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REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.7407 OF 2012

STATE OF WEST BENGAL & ORS. ...APPELLANT (S)

VERSUS

JAI HIND PVT. LTD. ...RESPONDENT (S)

J U D G M E N T

NONGMEIKAPAM KOTISWAR SINGH, J.

THE CHALLENGE

1. The present Civil Appeal has been preferred by the State of West Bengal and Ors. (hereinafter referred to as "the appellants"), being aggrieved by the impugned judgment and order dated 17.05.2012, passed in WPLRT No. 43 of 2010 by a Division Bench of the High Court of Judicature at Calcutta. The High Court, by the impugned judgment,

allowed the writ petition preferred by Jai Hind Private Limited, the respondent–company herein, and set aside the judgment and order dated 31.03.2010 passed by the West Bengal Land Reforms and Tenancy Tribunal ("the Tribunal" for short), thereby allowing the respondent-company to retain 211.21 acres of land.

2. By the said judgment, the High Court also upheld the review order dated 07.05.2008 passed by the Block Land and Land Reforms Officer (hereinafter referred to as "B.L. & L.R.O."), Bharatpur–II, Murshidabad, West Bengal, as well as the Government Order dated 26.02.2008 issued by the Principal Secretary, Land and Land Reforms Department, Government of West Bengal. Consequently, the High Court directed the concerned authorities, including the Revenue Officer to accept land revenue and cess from the respondent–company in respect of 211.21 acres of land which it had been permitted to be retained pursuant to the order dated 07.05.2008 passed by the B.L. & L.R.O., Bharatpur-II, Murshidabad under Sections 6(1)(j), 6(1)(a) and 6(1)(e) of the West Bengal Estates Acquisition Act, 1953 ("the WBEA Act, 1953", for short) and Section 14Q(1) of the

West Bengal Land Reforms Act, 1955 ("the WBLR Act, 1955" for short).

FACTUAL MATRIX

3. The dispute has arisen from the respondent–company's claim to retain certain lands under the provisions of the WBEA Act, 1953, which was allowed by the High Court in the impugned judgment. The facts in brief essential for adjudication of the present appeal are that the respondent–company, incorporated in the year 1946 under the provisions of the Indian Companies Act, 1913, had 23 shareholders as on 01.01.1952. It had purchased about 205.57 acres of agricultural land in its own name prior to 01.01.1952 and, subsequent to the aforementioned date, purchased an additional 34.14 acres of land, including agricultural land, homestead, ponds, etc.

4. The WBEA Act, 1953, enacted by the State of West Bengal, which came into effect from 12.02.1954, allowed the State to acquire the estates, the rights of intermediaries therein and certain rights of *raiyats* and under-*raiyats*. An intermediary is defined under Section 2(i) of the

aforementioned Act as a proprietor, tenure-holder, under-tenure-holder or any other intermediary above a *raiyat* or a non-agricultural tenant and includes a service tenure-holder and, in relation to mines and minerals, includes a lessee and a sub-lessee. Under Section 4 of the said Act, the State Government may, by notification, declare that all estates and the rights of intermediaries in such estates situated in any district or part of a district as specified in the notification, shall vest in the State free from all encumbrances. Further, Section 5 of the WBEA Act, 1953, provides for the effect of such notification.

5. However, Section 6 (1) of the WBEA Act, 1953 preserves to intermediaries a limited right to retain certain categories of land, *inter alia*, (a) homestead land; (b) land comprised in or appertaining to buildings and structures owned by intermediary or by any person, not being a tenant, holding under him by leave or license; (c) non-agricultural land in *khas* possession up to certain area; (d) agricultural land in *khas* possession, not exceeding 25 acres in area; (e) tank fisheries, etc. Importantly, Section 6 (1)(j) of the WBEA Act, 1953 which assumes utmost relevance in the present case,

permits a cooperative society registered or deemed to have been registered under the Bengal Cooperative Society Act, 1940 or a company incorporated under the Indian Companies Act, 1913 and engaged exclusively in farming to retain agricultural land that was in its *khas* possession on 01.01.1952 and chosen for retention.

6. Rule 4A of the West Bengal Estate Acquisition Rules, 1954 (hereinafter referred to as "the WBEA Rules, 1954") framed under the WBEA Act, 1953, provides the procedure under which an intermediary entitled to retain the land under Section 6 (1) of the 1953 Act, can apply to the concerned authority i.e., Settlement Officer or Revenue Officer authorised by the Settlement Officer in this behalf before the expiry of 30.04.1958, a statement in writing in Form 'B' appended to Schedule 'B' appended to these Rules.

7. In exercise of this right conferred under Section 6(1)(j) of the 1953 Act, after the State Government issued the notification under Section 4 of the WBEA Act, 1953, as claimed by the respondent–company, it submitted the duly filed Form 'B' on 14.08.1956 claiming entitlement to retain the entire extent of land measuring about 239.71 acres

under Section 6(1)(j) of the WBEA Act, 1953 on the ground that the respondent–company was engaged exclusively in farming, which according to the respondent-company was permitted by the concerned Revenue Officer. However, according to the appellants, the respondent-company failed to produce any copy of the alleged order of retention said to have been passed by the Revenue Officer, at any stage in any of the proceedings before the High Court, or prior to it. It may also be noted that the High Court also did not accept the existence of any such order passed by the Revenue Officer in 1956 in favour of the respondent-company.

8. Be that as it may, the genesis of the legal proceedings with which we are directly concerned with is the issuance of the notice dated 01.04.1968 by the Revenue Officer to the respondent-company under Section 57 of the WBEA Act, 1953, requiring the respondent-company to file the return in Form 'B', so as to determine the extent of the land which the respondent-company was entitled to retain out of the area vested in the State. The aforesaid notice was challenged by the respondent-company before the High Court by filing a writ petition, being CR No. 4256 (W) of

1968. The said writ petition was disposed of by the High Court on 15.02.1971, holding *inter alia* that the impugned notice dated 01.04.1968 was merely a notice for adjudication and for ascertaining as to what extent the respondent-company would be entitled to retain lands in its possession and that there can be no ground of apprehension on the part of the respondent-company that its right/claim for retention has been overruled by such a notice.

9. After disposal of the aforementioned writ petition, the concerned Revenue Officer, in continuation of the earlier notice dated 01.04.1968, issued a second notice dated 04.08.1971 requiring the respondent-company to appear for a hearing to determine its entitlement under Section 6(1)(j) of the WBEA Act, 1953. In the said proceedings, being No. 1/1971, the Revenue Officer passed an order on 07.10.1971 holding *inter alia* that the respondent–company failed to produce any evidence to prove that the company was created exclusively for agricultural purpose or for carrying on business connected directly with agricultural

farming, and accordingly it is not entitled to get the benefit under Section 6(1)(j) of the WBEA Act, 1953.

10. The aforementioned order of the Revenue Officer was challenged by the respondent-company before the High Court by filing a writ petition bearing C.R. No. 3266 (W) of 1971, in which a Civil Rule was issued, and an order directing maintenance of *status quo* was passed on 02.11.1971. However, by a subsequent order dated 03.12.1971, the High Court declined to extend the *status quo* order, holding that the order of the Revenue Officer was *prima facie* legal. Thereafter, the respondent-company challenged the High Court's order dated 03.12.1971 declining to extend the *status quo* order by filing an appeal bearing FMAT No. 3241 of 1971 (later re-numbered as FMA 686 of 1971). In the said appeal, a Division Bench of the High Court passed an order dated 14.12.1971 directing the maintenance of the *status quo*.

11. Subsequently, the Civil Rule issued in the main writ petition, being C.R. No. 3266 (W) of 1971, wherein the order of the Revenue Officer was challenged, was

discharged by the High Court, on 23.09.1975, due to non-appearance by the respondent-company.

12. Later, the respondent-company filed a separate application seeking restoration of the main writ petition, C.R. No. 3266 (W) of 1971, which was dismissed for default on 23.09.1975. The said restoration application, however, was rejected by the High Court on 11.03.1987 on the ground of inordinate delay of nearly twelve years. Against the said dismissal of the restoration application, the respondent-company filed an appeal, FMAT No. 791 of 1987, which also came to be dismissed for default by the High Court on 07.02.2002.

13. Consequently, the order of the Revenue Officer dated 07.10.1971, whereby the respondent-company was denied the benefit under Section 6(1)(j) of the WBEA Act, 1953, attained finality, and the respondent-company's judicial challenge to the said order stood concluded. Accordingly, the respondent-company stood divested of the agricultural land held by it, the same having vested in the State Government under Sections 4 and 5 of the WBEA Act,

1953. Therefore, the respondent-company ceased to have any right, title, or interest over the said agricultural land.

14. After the dismissal of the writ petition, CR No. 3266(W) of 1971 on 23.09.1975, the Revenue Officer, Salar, District Murshidabad, West Bengal issued another notice on 02.02.1996 to the respondent-company under Sections 57 and 14T(3) of the WBLR Act, 1955, on the ground that the quantum of the land held by the respondent-company was beyond the ceiling limit prescribed under the WBLR Act, 1955. It is to be noted that the aforesaid proceeding initiated under the WBLR Act, 1955 were entirely separate and distinct from the earlier proceeding under the WBEA Act, 1953, which had culminated in 1975 upon dismissal of the writ petition on 23.09.1975 filed by the respondent-company. The aforementioned notice under the WBLR Act, 1955, was in respect of the land which was allowed to be retained under the WBEA Act, 1953, but was found to be in excess of the ceiling limit placed by the WBLR Act, 1955. This notice, challenged by the respondent-company vide a writ petition being C.O. No. 3569 (W) of 1996, was transferred to the Tribunal and re-numbered as T.A. No.

