 107] , had taken notice of the fact that the High Court had referred to the arbitration clause which the writ petitioner could take recourse to, to hold that the rule of exclusion of writ jurisdiction is a rule of discretion and not of compulsion. In an appropriate case, in spite of availability of alternative remedy, the writ courts can exercise its jurisdiction at least in three contingencies, as referred to above. In the facts of the said case, this Court interfered observing that there were peculiar circumstances as the dealership had been terminated on an irrelevant and non-existence cause. Therefore, there was no need to drive the parties to initiate arbitration proceedings.

57. Following the judgments in Whirlpool Corpn. v. Registrar, Trade Marks [Whirlpool Corpn. v. Registrar, Trade Marks, (1998) 8 SCC 1] and Harbanslal Sahnia [Harbanslal Sahnia v. Indian Oil Corpn. Ltd., (2003) 2 SCC 107] , this Court in Radha Krishan Industries v. State of H.P. [Radha Krishan Industries v. State of H.P., (2021) 6 SCC 771 : (2021) 88 GSTR 228] laid down the following principles : (Radha Krishan Industries case [Radha Krishan Industries v. State of H.P., (2021) 6 SCC 771 : (2021) 88 GSTR 228] , SCC p. 795, para 27)

> *"27. The principles of law which emerge are that:*
>
> *27.1. The power under Article 226 of the Constitution to issue writs can be exercised not only for the enforcement of fundamental rights, but for any other purpose as well.*
>
> *27.2. The High Court has the discretion not to entertain a writ petition. One of the restrictions placed on the power of the High Court is where an effective alternate remedy is available to the aggrieved person.*
>
> *27.3. Exceptions to the rule of alternate remedy arise where : (a) the writ petition has been filed for the enforcement of a fundamental right protected by Part III of the Constitution; (b) there has been a violation of the principles of natural justice; (c) the order or proceedings are wholly without jurisdiction; or (d) the vires of a*

legislation is challenged.

27.4. An alternate remedy by itself does not divest the High Court of its powers under Article 226 of the Constitution in an appropriate case though ordinarily, a writ petition should not be entertained when an efficacious alternate remedy is provided by law.

27.5. When a right is created by a statute, which itself prescribes the remedy or procedure for enforcing the right or liability, resort must be had to that particular statutory remedy before invoking the discretionary remedy under Article 226 of the Constitution. This rule of exhaustion of statutory remedies is a rule of policy, convenience and discretion.

27.6. In cases where there are disputed questions of fact, the High Court may decide to decline jurisdiction in a writ petition. However, if the High Court is objectively of the view that the nature of the controversy requires the exercise of its writ jurisdiction, such a view would not readily be interfered with."

58. Thus, it would be true to say that the existence of the statutory remedy does not affect the jurisdiction of the High Court to issue a writ. Nevertheless, the writ jurisdiction being discretionary by policy, the writ courts generally insist that the parties adhere to alternative statutory remedies, as this reinforces the rule of law. However, in exceptional cases, writ jurisdiction can still be exercised as a power to access the court for justice and relief.

59. It is in this context, that a Constitution Bench of five Judges way back in 1954 in Himmatlal Harilal Mehta v. State of M.P. [Himmatlal Harilal Mehta v. State of M.P., (1954) 1 SCC 405 : (1954) 5 STC 115] had observed that the principle that the High Court should not issue a prerogative writ when an alternative remedy is available may not apply when the remedy under the statutes is onerous and burdensome in character, such as when the party has to deposit the whole amount of the tax before filing an appeal. An alternative remedy must be equally efficacious and adequate.