1410 of 2000. The Tribunal, by its order dated 09.04.2001, dismissed the T.A. No. 1410 of 2000, reasoning that the Revenue Officer has jurisdiction under Section 14T(3) of the WBLR Act, 1955, to initiate proceedings and determine the ceiling area.

15. Assailing the abovementioned dismissal order of the Tribunal, the respondent-company preferred a writ petition, WPLRT No. 763 of 2001, before the High Court. The same was admitted and remained pending until 2008. Subsequently, it was ultimately withdrawn by the respondent-company in 2009, after it was permitted to retain about 211.21 acres of land pursuant to a review order dated 07.05.2008, and the said writ petition was accordingly disposed of by the High Court as withdrawn.

16. What is of great importance is what had transpired during the pendency of the aforesaid writ petition, on the basis of which the said writ petition was disposed of as withdrawn, as the same would have a direct bearing on the decision in this appeal.

17. During the pendency of the above-mentioned writ petition, WPLRT No. 763 of 2001 before the High Court, it appears

that the respondent-company submitted a proposal to Chief Minister of the State of the West Bengal, seeking an amicable settlement of the vested land in its favour, for setting up an eco-friendly agro-based industry, and sought review of the order dated 07.10.1971, passed by the concerned Revenue Officer. Consequently, as claimed by the respondent-company, the then Minister-in-Charge made a note on the file as *"Please discuss"*. The erstwhile Minister-in-Charge then recorded the following comments on the file: *"Discussed. This will be possible only when the company first withdraws all the cases".* Accordingly, the respondent-company submitted an affidavit on 22.02.2008 to withdraw all pending court cases, including the aforementioned writ petition, WPLRT No. 763 of 2001, pending before the High Court.

18. Acting on the aforesaid proposal of the respondent-company which was apparently accepted by the State government, the Land Reforms Commissioner-cum-Principal Secretary on 26.02.2008, directed the concerned Revenue Officer, Bharatpur -II, Murshidabad, West Bengal, to take necessary steps for review of the proceeding No. 1 of

1971 under Sections 6(1)(j), 6(1)(a) and 6(1)(e) of the WBEA Act, 1953. The aforementioned government order dated 26.02.2008, being relevant, is reproduced in toto as follows:

> *"The Government of West Bengal*
> *Land 85 Land Reform Department*
> *Land Reforms Branch*
> *Writers Buildings, Kolkata - 700001.*
>
> *No. 984 – L.R. GE (M)*
>
> *Dated 26.02.08*
>
> *IL – 240/07 – LR…*
>
> *Whereas 'M/s. Jai Hind Private Limited a company incorporated in the year 1946 under the Indian Companies Act, 1913 purchased more or less 234.00 acres of land in Block Bharatpur-II in the district of Murshidabad as revealed from the memo no. 174/2709/C/2007 dtd. 30.8.07 of the DLRS and Jt. LRC, West Bengal;*
>
> *And whereas the said company purchased the aforesaid 234 acres of land before and after the date 01.01.1952 and that it had 23 members/shareholders as on 01.01.1952 and that the said company has produced the Panchayat certificate and panchayat Tax receipt (for the year 2006-07) in support of its claim of possession on 200 acres of land as on 19.02.2007, as revealed from the memo no. 3362/X-6A/C/01 dated 22.6.2007 of the DL&LRO - Murshidabad.*
>
> *And whereas a proceeding bearing no. 1 of 1971 u/s 6 (1) (J) of the WBEA Act, 1953 was drawn up and disposed of with vesting of 205.44 acres of land of the said company by the BL&LRO, Bharatpur-II in the year 1971 vide order dtd: 07.10.1971;*
>
> *And whereas the said land could not be distributed till now due to series of court cases and compensation was also not paid to the said company. The said company is still in possession of the said land and claims that proper opportunity*

of being heard was not given during the said proceeding as revealed from the memo no. 174/2709/C/2007 dtd : 30.8.07 of the DLRS and Jt. LRC, West Bengal;

And whereas the said company wants to establish eco-friendly agro-based Industry on the said land to produce 'Mentha Oil' and 'Mentha crystals' and 'Mentha Arvensis' plants. 'Metha oil' is also known as 'Peppermint Oil' and this cash-rich cultivation is being done for the first time in West Bengal. This is really a good innovation in West Bengal which cultivators may like to follow. There is a possibility of employment generation for nearly 500 people in the said project;

And whereas said company's project has already been approved by The Small Industry Services Institute' under the Ministry of Small Scale Industries, Govt. of India vide report dtd. 6.6.2007. The Deptt. of Food Processing Industries & Horticulture', Govt. of West Bengal has also requested for the clearance of the said company's land within the provision of law vide their memo no. 568/FPI & H/0-1/580 dtd. 19.9.2007. The District Industries Centre-Murshidabad' has also approved the aforesaid project vide their memo no. 356/1 (1) dtd. 15.6.2007. The Principal Agricultural Officer-Murshidabad' has also inspected the Trial cultivation of 'Menthal Arvensis' plants on the said land by the said company and found it to be very vigorous and satisfactory as certified vide his memo no. 245/Dev dtd. 28.2.07;

And whereas the 'Local Gram Panchayat' has already issued 'no objection certificate in favour of the said company vide their letter dated 25.4.2007 recommending that the experimental plant set up so far to extract Mentha oil/peppermint oil is successful in the area and is accepted by the local people. It is 'eco friendly' also;

And whereas the said company has already submitted before the undersigned an undertaking to withdraw all the pending court case (s) by way of Affidavit dated 22.2.2008. as applicable for the withdrawal of all the pending court cases and this

may be used by L.R. officials at the relevant forum of the court;

And whereas the said company has submitted an undertaking by way of Affidavit dtd. 22.2.2008 to the effect that as on 1st January 1952 neither the company nor any of its 23 members/shareholder had owned any other landed property in West Bengal except the aforesaid agricultural land and that the company has all along been engaged exclusively in agriculture farming on its aforesaid land;

And whereas the State Govt. after due consideration has taken the decision to Review Afresh the said proceeding bearing no. 1 of 1971 u/s 6 (1)(J) of the WBEA Act 1953 as per the applicable provisions of the WBEA Act 1953;

Now, therefore the BL&LRO, Bharatpur-II block in the district of Murshidabad is hereby directed to take necessary steps for fresh Review of the said proceeding for more or less 205.57 acres of land which were purchased by the said company before 1st January 1952 as well as more or less 0.29 acres of homestead and also more or less 8.52 acres of pond (s) etc. for consideration for exemption u/s 6 (1) (J) read with Section 6 (1) (a) and sec. 6 (1) (e) of the WBEA Act 1953. However, an area of more or less 19.62 acres, which were purchased by the said company after 1.1.1952 and which do not come under the purview of the said section of the aforesaid Act will be vested to the State. The company may be given the opportunity to exercise the option to earmark this more or less 19.62 acres of land on any side of the total land and then this more or less 19.62 acres of land may be distributed amongst the eligible landless persons of the area as per norms.

Sd/

(Dr. P. K. Agarwal)
L.R.C. & Principal Secretary,
Land & Land Reforms Deptt.,
Govt. of West Bengal"

19. In compliance with the above-mentioned order, the B.L. & L.R.O. (Revenue Officer), by his final order dated 07.05.2008, allowed the review and set aside the earlier order dated 07.10.1971 passed by the earlier Revenue Officer, thereby allowing the respondent-company to retain a total of about 211.21 acres of land and vesting nearly 28.50 acres in the State. In furtherance of the review order, the respondent-company furnished a cheque to the Revenue Officer towards payment of land revenue, which was eventually returned by the Revenue Officer. Aggrieved by the non-acceptance of the land revenue, the respondent-company filed an application, being OA No. 1463 of 2009, before the Tribunal seeking a direction to the concerned authorities to accept the said land revenue and provide the certified copies of the record of rights. The Tribunal, by its judgment dated 31.03.2010, dismissed the respondent-company's application and quashed the review order dated 07.05.2008 by holding that the concerned Revenue Officer was incompetent to undertake the review proceedings as no such power of review was specifically given.

20. Assailing the said judgment of the Tribunal, the respondent-company filed a writ petition, being WPLRT No. 43 of 2010, before the High Court. The High Court vide impugned judgment dated 17.05.2012 allowed the said writ petition and directed the concerned Revenue Officer to accept the land revenue and cess from the respondent-company in respect of the lands in question, which were allowed to be retained pursuant to the review order, dated 07.05.2008, passed by the Revenue Officer.

SUBMISSIONS ON BEHALF OF THE APPELLANTS

21. The arguments advanced on behalf of the appellants can be summarised, *inter alia*, as follows:

Firstly, it has been submitted that the Revenue Officer had no jurisdiction to review the vesting order dated 07.10.1971. Relying on the judgment in *Kalabharati Advertising* v. *Hemant Vimalnath Narichania & Ors.*[1], it was argued that the power of review must be statutorily conferred, and in the absence of the same, the review of an earlier order becomes *ultra vires*, illegal, and without jurisdiction. Additionally, it was contended that neither Section 57A nor any other provision of the

[1] (2010) 9 SCC 437.

WBEA Act, 1953, confers any power of review on the Revenue Officer.

In addition, the appellants assailed the review order by submitting that Sections 57A and 57B of the WBEA Act, 1953, bar the Revenue Officer from reopening/reviewing any decision which has already been decided.

Thus, the appellants submitted that the Government Order dated 26.02.2008 issued by the Principal Secretary and the consequent fresh review order dated 07.05.2008 passed by the B.L. & L.R.O., Bharatpur–II, Murshidabad, West Bengal were illegal.

Secondly, the vesting order dated 07.10.1971 passed by the Revenue Officer earlier could not have been reviewed as it had attained finality once the writ petition filed by the respondent-company challenging the same was dismissed on 23.09.1975, its restoration rejected on 11.03.1987, and the appeal against the same eventually dismissed on 07.02.2002.

Thirdly, since the review order passed by the Revenue Officer on 07.05.2008 was bereft of any jurisdiction, the plea of invalidity of the same can be raised at any stage. In this regard, reliance was placed on decisions in *Kiran Singh & Ors.* v. *Chaman Paswan & Ors.*[2] and *Bahrein Petroleum Co. Ltd.* v. *P.J. Pappu & Anr.*[3].

[2] (1954) 1 SCC 710.
[3] 1965 SCC OnLine SC 145.

Furthermore, relying on *Assistant Custodian E.P. & Ors.* v. *Brij Kishore Agarwala & Ors.*[4], and it was argued that action taken by an officer without jurisdiction is not binding upon the State.

Moreover, it was submitted by the appellants, relying upon the judgment in the *Maharishi Dayanand University* v. *Surjeet Kaur*[5], that the doctrine of estoppel cannot override statutory provisions.

Fourthly, the review order dated 07.05.2008 was passed on irrelevant considerations. As submitted by the appellants, the respondent-company had been granted adequate opportunities to establish its entitlement under Section 6(1)(j) of the WBEA Act, 1953, which it failed to do.

It was further claimed that the documents relied upon by the respondent-company, i.e., a resolution of 25.01.1951 and a certificate dated 12.10.1979, were never produced during the earlier vesting proceedings.

SUBMISSIONS ON BEHALF OF THE RESPONDENTS

22. In response, the respondent-company has advanced the following submissions:

Firstly, it was submitted that the respondent-company had always engaged exclusively in 'agricultural farming', as authorised by Clause 13 of its

[4] 1975 (1) SCC 21.
[5] (2010) 11 SCC 159.

Memorandum of Association (MOA). To support its claim that it was engaged exclusively in 'agricultural farming' as on 1st January 1952, the respondent-company relied upon various documents, i.e., a certificate of the agricultural income tax officer, audited balance sheets of the respondent-company, auditor's certificates for the years from 1951, income tax scrutiny order for 2006-2007 and special resolution of 1951.

Secondly, the respondent-company had filed a return in Form 'B', claiming entitlement to retain the entire extent of land measuring 239.71 acres under Section 6(1)(j) of the WBEA Act, 1953, on 14.08.1956, and that it was permitted to retain such land by the concerned Revenue Officer. The aforementioned status, as claimed, remained in place for more than 15 years. To substantiate the same, the respondent-company placed its reliance upon the 'finally published' Record of Rights, which is, as claimed, to be presumed to be correct under Section 44(4) of the WBEA Act, 1953.

Thirdly, the vesting order dated 7.10.1971 was passed by the Review Officer without considering the aforementioned documents, such as the special resolution of 1951 and Clause 13 of the MOA.

Fourthly, assailing the 1971 vesting order, the respondent-company submitted that the notice pursuant to the statutory requirement of Section 10(2)

of the WBEA Act, 1953, was 'not served', and the possession of the said lands was never taken over by the appellants. Moreover, the compensation as provided for under Section 23 of the WBEA Act, 1953, was also not paid.

Fifthly, the 1971 vesting order was erroneous and a nullity as it was itself a review order of the 1956 determination proceeding, recorded in the Record of Rights for which the Revenue Officer was not even authorised by the State government under Section 57 of the WBEA Act, 1953. Pertinently, the 1971 order as submitted did not even set aside the 1956 proceeding.

Sixthly, the main writ petition challenging the 1971 vesting order was never decided on the merits.

Seventhly, the appellant-State duly recommended the amicable settlement, which was approved by the Minister-in-charge of the Land and Land Reforms Department. Consequently, the B.L. & L.R.O. legally passed his order in favour of the respondent-company. Moreover, the final order dated 07.05.2008 and the Government order dated 26.02.2008 were never withdrawn at any point in time.

Eighthly, the appellants are hit by the doctrine of estoppel and thus cannot retract the final order dated 07.05.2008 and the Government order dated 26.02.2008. Additionally, the respondent-company withdrew the pending Court case and handed over

28.50 acres of land, relying on the terms of the amicable settlement. In support of the contentions, reliance was placed on *M/s. Motilal Padampat Sugar Mills Co. Ltd.* v. *The State of UP*[6].

Ninthly, the Tribunal exceeded its jurisdiction by going beyond the scope of prayers, as it quashed the review order dated 07.05.2008, without any prayer or application for the same. The respondent-company placed its reliance on *Akhil Bhartvarshiya Marwari Agarwal Jatiya Kosh & Ors.* v. *Brijlal Tibrewal & Ors.*[7] and *Bharat Amratlal Kothari* v. *Dosukhan Samadkhan Sindhi & Ors*[8] in this regard.

Tenthly, the conferment of the power of review upon the B.L. & L.R.O. under Sections 57A and 53 of the WBEA Act, 1953, was in accordance with law.

Lastly, it was submitted that under Rule 19 of the Rules of Business of the Government of West Bengal framed under Article 166(3) of the Constitution, decisions relating to a particular department are required to be taken by the Minister-in-charge. Moreover, any omission to make or authenticate an executive decision strictly in the form contemplated under Article 166 does not render such decision void or illegal. In this regard, reliance was placed upon

[6] (1979) 2 SCC 409.
[7] (2019) 2 SCC 684.
[8] (2010) 1 SCC 234.

Narmada Bachao Andolan v. *State of Madhya Pradesh*[9], and *R. Chitralekha* v. *State of Mysore*[10].

ISSUES INVOLVED

23. As noted above, the genesis of the problem can be traced to the act of the respondent-company in seeking to resurrect the claim for retaining the agricultural land on the ground that the company had been engaged exclusively in agricultural farming by making an application before the State Authorities sometime in between 2007-2008 after the land had already been vested in the State pursuant to the Revenue Officer's order dated 07.10.1971 denying any claim of the respondent-company to retain the agricultural land as it failed to prove that it had been engaged exclusively in agricultural activities. That apart, the attempt of the respondent-company to judicially challenge the said order of the Revenue Officer dated 07.10.1971 also culminated in the closure of the same in 1975 after the respondent-company's writ petition was closed on 23.09.1975. Subsequently, its application for restoration of

[9] AIR 2011 SC 3199.
[10] AIR 1964 SC 1823.

the writ petition was rejected on 11.03.1987, and its appeal against the same was also dismissed on 07.02.2002.

24. However, the State Government directed the Revenue Officer to review its earlier order dated 07.10.1971 by passing the order on 26.02.2008, and the concerned Revenue Officer passed the review order on 07.05.2008, enabling the respondent-company to retain agricultural land already vested in the State.

25. Having regard to the facts and circumstances as mentioned above, we have to examine as to whether the B.L. & L.R.O. (Revenue Officer) could have, by its order dated 07.05.2008, reviewed the earlier order of the Revenue Officer dated 07.10.1971.

26. The attending and consequential issue that arises for consideration is whether the respondent-company had fulfilled the conditions to be entitled to retain the lands in question under Section 6(1)(j) of the WBEA Act, 1953 — that is, whether it was "exclusively engaged in agricultural farming" as on 1st January 1952 to claim exemption from vesting under the 1971 determination?