60. While examining the scope of the right to file a writ petition when the statute requires a pre-deposit of tax—an obligation argued as imposing an onerous condition on the right to appeal—this Court in Shyam Kishore v. MCD [Shyam Kishore v. MCD, (1993) 1 SCC 22] , after relying upon several other decisions, observed that the validity of rigid provisions banning entertainment of appeal when taxes are not paid have been upheld so long as the conditions are not so onerous as to amount to unreasonable restriction. In the alternative, the right is almost illusory. Diluting the requirement to pay the disputed tax, this Court observed : (Shyam Kishore *case [Shyam Kishore v. MCD, (1993) 1 SCC 22] , SCC pp. 45-46, para 44)*

"44. … Sometimes, to compel the assessee to pay up the demanded tax for several years in succession might very well cripple him altogether. This apart, an assessee may not be able to deposit the tax while filing the appeal but may be able to pay it up within a short time, or at any rate, before the appeal comes on for hearing in the normal course. There is no reason to construe the provision so rigidly as to disable him from doing this. Again, when an appeal comes on for hearing, the appellate Judge, in appropriate cases, where he feels there is some great hardship or injustice involved, may be inclined to adjourn the appeal for some time to enable the assessee to pay up the tax. Though it will not be expedient or proper to encourage adjournment of an appeal, where it is ripe for hearing otherwise, only on this ground and as a matter of course, an interpretation which leaves some room for the exercise of a judicial discretion in this regard, where the equities of the case deserve it, may not be inappropriate. The appellate Judge's incidental and ancillary powers should not be curtailed except to the extent specifically precluded by the statute. We see nothing wrong in interpreting the provision as permitting the appellate authority to adjourn the hearing of the appeal thus giving time to the assessee to pay the tax or even specifically granting time or instalments to enable the assessee to deposit the disputed tax where the case merits it, so long as it does not unduly interfere with the appellate court's calendar of hearings. His powers, however, should stop short of staying the recovery of the tax till the disposal of the appeal. We say this because it is one thing for the Judge to adjourn the hearing leaving it to the assessee to pay up the tax before the adjourned date or permitting the assessee to pay up the tax, if he can, in accordance with his directions before the appeal is heard. In doing so, he does not and cannot injunct the department from recovering the tax, if they wish to do so. He is only giving a chance to the assessee to pay up the tax if he wants the appeal to be heard. It is, however, a totally different thing for the Judge to stay the recovery till the disposal of the appeal; that would result in modifying the language of the proviso to read:"no appeal shall be disposed of until the tax is paid". Short of this, however, there is no reason to restrict the powers unduly; all he has to do is to ensure that the entire tax in dispute is paid up by the time the appeal is actually heard on its merits. We would, therefore, read clause (b) of Section 170 only as a bar to the hearing of the appeal and its disposal on merits and not as a bar to the entertainment of the appeal itself."

(emphasis in original)

61. Equally important are the observations with reference to the right to file a writ petition under Articles 226 and 227 of the Constitution in certain situations. In this regard, this Court in Shyam Kishore [Shyam Kishore v. MCD, (1993) 1 SCC 22] has observed : (SCC pp. 46-47, para

45)

> *"45. If the provision is interpreted in the manner above suggested, one can steer clear of all problems of constitutional validity. The contention on behalf of the Corporation to read the provision rigidly and seek to soften the rigour by reference to the availability of recourse to the High Courts by way of a petition under Articles 226 and 227 in certain situations and the departmental instructions referred to earlier does not appear to be a satisfactory solution. The departmental instructions may not always be followed and the resort to Articles 226 and 227 should be discouraged when there is an alternative remedy. A more satisfactory solution is available on the terms of the statute itself. The construction of the section approved by us above vests in the appellate authority a power to deal with the appeal otherwise than by way of final disposal even if the disputed tax is not paid. It enables the authority to exercise a judicial discretion to allow the payment of the disputed tax even after the appeal is filed but, no doubt, before the appeal is taken up for actual hearing. The interpretation will greatly ameliorate the genuine grievances of, and hardships faced by, the assessee in the payment of the tax as determined. Though an assessee may not be able to acquire an absolute stay of the recovery of the tax until the dispute is resolved, he will certainly be able to get breathing time to pay up the same where his case deserves it. If this interpretation is placed on the provision, no question of unconstitutionality can at all arise."*

62. In Govind Parameswar Nair v. Municipal Corpn., Greater Bombay [Govind Parameswar Nair v. Municipal Corpn., Greater Bombay, (2001) 9 SCC 166] , a Constitution Bench of five Judges agreed with the interpretation given by the three-Judge Bench in Shyam Kishore [Shyam Kishore v. MCD, (1993) 1 SCC 22] .