THE FIRST ISSUE

27. Coming to the primary issue of whether the Revenue Officer was competent to review its earlier order of 1971. Notably, the respondent-company defends the power of the Revenue Officer to review its earlier order by relying on Section 57A of the WBEA Act, 1953, and the order of the State Government of 26.02.2008 directing the Revenue Officer to review the earlier order. Section 57A of the Act reads as follows:-

> "*57A. The State Government may by order invest any authority referred to in section 53 with all or any of the powers of a Civil Court under the Code of Civil Procedure. 1908.*"

The Authorities referred to under Section 53 are as follows:

> "*53. (1) There shall be the following authorities for the purposes of this Act, namely:-*
> *(a) The Board or Revenue;*
> *(b) Director of Land Records and Surveys;*
> *(c) Settlement Officers;*
> *(d) Assistant Settlement Officers;*
> *(e) Compensation Officers;*
> *(f) Revenue Officers;*
> *(ff) Officers appointed by the State Government for the purposes of sub-clause (iv) of clause (a) of sub-section (I) of section 16;*
> *(g) Mining Experts for the purposes of sections 32, 33 or 34.*
>
> *(2) The State Government may appoint any person as a Compensation Officer or a Revenue Officer or may vest any officer with the powers of a*

Compensation Officer or a Revenue Officer under this Act."

28. It appears that in exercise of the powers conferred under Section 57A of the WBEA Act, 1953, the State Government issued a notification bearing no. 340L, dated 09.01.1958, by which all the Settlement Officers, Assistant Settlement Officers and Revenue Officers were invested with all the powers of the Civil Court under the Code of Civil Procedure, 1908. The said notification reads as follows:

"***Land Reforms***

ORDER

No.340L.Ref.-9th January 1958.- In exercise of the power conferred by section 57A of the West Bengal Estates Acquisition Act, 1953 (West Bengal Act I of 1954), the Governor is pleased to invest each of the authorities mentioned in the schedule below, being authorities referred to in section 53 of the said Act, with all the powers of a Civil Court under the Code of Civil Procedure, 1908 (Act V of 1908):-

The schedule

1. *All Settlement Officers.*
2. *All Assistant Settlement Officers.*
3. *All Revenue Officers.*

By order of the Governor,
S. BANERJEE, Secy."

29. Thus, according to the respondent-company, the Revenue Officer, having been invested with all the powers of the Civil Court, was competent and had jurisdiction to review the earlier order dated 07.10.1971, as also directed by the State

Government vide their order dated 26.02.2008. This is the foundational claim of the respondent-company as regards the competency of the Revenue Officer to review its earlier order.

30. To examine this contention, which *ex-facie* appears to be in order, we must minutely examine the scope of Section 57A of the WBEA Act, 1953 and also the power of review, more particularly of quasi-judicial authorities, keeping in mind that the Authorities mentioned under Section 53 of the WBEA Act, 1953, are not judicial but administrative authorities exercising certain quasi-judicial powers under the WBEA Act, 1953, for the effective implementation of the aforesaid Act.

31. It is well-settled that the power of review is not an inherent power of the Court. It is also equally well settled that quasi-judicial authorities can exercise only those powers which are expressly conferred upon them by the statute. Hence, the power of review, which is not inherent, must be conferred upon the quasi-judicial authority by means of a specific provision in the statute. Highlighting this principle,

a three-judge Bench of this Court in *Patel Narshi Thakershi* v. *Pradyuman Singhji*[11] had observed as follows:

> "*4. …It is well settled that the power to review is not an inherent power. It must be conferred by law either specifically or by necessary implication. No provision in the Act was brought to our notice from which it would be gathered that the Government had power to review its own order. If the Government had no power to review its own order, it is obvious that its delegate could not have reviewed its order….*"

32. In the same vein, it was held by the Supreme Court in *Kalabharati Advertising* v. *Hemant Vimalnath Narichania*[12] that,

> "*12. It is settled legal proposition that, unless the statute/rules so permit, the review application is not maintainable in case of judicial/quasi-judicial orders. In the absence of any provision in the Act granting an express power of review, it is manifest that a review could not be made and the order in review, if passed, is ultra vires, illegal and without jurisdiction…*"

33. This Court has time and again, through various judgments, including in *Patel Chunibhai Dajibhai* v. *Narayanrao Khanderao Jambekar*[13], *Major Chandra Bhan Singh* v. *Latafat Ullah Khan*[14], *Patel Narshi Thakershi* v. *Pradyuman Singhji Arunsinghji*[15], *State of Orissa and Others*

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[11] (1971) 3 SCC 844.
[12] (2010) 9 SCC 437.
[13] AIR 1965 SC 1457.
[14] (1979) 1 SCC 321.
[15] (1971) 3 SCC 844.

v. *Commissioner of Land Records & Settlement, Cuttack & Others*[16], *Harbhajan Singh* v. *Karam Singh*[17], and *Kuntesh Gupta (Dr.)* v. *Hindu Kanya Mahavidyalaya*[18], has underscored that an order of review cannot be passed by a quasi-judicial authority without a statutory jurisdiction bestowed upon it.

34. In the light of the above well-settled principle, in our opinion, unless a specific provision has been made in the WBEA Act of 1953, investing the power of review in the Revenue Officer or such other authorities mentioned under Section 53 of the Act, these authorities could not have possessed the power or authority to review an earlier order. The omnibus expression used in the State notification dated 09.01.1958 investing all the Settlement Officers, Assistant Settlement Officers and Revenue Officers with all the powers of the Civil Court, in our opinion, does not amount to conferment of power of review as well to these authorities.

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[16] (1998) 7 SCC 162.
[17] AIR 1966 SC 641.
[18] (1987) 4 SCC 525.

35. In our view, there has to be a specific conferment of the power of review to these authorities as observed by this Court in a catena of decisions as referred to above, which is absent in the present case.

36. In addition, there are other sound jurisprudential reasons for holding so.

37. Separation of power and independence of the judiciary have been considered integral parts of the basic structure of our Constitution as propounded in *Kesavananda Bharati* v. *State of Kerala*[19], and reiterated in subsequent decisions of *Minerva Mills Ltd.* v. *Union of India*[20], *I.R. Coelho* v. *State of T.N.*[21], etc.

38. The French Philosopher Montesquieu, in *The Spirit of the Laws* (1748), while propounding the theory of separation of powers, argues that political authority must be divided among distinct legislative, executive, and judicial branches to protect liberty and prevent tyranny. He proposed that each branch should have its own distinctive functions and ideally be manned by different personnel, ensuring that no

[19] (1973) 4 SCC 225.
[20] (1980) 3 SCC 625.
[21] (2007) 2 SCC 1.

single person or body holds all three powers, thereby creating a system of checks and balances to safeguard against despotic rule, a concept crucial to modern democratic Constitutions like ours. His theory finds acceptance in the aforesaid doctrine of basic structure propounded by this Court. Montesquieu said the following in *The Spirit of Laws*:

> "When the legislative and executive powers are united in the same person, or in the same body of magistrates, there can be no liberty; because apprehensions may arise, lest the same monarch or senate should enact tyrannical laws, to execute them in a tyrannical manner. Again, there is no liberty, if the judiciary power be not separated from the legislative and executive. Were it joined with the legislative, the life and liberty of the subject would be exposed to arbitrary control; for the judge would be then the legislator. Were it joined to the executive power, the judge might behave with violence and oppression. There would be an end of everything, were the same man or the same body, whether of the nobles or of the people, to exercise those three powers, that of enacting laws, that of executing the public resolutions, and of trying the causes of individuals."

39. Closely and intrinsically linked to the aforesaid idea is the concept of the independence of the judiciary. Separation of powers provides the guarantee for the independence of the judiciary and also acts as a safeguard against arbitrariness, upholding democratic values and the rule of law.

40. The importance and applicability of these principles have been reiterated from time to time by this Court, especially in the context of the creation of Tribunals seeking to supplement/substitute Courts. While tribunalisation in India has been judicially recognised, this Court has emphasised the need to ensure independence of the judiciary and separation of powers in the functioning of Tribunals and, wherever this Court has found that any such tribunalisation has violated these core principles, this Court has not hesitated to strike down such offensive provisions or pass appropriate remedial directions.

41. In one of the earliest decisions of this Court on the Tribunals jurisprudence in *S.P. Sampath Kumar* v. *Union of India*[22], the Constitution Bench of this Court, while upholding the constitutional validity of the Administrative Tribunals Act, 1985, which provided for the establishment of administrative tribunals to adjudicate service disputes of public servants, held that "the Tribunal should be a real substitute of the High Court-not only in form and *de jure*

[22] (1987) 1 SCC 124.

but in content and *de facto*". More importantly, the Bench also decided that the Chairman of the Tribunal "office should for all practical purposes be equated with the office of Chief Justice of a High Court", and that a retiring or retired Chief Justice of a High Court or when such a person is not available, a Senior Judge of proved ability either in office or retired should be appointed. The Bench observed that the position of Chairperson should not be held by an individual who has merely served as a Secretary to the Government of India. What weighed with the Court was the necessity that the holder of the office must be an individual whose decision-making is informed by the institutional discipline of the judiciary, a quality that emerges from adequate judicial training and judicial temperament and experience rather than mere administrative exposure.

42. In *R.K. Jain* v. *Union of India*[23], a three-judge Bench of this Court observed that the Tribunals set up under Articles 323-A and 323-B of the Constitution or under an Act of the legislature are creations of the legislature and in no case

[23] (1993) 4 SCC 119.

can claim the same status as High Courts or their judges or parity or as substitutes of the same. It was, however, emphasised that as the personnel appointed to hold those offices under the State are called upon to discharge judicial or quasi-judicial powers, they must have a judicial approach and also knowledge and expertise in that particular branch of constitutional, administrative and tax laws. The Court accordingly underscored that it is necessary that those who adjudicate upon these matters should have legal expertise, judicial experience and a modicum of legal training.

43. Subsequently, the seven-judge Bench of the Supreme Court in the case of *L. Chandra Kumar* v. *Union of India and Others*[24], held that the High Courts' power of judicial superintendence over all Courts and Tribunals within their jurisdiction forms part of the basic structure of the Constitution. The Court held that although Tribunals cannot exercise judicial review of legislative action to the exclusion of the High Courts or the Supreme Court, they

[24] (1997) 3 SCC 261.

may perform a supplementary, though not a substitutive, role in this regard. Further, the Court held Article 323A(2)(d) and Article 323B(3)(d) to be unconstitutional insofar as they exclude the jurisdiction of the High Courts.

44. In *Union of India* v. *Madras Bar Assn.*[25], this Court highlighted the importance of the independence of the judiciary and observed as follows:

> "*64. Only if continued judicial independence is assured, tribunals can discharge judicial functions. In order to make such independence a reality, it is fundamental that the members of the tribunal shall be independent persons, not civil servants. They should resemble the courts and not bureaucratic Boards. Even the dependence of tribunals on the sponsoring or parent department for infrastructural facilities or personnel may undermine the independence of the tribunal (vide Wade & Forsyth: Administrative Law, 10th Edn., pp. 774 and 777).*"

45. Further, the Supreme Court, in the above case, emphasising the concept of separation of powers, also held that:

> "*107. …if a Tribunal is packed with members who are drawn from the civil services and who continue to be employees of different Ministries or Government Departments by 30 maintaining lien over their respective posts, it would amount to transferring judicial functions to the executive which would go against the doctrine of separation of power and independence of judiciary.*"

[25] (2010) 11 SCC 1.

46. Later, the judgment in *Madras Bar Association* v. *Union of India and Another*[26], etc., further strengthened judicial independence by underscoring judicial primacy in discharging judicial functions. Thus, this Court has been emphasising the competence, ability, and independence of the judicial mind for those who man the Tribunals clothed with judicial functions for upholding the independence of the judiciary and the separation of powers.

47. If we allow such executive authorities exercising quasi-judicial power which draw their limited powers from the statutes which create them, to review their earlier orders on merit, it will tantamount to converting Tribunals to regular Courts which eventually will undermine the independence of the judiciary, which will ultimately affect the justice delivery system and be contrary to the principles evolved so far as the functioning of Tribunals is concerned.

48. We, therefore, must eschew any such interpretation of the statute which seeks to confer a blanket power of the Civil

[26] (2015) 8 SCC 583.

Court, including the power of review to such administrative authority in the exercise of *quasi-judicial* power.

49. Seen from the above judicial perspective, this Court must be circumspect and ought not countenance any blanket investing of all powers of the Civil Court, which would include the power of review on such non-judicial administrative functionaries like the Revenue Officer in terms of Section 57A of the WBEA Act, 1953, as the respondent-company would insist. In our view, Section 57A of the WBEA Act, 1953, cannot be construed to include vesting of power of review in the absence of a clear statutory provision to such quasi-judicial authority manned by an executive functionary like the Revenue Officer, bereft of any judicial training or judicial qualification, as it would run contrary to the aforesaid judicial position adopted concerning Tribunals.

50. In spite of the aforesaid provision under Section 57A of the WBEA Act, 1953, that the legislature did not intend to confer the power of review to the authorities provided under the said Act is evident from the proviso to sub-section (3) of Section 57B of the 1953 Act which provides that in deciding

a dispute under this sub-section, the Revenue Officer shall not re-open any matter which has already been enquired into, investigated, determined or decided by the State Government or any authority under any of the provisions of this Act. Section 57B reads as follows:

> "*57B (1) Where an order has been made under sub-section (1) of section 39 directing the preparation or revision of a record-of-rights, no Civil Court shall entertain any suit or Application for the determination or rent or determination of the status of any tenant. Or the incidents of any tenancy to which the record-of rights relates, and if any suit or application, in which any of the aforesaid matters, is in issue, is pending before a Civil Court on the date of such order, it shall be stayed, and it shall, on the expiry of the period prescribed for an appeal under subsection (3) of section 44 or when an appeal has been filed under that sub-section , as the case may be, on the disposal of such appeal, abate so far as it relates to any of the aforesaid matters.*
>
> *(2) No Civil Court shall entertain any suit or application concerning any land or any estate, or any right in such estate, if it relates to---*
> *(a) alteration of any entry in the record-of-rights finally published, revised, made, corrected or modified under any of the provisions of Chapter V,*
> *(b) a dispute involving determination of the question, either expressly or by implication, whether a raiyat, or an intermediary, is or is not entitled to retain under the provisions of this Act such land or estate or right in such estate, as the case may be, or*
> *(c) any matter which under any of the provisions of this Act is to be, or has already been, enquired into, decided, dealt with or determined by the State Government or any authority specified therein.*
> *and any such suit or application which is pending before a Civil Court immediately before the commencement of the West Bengal estates Acquisition (Second Amendment) Act, 1973, shall abate so far as it relates to all or any of the matters referred to in clause (a), clause (b) or clause (c).*

(3) any dispute referred to in clause (b) of sub-section (2) may be decided by a Revenue Officer not below the rank of an Assistant Settlement Officer, specially empowered by the State Government in this behalf, who shall dispose of the same in such manner as may be prescribed:

Provided that in deciding a dispute under this sub-section, the Revenue Officer shall not re-open any matter which has already been enquired into, investigated, determined or decided by the State Government or any authority under any of the provisions of this Act.

(4) Any person aggrieved by a decision of the Revenue Officer made under sub-section (3) may appeal to the prescribed authority not below the rank of a Settlement Officer, within such time, in such manner and subject to payment of such fees as may be prescribed.

(5) A decision made by an Appellate Authority under sub-section (4) shall be final.

Explanation ----In this section, -----
(i) suit includes an appeal, and
(ii) an authority includes an authority to hear an appeal."

51. Having regard to the above-mentioned proviso in Section 57B (3) of the 1953 Act, it can be said that the 1971 vesting order passed by the Revenue Officer after full inquiry and adjudication, constitutes such a determination which also attained finality after it was unsuccessfully challenged before the Court of law. The concerned Revenue Officer thus stood barred from re-opening, revisiting, or re-deciding its earlier vesting order in view of the aforesaid proviso.

52. What is thus evident is that the scheme of the WBEA Act, 1953 does not contemplate any executive authority reopening a vesting determination or substituting a decision already rendered after due inquiry. It is also clear that the authorities enumerated under Section 53 of the WBEA Act, 1953, such as Revenue Officers, Settlement Officers and Compensation Officers, among others, are vested only with such limited adjudicatory powers as the statute expressly confers upon them. To permit these authorities to undertake a wholesale re-adjudication of a vesting order by exercising the power of review would be to attribute to them a power far wider than what the legislature had envisaged. Such an interpretation would render the carefully structured legislative framework otiose, contrary to the settled principle that statutory authorities must operate strictly within the bounds of the powers conferred upon them.

53. In this context, we have also considered certain decisions of the Calcutta High Court regarding the lack of power of review qua executive authorities, such as the Revenue Authority. The Calcutta High Court in *Satyanarayan*

Banerjee v. *Charge Officer and A.S.O. Birbhum*[27], while dealing with the question as to whether the successor Assistant Settlement Officer could have any jurisdiction to initiate proceedings for review for reopening an earlier order by the previous Assistant Settlement Officer under the WBEA Act, 1953, answered the aforesaid question in the negative. It was held that:

> "*5. … There can be no dispute on principle now that a Tribunal like the Assistant Settlement Officer possesses no inherent power of review. This position is now well settled by the three decisions of the Supreme Court, namely, Chunibhai v. Narayanrao, AIR 1965 SC 1457, Harbhajan Singh v. Karam Singh, AIR 1966 SC 641 and State of Madhya Pradesh v. Balkrishan Nathani, AIR 1967 SC 394."*
> *"7. … A successor Assistant Settlement Officer has certainly no authority or jurisdiction to take a different view and reopen the said proceeding for review on the ground that all the lands of the endowment had not earlier been taken into consideration…"*

54. Relying on the above-mentioned judgment in the case of *Satyanarayan Banerjee* in a later case of *Ramaprasanna Roy* v. *State of West Bengal*[28], the Calcutta High Court held that the successor Revenue Officer has no power and/or jurisdiction to reopen the finding of the earlier Revenue Office under the WBEA Act, 1953. It was held that:

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[27] 1974 SCC OnLine Cal 1.
[28] 1987 SCC OnLine Cal 228.