63. Recently, in Tecnimont (P) Ltd. v. State of Punjab [Tecnimont (P) Ltd. v. State of Punjab, (2021) 12 SCC 477 : (2019) 69 GSTR 193] , in regard to the question relating to alternative remedy where the disputed amount is required to be deposited to avail the statutory remedy, this Court observed that there is some divergence of opinion, albeit several cases like Shyam Kishore [Shyam Kishore v. MCD, (1993) 1 SCC 22] have attempted to find a solution to provide some support in cases involving extreme hardship where the writ petition would not be dismissed on the ground of equally efficacious alternative remedy."

B. In the case of ***State of U.P. & Another Vs. Ehsan & Another*** reported in ***2024(14) SCC 269***, it has been held as under:

> *"28. We are conscious of the law that existence of an alternative remedy is not an absolute bar on exercise of writ jurisdiction. More so, when a writ petition has been entertained, parties have exchanged their pleadings/affidavits and the matter has remained pending for long. In such a situation there must be a sincere effort to decide the matter on merits and not relegate the writ petitioner to the alternative remedy, unless there are compelling reasons for doing so. One such compelling reason may arise where there is a serious dispute between the parties on a question of fact and materials/evidence(s) available on record are insufficient/inconclusive to enable the Court to come to a definite conclusion."*

C. In the case of ***Army Welfare Society, New Delhi Vs. Sunil Kumar Sharma & Others*** reported in ***2024(16) SCC 598***

29. In view of this background, *prima-facie,* it seems that Section 10 proceedings is served and initiated against a dead person i.e. the original owner Sardar Madhavrao Kibe. It is also relevant to note that Sardar Madhavrao Kibe had died in the year 1963 and notice u/S 10 of the Ceiling Act, 1960 was issued in the year 1964. It is conceded in the impugned order that the subject of the notice was Sardar Madhavrao Kibe and the notice issued to a dead person renders the proceedings a nullity in law. Therefore, no rights could accrue to the respondents on the basis of such a notice and, therefore, the entire proceeding is held to be a nullity. Moreover, considering the broad submissions which are advanced by the counsel for respondents are based on the question of law that writ petition is not maintainable by-passing the statutory provision of revision or appeal under Section 41 to 44 or whether the subsequent purchaser who had purchased the property after commencement of Ceiling proceedings has right to challenge the Ceiling proceedings instead of original holder.

30. It is also contended that the definition of 'land' as provided u/S 2(k) of the Act, 1960 includes 'tank' or not and more important question is whether the land was held by Kibes on the appointed day when the Act of 1960 was notified .

31. It is also important to note whether the mandate of Section 11(9) of the Act, 1960 is directory or mandatory in nature and can the period be extended or the proceedings will lapse automatically after the expiry of six months period and also the aspect that whether the Collector has exceeded its jurisdiction by determining the title of the land in question.

32. All these aspects are required to be kept in mind and dealt with by holding that Section 10 notice is served against a dead person in view of series of judgments which are reproduced hereinabove that no proceedings initiated against dead person or any order passed against a dead person amounts to nullity. It is also clear from the record that the petitioner have filed petition u/S 11(3) of the Ceiling Act, 1960 which was rejected in completely mechanical manner by impugned order dated 27.06.2025 by ignoring the draft statement dated 13.04.2000 published by respondent u/S 11(1) of the Ceiling Act of 1960 and the entire proceedings initiated by the respondents under the Ceiling Act, 1960 are also vitiated.