> "*14. But firstly, since the writ petitioners have a "strong prima facie case". In their favour that the "successor Revenue Officer" has no power and/or jurisdiction "to reopen" the finding of the earlier Revenue Officer, having "concurrent jurisdiction", the impugned order of reopening and/or review was wholly unwarranted since the very beginning and should be set aside by issue of an appropriate writ in the nature of Certiorari.*
>
> *15. Secondly, in my view, as there is no provision for "review" of the order passed under s. 5A(3)(ii) of the West Bengal Estates Acquisition Act, 1953, pari materia to the provisions of s. 14T(3a) of the West Bengal Land Reforms Act, 1955, which has been inserted by way of legislative amendment, by the West Bengal Legislature in 1978, and as such,* ***in the absence of any such enabling provision a "Successor Officer" in any event is incompetent to exercise such power of review as, such power is not "inherent" in the Officer****.*
>
> *16. In this respect. I may rely on a Single Bench decision of this Court reported in the case of Satyanarayan Banerjee v. Charge Officer and A.S.O. Birbhum, Suri reported in AIR 1975 Cal. 43 : (1974 CHN (N) 127) where Anil Kumar Sen, J. (as His Lordship then was) held that a "successor Revenue Officer" having "concurrent jurisdiction" cannot reopen the finding of the earlier Revenue Officer, having concurrent jurisdiction.*
>
> *17. I, respectfully, agree with that view and hold that the entire move including the reopening and/or vesting of the land by successor Revenue Officer who is sitting over the judgment of the earlier Revenue Officer, in this matter was unwarranted and is accordingly set aside.*"

55. We are in agreement with the aforesaid view taken by the Calcutta High Court.

56. At a more fundamental level, allowing a Revenue Officer to review its own concluded quasi-judicial order would trench upon the constitutional doctrine of separation of powers, which constitutes part of the basic structure of the

Constitution. Though vested with limited adjudicatory functions, authorities under the WBEA Act, 1953, remain essentially members of the executive branch and are neither part of the judicial organ nor equipped with the institutional safeguards that attend judicial office, such as independence from executive control.

57. The power of review is essentially a core judicial function, and conferring such a power upon executive authorities, absent an express legislative mandate, would blur the constitutionally mandated demarcation between the executive and the judiciary, permit the executive authorities to sit in judgment over their own decisions, and erode the rule of law by diluting finality. Any contrary construction would, therefore, be inconsistent with legislative intent and would impermissibly encroach upon the basic structure of the Constitution.

58. Therefore, the fresh order of review dated 07.05.2008 by the Revenue Officer by setting aside the 1971 vesting order is in direct contravention of the statutory command embodied in the WBEA Act, 1953, and hence wholly void and illegal.

THE SECOND ISSUE

59. Even though we have held that the Revenue Officer did not have the power of review, we have nevertheless examined the order of review passed on 07.05.2008 to ascertain if such a review undertaken conformed to the principles governing law of review or not.

60. As regards the scope of review, it is well settled that it is of a limited and narrow one, unlike the case of appeal, where the appellate Court could revisit the entire facts and could re-hear the complete matter on merits. On the other hand, the purpose of a review is to rectify manifest or exceptional wrongs. It is not for reappreciating facts or seeking a different conclusion. Thus, a review could not be an appeal in disguise by reappreciating the evidence and grounds which have already traversed or come to a conclusion.

61. Review is essentially to strike a balance between the rule of finality, which is crucial for maintaining legal certainty and to avoid irremediable injustice caused by patent mistakes, fraud, failure of natural justice or similar exceptional situations, as was held in *M/s. Northern India*

Caterers Limited v. *Lieutenant Governor of Delhi*[29]. It is for this reason that the Courts have emphasised from time to time that review must be exercised with great caution and only when the requisite limited criteria are satisfied, in which the error must be evident and not one which requires elaborate arguments to discover.

62. One can find the basic legal postulates of the scope of review in Section 114 read with Rule 1 of Order XLVII of the CPC, which are applied in all proceedings in which the power of review is exercised. Thus, only on the following grounds, a review would lie:

i. Discovery of new and important matter or evidence; or
ii. Mistake or error apparent on the face of the record; or

Any other sufficient reason.

63. Before we proceed to discuss the applicability of the above principles in the present case, we may recapitulate the background in which the review was sought and exercised by the Revenue Officer. The respondent-company had

[29] (1980) 2 SCC 167.

sought the review of the earlier order of the Revenue Officer dated 07.10.1971 which denied the benefit of retention of agricultural land by the respondent-company as contemplated under Section 6(1)(j) of the WBEA Act, 1953. Section 6(1)(j) reads as follows:

> "*(j)* where the intermediary is a co-operative society registered or deemed to have been registered under the Bengal Co-operative Societies Act, 1940, or a company incorporated under the Indian Companies Act, 1913, **engaged exclusively in farming** (and in business, if any, connected directly with such farming), - agricultural land in the khas possession of the society or the company **on the 1st day of January, 1952**, and chosen by the society or the company, not exceeding in area the number of acres which persons, who were the members of the society or the company on such date, would have been entitled to retain in the aggregate under clause (d), if every such person were an intermediary;
>
> Provided that where any such person retains any land under clause (d), such person shall not be taken into account in calculating the aggregate area of the land which the society or the company may retain."

64. To get the benefit contemplated under Section 6(1)(j) of the WBEA Act, 1953 a company incorporated under the Indian Companies Act, 1913 must establish, *inter alia*, the following two essentials: (i) that it was engaged exclusively in farming (and in business, if any, connected directly with

such farming); and (ii) that it was so engaged as on 1st January 1952.

65. In the instant case, records reveal that the respondent-company even after being given sufficient opportunities, failed to discharge its onus of proving the first condition before the vesting authority (Revenue Officer) in the earlier proceedings in 1971 under Section 6(1)(j) of the WBEA Act, 1953. Hence, it was not granted the benefit of exemption from vesting in the vesting order dated 07.10.1971. Highlighting the same, the concerned Revenue Officer in the said vesting order rightly observed:

> "*The representative of the company has not produced any evidence whatsoever to show that the company after its creation adopted any resolution for carrying on business exclusively connected with agricultural farming.*
> *The papers produced merely show that the company has some agricultural lands and it is paying agricultural income tax and others on account of the incomes that it might have derived from such lands. These papers do not prove that the company is not engaged with any other business or trade in terms of memorandum and articles of association.*"

66. A careful examination of the 1971 vesting order reveals that, although the respondent-company sought to rely on its MOA — particularly clauses 7, 8 and 13 — to demonstrate that it was engaged in agricultural activities,

the Revenue Officer rightly declined to treat these clauses as conclusive proof of "exclusive" engagement in farming. Accordingly, as per the vesting order dated 07.10.1971, the respondent-company's about 205.44 acres of land were then vested in the appellant-State, and an area of about 25 acres of agricultural land, nearly 0.25 acres of non-agricultural land, and 0.24 acres of homestead were allowed to be retained by the respondent-company.

67. In our view, the 1971 vesting order does not suffer from any legal flaw, and it correctly concluded that the respondent-company failed to prove the statutory pre-condition of Section 6(1)(j) of the WBEA Act, 1953, despite being given sufficient time. Most importantly, the records reflect that the Revenue Officer afforded the respondent-company ample opportunities to substantiate its claim. A notice dated 05.07.1971 was duly served, calling upon the respondent-company to produce evidence in support of its assertion of exclusive engagement in agricultural farming on the date of the hearing on 20.07.1971. At the respondent-company's request, the hearing was adjourned first to 17.08.1971 and then to 30.08.1971.

68. On 30.08.1971, when the final hearing was going on, in spite of the opportunity given again, the respondent-company failed to produce the requisite documents, particularly its balance sheet, that it had itself adverted to as material. Significantly, at the conclusion of the hearing, the respondent-company expressly stated before the Revenue Officer that it had nothing further to submit. Even on the date when the vesting order was pronounced, the promised balance sheet remained unproduced in spite of further opportunity granted to do so by the Revenue Officer. In these circumstances, the finding by the Revenue Officer that in spite of several opportunities granted, the respondent-company could not prove the essential statutory requirement was inevitable and unimpeachable, and the vesting of the land in the State had to follow as a natural consequence.

69. Even before this Court, nothing has been brought to our notice by the respondent-company of the existence of sufficient material evidence to establish the fact that it was exclusively engaged in farming as on 01.01.1952. In its

submissions before this Court, the reliance was again placed on Clause 13 of its MOA. It reads as under:

> "*(13) To sell, improve, manage, develop or otherwise exchange, lease, mortgage, disposed of turn to account or deal in all or any part of the property and rights of the company and to do agriculture farming and agri business.*"

70. The aforementioned Clause does not establish that the respondent-company was established exclusively for farming. It mentions agricultural and agri-business as one of its activities. Its MOA reveals that the respondent-company was incorporated with a host of business objectives unrelated to agriculture, such as manufacturing or selling of all kinds of machines, purchasing, selling, taking on lease any movable/immovable property, patent licences, among many others. The mere presence of agricultural objectives in a company's MOA does not establish that such activities were, in fact, its sole or predominant operation, nor does it rule out the pursuit of other commercial objectives expressly permitted by the very same document.

71. Moreover, after perusing the documents relied upon by the respondent-company, viz., (i) Certificate of 'Agricultural

Income Tax Officer' dated 12.10.1979, (ii) Audited Balance Sheets dated 25.07.1952, (iii) Auditors' Certificates dated 25.07.1952, 30.12.1971, 09.08.2007, 27.09.2007, and 11.04.2008. (iv) Income-Tax Scrutiny Order for the assessment year 2007-2008, (v) Special-Resolution' submitted to ROC' dated 25.01.1951, we are of the view, without expressing any opinion on their veracity, that these materials majorly do not support the claim of the respondent-company that it was exclusively engaged in agricultural farming as on 01.01.1952, as either these came into existence long after the vesting order dated 07.10.1971 culminated or were not produced timely by the respondent-company before the Revenue Officer at the time of the 1971 vesting proceedings, despite multiple opportunities being granted. Consequently, these documents cannot furnish a basis for the review of the 1971 vesting determination, especially in the absence of any statutory provision allowing the same. A belated reliance on such material, after a lapse of nearly four decades, cannot constitute a legally sustainable ground for reopening a concluded vesting determination by a Revenue Officer.

72. In addition to the above, the submission reiterated by the respondent-company that it filed a return in Form 'B' on 14.08.1956 claiming entitlement to retain the concerned land and that it was permitted to retain such land by the Revenue Officer cannot be accepted, as neither any record of acknowledgment of filing of Form 'B' nor any order passed by the said Revenue Officer granting the retention of the aforesaid land was ever produced by the respondent-company. In any event, such a plea was rejected by the High Court in the impugned judgment, as no copy of such an order passed by the Revenue Officer was produced before the High Court.

73. In view of the above discussion, it can be concluded that the respondent-company is not entitled to retain the lands in question under Section 6(1)(j) of the WBEA Act, 1953, as it could not prove its claim that it was "exclusively engaged in agricultural farming" as on 01.01.1952. Therefore, the 1971 vesting order does not suffer from any legal infirmity.

74. Having held that the vesting order dated 07.10.1971 is legally valid, we will now proceed to examine if any case of review is made out or not by applying the facts of the case

on the anvil of the legal principles governing the law of review.

First, on the discovery of new and important matter or evidence.

75. A review can be sought under this ground by an aggrieved litigant on the discovery of a certain new and important matter or evidence, which, after exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the decree was passed. A review of a judgment is a drastic step, and a reluctant resort to it is proper only where a glaring omission or patent mistake or a grave error has crept in earlier by judicial fallibility. A mere repetition, through different counsel, of old and overruled arguments, a second trip over ineffectually covered ground or minor mistakes of inconsequential import, are obviously insufficient, as was rightly held in *Sow Chandra Kante* v. *Sk. Habib*[30]. The provision is not meant to give a second chance to the aggrieved party who has lost their case due to their own negligence.

[30] (1975) 1 SCC 674.

76. Now, if we apply this principle to the facts of the present case, it cannot be believed that crucial documents such as the 1951 Resolution and Audited Balance Sheets dated 25.07.1952, relied upon by the respondent-company in the 2008 review, were not within its possession and knowledge earlier. The respondent-company failed to produce such documents despite being afforded several opportunities during the 1971 vesting process. A party cannot justify a review by producing old documents lying in its own custody, as this does not constitute "discovery" nor satisfy the "due diligence" requirement.

Second, on a mistake or error apparent on the face of the record.

77. This condition is also equally inapplicable in the present case. It must be noted that the error under this ground must be self-evident and should not require an exhaustive examination or argument to establish it, as was held by a three-judge Bench of this Court in the case of

Thungabhadra Industries Ltd. v. *Govt. of A.P.*[31] The material portion of the judgment reads as under:

> "7….*A review is by no means an appeal in disguise whereby an erroneous decision is reheard and corrected, but lies only for patent error. We do not consider that this furnishes a suitable occasion for dealing with this difference exhaustively or in any great detail, but it would suffice for us to say that where without any elaborate argument one could point to the error and say here is a substantial point of law which stares one in the face, and there could reasonably be no two opinions, entertained about it, a clear case of error apparent on the face of the record would be made out….*"

78. In light of the facts and circumstances as noted above, it can be conclusively said that the 1971 vesting order was passed after issuing proper notice, granting multiple adjournments on the request of the respondent-company, conducting a full hearing, and recording the respondent-company's categorical statement that it had "nothing further to produce." The findings were based on the respondent-company's failure to prove exclusive engagement in farming, which is the statutory requirement under Section 6(1)(j) of the WBEA Act, 1953. No patent error, self-contradiction, or legal misconception is visible on

[31] 1963 SCC OnLine SC 94.

the face of the record. Accordingly, the second condition is also not met.

Third, on any other sufficient reason.

79. Insofar as this ground is concerned, recently, this Court in the case of *State (NCT of Delhi)* v. *K.L. Rathi Steels Ltd.*[32], held as follows:

> "*45. With regard to (iii) (supra), we can do no better than refer to the traditional view in Chhajju Ram, a decision of a Bench of seven Law Lords of the Judicial Committee of the Privy Council. It was held there that the words "any other sufficient reason" means "a reason sufficient on grounds at least analogous to those specified immediately previously", meaning thereby (i) and (ii) (supra). Notably, Chhajju Ram has been consistently followed by this Court in number of decision starting with Moran Mar Basselios Catholicos V. Mar Poulose Athanasius.*
>
> *.....*
>
> *106. Moving on further, we find that the attempt of the review petitioners has been to draw inspiration from the ground "any other sufficient reason" appearing in Rule 1. There have been decisions of this Court which have construed the words "any other sufficient reason" expansively, like Netaji Cricket Club and Jagmohan Singh, whereas there are decisions, including Moran Mar Basselios Catholicos, Shatrunji, Kamlesh Verma and S. Madhusudhan Reddy, that have followed Chhajju Ram explaining that the ground "any other sufficient reason" means "a reason sufficient on grounds at least analogous to those specified immediately previously.*
>
> *107. However, with utmost respect, we do not find any of those decisions, which have taken an expansive view, looking at such ground in the manner we propose to look, for recording our concurrence with the view in Chhajju Ram that has unhesitatingly been followed over the years. If indeed "any other sufficient reason"*

[32] (2024) 7 SCC 315.

were to take within its embrace any situation not analogous to "discovery of new matter or evidence" and "on account of some mistake or error apparent on the face of the record", we wonder why the legislature chose to keep "any other sufficient reason" immediately after the aforesaid two grounds. If "any other sufficient reason" were to be read independent of the said two grounds, we believe the long line in Rule 1 after clauses (a) to (c) need not have been drafted in the manner it presently reads. In lieu of referring to the said two grounds as grounds on which a review could be sought, the legislature could well have kept it open-ended as in Section 5 of the Limitation Act, 1963 where it is provided, without any strings attached, that any appeal or any application may be admitted after the prescribed period of limitation if the appellant or applicant satisfies the court that he had "sufficient cause" for not preferring the appeal or the application earlier. If the intention of the legislature were to give an expanded meaning, Order 47 Rule 1 would have read somewhat like this: any person considering himself aggrieved by a decree or order or decision of the nature indicated in clauses (a), (b) and (c) for any sufficient reason desires to obtain a review of the decree or order made against him, may apply for a review. But that is not what the provision says and means. Reading Order 47 Rule 1 in juxtaposition to section 5 of the Limitation Act drives us to accept the view in Chhajju Ram as having interpreted the law correctly and acceptance of the same by this Court and High Courts over the years, coupled with the fact that Parliament did not consider it necessary to amend Rule 1 when it inserted the Explanation in 1976. Giving a wider meaning to the ground "any other sufficient reason" in Netaji Cricket Club and Jagmohan Singh, therefore, must have been intended and necessitated by this Court because the justice of the cases so demanded but the same would have no application in a case of this nature."

80. Further, the Courts have time and again decided what can fall under the term "any other sufficient reason". For instance, *inter alia*, where the Court omits to notice or

consider relevant statutory provisions was held to be a sufficient reason in *Girdhari Lal Gupta* v. *D.H. Mehta*[33]. Additionally, an order arising out of a lack of jurisdiction was held to be a sufficient reason in *Budhia Swain* v. *Gopinath Deb*[34]. However, in the case at hand, there exists no such "sufficient reason" within the meaning of Rule 1 of Order XLVII of the CPC.