33. It also transpires that the documents forming the basis of entire proceedings were never supplied to the petitioner in entirety and, therefore, the principles of natural justice also gets violated to some extent. Moreover, the contentions raised by the petitioner that the impugned order dated 27.06.2025 has been passed without jurisdiction as the competent authority has already lost its mandate to continue the proceedings in view of Section 11(9) of the Ceiling Act, 1960. In this regard, the contention raised by the respondent that the said objection is not raised by the erstwhile original owner and raised by the petitioner and, therefore, it is not required to be considered is also found to be erroneous and illegal.

34. It is further required to be noted that on the appointed day, the erstwhile owner was not the holder of the land in question and,therefore, no proceedings can be initiated by considering the provisions of Section 9 and 10 of the Ceiling Act, 1960. Moreover, it is also required to be appreciated the contention regarding the aspect of 'tank' which can by no stretch of imagination be included in the definition of 'land' as defined u/S 2(k) of the Ceiling Act, 1960.

35. The contention of the respondent that Section 49 of the Ceiling Act, 1960 gives the Act an over-riding effect is not helpful to the respondent as there is catena of decisions that the provision of the Act is required to be interpreted as it is and the respondent authority are required to act in consonance with the provisions of Act only and they cannot take shelter of such defense. The over-riding effect does not mean that the provisions of other enactments are not required to be followed, more particularly the question in the present petition is regarding provisions of this very act only where the jurisdiction exercised by the authority is found clearly to be erroneous and, therefore, the petition is required to be considered.

36. So far as the contention of respondents with regard to alternative efficacious remedy is concerned, the same is required to be dealt with in view of judgment passed in the case of ***Whirlpool Corporation Vs. Registrar of Trade Marks*** reported in ***(1998) 8 SCC 1.*** Otherwise also, looking to the fact that in the present case serious issue about exercise of jurisdiction is raised by the petitioner and when the notice itself is found in nullity, this is a fit case where the Court should exercise the power under Article 226 of the Constitution of India by interfering with the order impugned.

37. The order was passed by the Collector dated 27.06.2026 is without giving proper reasons and can be considered to be passed in mechanical manner. Though, there is some discussion regarding objections of the petitioner and predecessor of the petitioner, but without giving proper finding on this aspect and without giving proper reasons by the authority, as such proper reasons are the essence of any judgment or order and, therefore, I find that the order passed by the respondent authority is also required to be interfered with on that count also. It is not disputed that the provisions of Ceiling Act of 1960 is a social welfare legislation enacted to prevent concentration of agricultural holdings and ensure equitable distribution of surplus land and though the Court can consider that such legislation is a beneficial piece of legislation, but that does not mean that the respondent authority is not required to follow necessary procedure, which is required to be followed in consonance with the provisions of the Act and in a manner in which the Act provides and not in any other manner. Therefore, on all that count, I find that the impugned order has been passed by the respondent/authorities in utter violation of the principles of natural justice and in a completely mechanical manner without due application of mind, that too against a dead person, as proceedings initiated against a dead person should be considered in nullity. Moreover, the mandatory provision of Section 9 of the Act, 1960 is not complied with. Otherwise also, no proper opportunity is given to the petitioner. Neither as per the provisions at the initial stage i.e. on the appointed day, the erstwhile owner was not the 'holder' of the land in question not he was in possession of the land as the erstwhile owner was dispossessed by the respondents in the year 1960 itself and, therefore, the provisions of the Ceiling Act, 1960 are not applicable. Hence, the contentions of petitioner are required to be accepted.

38. In view of the above discussion, the petition is allowed. The impugned order dated 27.06.2025 passed by the respondent authority is set aside granting reliefs in terms of Relief Clause 8(a), (b), (c) and (d) with a further direction to the respondent authority to comply with the same, as expeditiously as possible, by making necessary amendments in the revenue records, accordingly.

39. Petition stands disposed off, with the aforesaid.

(SANDEEP N. BHATT)
JUDGE

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