81. In view of the foregoing discussion, it is evident that the respondent-company failed to satisfy any of the conditions for review as also contemplated under Order XLVII, Rule 1 of the CPC. Consequently, even assuming for argument's sake that the Revenue Officer possessed the jurisdiction to entertain a review, which he demonstrably did not have, as already held above, the review order of 2008 was devoid of any legal foundation. The review was thus fundamentally misconceived, contrary to settled principles governing the exercise of review power

[33] (1971) 3 SCC 189.
[34] (1999) 4 SCC 396.

82. As discussed above, the power of review is to be exercised on the limited grounds recognised under law, as postulated under Order XLVII Rule 1 of the CPC. In the present case, however, it is evident that the trigger for reopening the earlier vesting order of 1971 was not the existence of any legally permissible ground for review, but was primarily based on the claimed "amicable settlement" between the respondent-company and the State government. It is the respondent-company's own case that during the pendency of WPLRT No. 763 of 2001 before the High Court, it submitted a representation to the Chief Minister of the State seeking reconsideration of the 1971 vesting determination for the purpose of establishing an eco-friendly agro-based industry, purportedly involving employment generation and economic benefits. Acting upon this proposal, the State Government proceeded to direct a review of the vesting order dated 07.10.1971. The record thus clearly demonstrates that the decision to initiate the review was driven by considerations of perceived economic advantage, such as prospective employment generation,

rather than by any of the grounds recognised in law for invoking the power of review. Such considerations, however laudable in the executive or policy domain, are wholly extraneous to the limited and strictly circumscribed jurisdiction of review. A concluded determination cannot be reopened on the basis of subsequent policy preferences or economic expediency, in the absence of a legally sustainable ground contemplated under the law governing review.

83. As discussed above, it is also important to note that the direction issued by the State Government vide Government Order dated 26.02.2008 to review the earlier vesting determination was made after an inordinate and unexplained lapse of about four decades from the passing of the vesting order dated 07.10.1971, which had attained finality. While it is true that Constitutional Courts are not strictly bound by limitation in exercising their jurisdiction, the position is markedly different in respect of the review jurisdiction of Civil Courts governed by the CPC. Under Article 124 of the Schedule of the Limitation Act, 1963, an application for review is required to be filed

within a period of thirty days from the date of the decree or order sought to be reviewed, subject only to extension upon sufficient cause being shown. In the present case, no sufficient explanation whatsoever has been offered for the extraordinary delay of nearly forty years, except for the observations contained in the Government Order dated 26.02.2008, referring, *inter alia*, to non-distribution of land due to a series of Court cases, non-payment of compensation, and the respondent-company's continued possession of the land apart from the potential to generate employment from the proposed project. None of these reasons, in our view, constitutes a legally sustainable ground to justify reopening a concluded determination after such an inordinate lapse of time. Non-distribution of land or continued physical possession by the respondent-company cannot confer upon it any right, title, or interest once vesting has taken place by operation of law. Similarly, non-payment of compensation, even if assumed, does not invalidate vesting but merely gives rise to a statutory entitlement to compensation. Significantly, the record does not substantiate the assertion of any

pending litigation that prevented distribution of the land, particularly when the writ petition challenging the vesting order was dismissed on 23.09.1975, and subsequent attempts to revive the proceedings failed on 11.03.1987 and 07.02.2002. There was thus no subsisting judicial impediment as far as the respondent-company was concerned. The proposed project of the respondent–company, which had the potential to generate employment, cannot be the reason for the review of the earlier vesting order. In these circumstances, the exercise of review jurisdiction in 2008 to reopen a vesting determination that had attained finality decades earlier was wholly impermissible in law.

84. Before we conclude, we may address other issues raised by the respondent-company. It was submitted that the Government order dated 26.02.2008 was never recalled by the Government, and this order was the consequence of the amicable settlement arrived at between the respondent-company and the State Government. Hence, it was contended that the order dated 31.03.2010 passed by the Tribunal was illegal.

85. As regards the Government order dated 26.02.2008 indicating the amicable settlement, it is to be noted that there was no subsisting dispute per se between the Government and the respondent-company concerning the issue relating to retention of land under Section 6(1)(j) of the WBEA Act, 1953 inasmuch as the said issue was already settled by the earlier vesting order dated 07.10.1971 and the said order had attained finality upon dismissal on default of the petition filed by the respondent-company challenging the said order.

86. Thus, when the so-called amicable settlement was said to have been arrived at, there was no subsisting dispute between the parties at the relevant time. The claimed amicable settlement was arrived at in a proceeding arising out of the issue of the ceiling of land under a different statute, i.e., WBLR Act 1955. Thus, the very foundation of the passing of the Government order dated 26.02.2008 was non-existent. It thus becomes irrelevant as to whether such an order was recalled by the Government or not.

87. Additionally, it was also submitted by the respondent-company that the plea of the appellant-State is hit by the

doctrine of promissory estoppel, as the respondent-company withdrew all the pending Court cases relying on its amicable settlement with the State. Nevertheless, in our view, once the 2008 review by the Revenue Officer is found to be without jurisdiction and contrary to law, the question of invoking the doctrine of promissory estoppel does not arise.

88. Moreover, the contention advanced by the respondent-company that the Tribunal exceeded its jurisdiction by going beyond the scope of prayers, as it quashed the review order dated 07.05.2008, without any prayer or application for the same, is without merit, because it is a well-established law that a decree passed by a Court without jurisdiction is a nullity, and that its invalidity could be set up whenever and wherever it is sought to be enforced or relied upon, even at the stage of execution and even in collateral proceedings. The Court in the case of *Kiran Singh* v. *Chaman Paswan*[35] held as follows:

> "6. *…It is a fundamental principle well established that a decree passed by a court without jurisdiction is a nullity, and that its invalidity could be set up whenever and wherever it is sought to be enforced or relied upon,*

[35] (1954) 1 SCC 710.

> *even at the stage of execution and even in collateral proceedings. A defect of jurisdiction, whether it is pecuniary or territorial, or whether it is in respect of the subject-matter of the action, strikes at the very authority of the court to pass any decree, and such a defect cannot be cured even by consent of parties...*"

89. In the instant case, as the Revenue Officer did not have the jurisdiction to review the earlier vesting determination, the 2008 review order strikes at the very root of the matter and is a non-curable defect. Importantly, "competence of a Court to try a case goes to the very root of the jurisdiction, and where it is lacking, it is a case of inherent lack of jurisdiction", as was held in *Hira Lal Patni* v. *Kali Nath*[36]. A decree or order passed by a Court which lacks inherent jurisdiction in passing such an order or decree is non-est and void ab initio, as was held by this Court in the case of *Balvant N. Viswamitra* v. *Yadav Sadashiv Mule*[37]. In the said case, a three-judge Bench of this Court held that:

> "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*

[36] 1961 SCC OnLine SC 42.
[37] (2004) 8 SCC 706.

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."

90. Another submission was made by the respondent-company that the appellant-State had not taken physical possession of the land, and no compensation was paid to the respondent-company. This, in our view, does not alter the nature of the status of land inasmuch as that vesting order dated 07.10.1971 had attained finality, and mere holding of some parts of the land would not endow any right to the respondent-company to claim ownership or title over the same.

CONCLUSION

91. For the reasons discussed above, we hold that the review undertaken by the Revenue Officer culminating in the fresh order dated 07.05.2008 was wholly without jurisdiction and void ab initio. The WBEA Act, 1953, does not confer any power of substantive review upon the Revenue Officer, either expressly or by necessary

implication. The Government Order dated 26.02.2008, even though approved at the ministerial level, could not create or confer such jurisdiction on the Revenue Officer. The review further fails on merits, as none of the conditions prescribed under Order XLVII, Rule 1 of the CPC were satisfied.

92. The Tribunal, in setting aside the fresh review order dated 07.05.2008 and restoring the vesting determination of 1971, rightly appreciated the statutory scheme of the WBEA Act, 1953, and well-settled principles governing the limits of quasi-judicial power. The conclusion of the Tribunal that the Revenue Officer lacked jurisdiction to reopen by way of review of a concluded vesting order is consistent with both legislative intent and binding precedents.

93. The High Court, however, fell into error in reversing the Tribunal's decision. It incorrectly proceeded on the premise that the Government Order issued under Section 57A of the WBEA Act, 1953, having been approved by the Minister-in-Charge, constituted sufficient authority to confer review jurisdiction upon the Revenue Officer. This

approach conflated executive direction with statutory conferment of substantive power and treated review as a mere procedural incident of Civil Court powers. The High Court also overlooked the limits on vesting the judicial function of review power in executive authorities.

94. Consequently, for the reasons discussed above, the appeal filed by the appellant-State is allowed.

The impugned judgment of the High Court dated 17.05.2012, passed in WPLRT No. 43 of 2010, is set aside.

The order of the Tribunal dated 31.03.2010 is restored, and the review order dated 07.05.2008 passed by the Revenue Officer stands quashed.

The vesting order dated 07.10.1971 shall continue to operate in accordance with the law.

…….J.
(M. M. SUNDRESH)

…….J.
(NONGMEIKAPAM KOTISWAR SINGH)

NEW DELHI;
FEBRUARY 06, 2026.