Smt. Chitra Kumari Etc. vs Union Of India And Ors. on 14 February, 2001

Equivalent citations: AIR2001SC1237, JT2001(3)SC70, 2001(2)SCALE58, (2001)3SCC208, AIR 2001 SUPREME COURT 1237, 2001 (3) SCC 208, 2001 AIR SCW 947, (2001) 3 LANDLR 208, (2001) 2 RECCIVR 133, (2001) 2 SCALE 58, (2001) WLC(SC)CVL 243, (2001) 2 UC 213, 2001 SCFBRC 217, (2001) 2 SUPREME 97, (2001) 43 ALL LR 41, (2001) 2 ALL RENTCAS 288, (2001) 1 CURLJ(CCR) 634, (2001) 3 JT 70 (SC)

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Bench: V.N. Khare, S.N. Variava

ORDER

S.N. Variava, J.

1. Leave granted in S.L.P. (C) Nos. 22436-22437 of 1997.

2. These Appeals can be disposed on by this common Judgment. It must be first mentioned that these Appeals were on board along with three other Civil Appeals. After arguments on behalf of the Appellants had taken place Civil Appeal No. 3221 of 1991, Civil Appeal No. 3503 of 1991 and Civil Appeal No. 4133 of 1991 were withdrawn by the Appellants therein.

3. In these Appeals the Appellants have land with bungalows in Ambala Cantonment area. As is being pointed out in greater detail hereafter, the cases had, till this stage, proceeded on the footing that the land was granted to the predecessors of these Appellants on "old grant terms". These Appeals therefore are fully covered by the decision of this Court in the case of Chief Executive Officer vs. Surendra Kumar Vakil .

4. Before arguments are considered facts in these Appeals need to be noted.

5. In Civil Appeals Nos. 917-918 of 1998 Notice of Resumption was given on 28th September, 1973.

6. A Suit bearing No. 280 of 1975 was filed in the Court of Senior Sub-Judge, Ambala, wherein the Order of resumption was challenged. In the Suit it was, inter alia, averred as follows:

> "4. That the order of resumption of the above bungalow is illegal, invalid, malafide, whimsical, unconstitutional and in-effective against the rights of the plaintiffs, inter

alia, on the following grounds:-

(a) XXX XXX XXX

(b) That in the first instance, it is wholly incorrect that the site on which the building is standing is an old grant as alleged by the defendant No. 2. However, even notice of assumption, which the plaintiffs do not admit, in that event too, the Government has no right to resume the property in the manner as alleged."

The Respondents in the Written Statement contended that the land was on old grant terms and that they were entitled to resume. The trial Judge, inter alia, raised an issue to the following effect:

"1. Whether the impugned resumption order is illegal and in operative as alleged in para no. 4 of the plaint OPP."

7. Strictly speaking a specific and separate Issue on this aspect would have had to be raised. Such a specific Issue was not raised as, for reasons set out hereafter, it is clear that this contention raised in para 4(b) was not being pressed. However, it is arguable that Issue No. 4 as it is framed covered, amongst others, the ground of challenge on the basis that the land on which the building was standing was not on old grant basis.

8. Parties then led evidence. In these Appeals the Appellants have not relied on the evidence led by them. But the original record is before the Court. It could not be shown to us that Plaintiff/Appellant led any evidence claiming ownership of land in question or denying title of Respondents. Admittedly documents shown to the Court were not tendered as Exhibits. On the other hand Respondents tendered and got marked as Exhibits, an admission in writing by Appellants predecessors that the land was on old grant terms, a copy of GGO No. 179 of 12th September, 1836 and the Register of Land Records. Parties then argued their respective cases. Ultimately, the Suit was decreed by a Judgment dated 27th November, 1978.

9. The Judgment sets out the submissions which have been made under the aforesaid Issue No. 1. In the submissions, as have been reproduced in the Judgment, there is no submission to the effect that the land was not under the old grant basis and/or that the Respondents were not the owners of the land. The entire submission, under Issue No. 1, has been on the basis that the Appellants had not been heard before the Notice of Resumption was issued and/or that compensation had been fixed in an arbitrary manner. The Court has accepted this submission and held that, without fixation of compensation and an opportunity of being heard, an order of resumption could not be passed. We have perused the entire Judgment. In the entire Judgment there is no reference to any submission that the land was not under an old grant and/or that the Respondents were not the owners of the land. Even though, the Suit has been decreed and a permanent injunction passed in favour of the Appellants, the Court was careful enough to hold as follows:

"In view of the evidence, reasons and findings set out above, a decree for declaration is passed in favour of the plaintiffs and against the defendants with costs, that the

> resumption order is illegal, void and ineffective and is not binding upon the plaintiffs and a decree for permanent injunction is also passed, restraining the defendants from dispossessing the plaintiffs from the property in dispute except in due course of law."

(Emphasis supplied) It is thus to be seen that the even while decreeing the Suit the Court has held that the Respondents could dispossess the Plaintiffs by following due course of law. The question of dispossessing the Plaintiffs/Appellants would not arise if the Appellants were the owners of the land and the land was not under an old grant. This clearly shows that point was not pressed before the Trial Court and/or that if this point was pressed it has not been held in favour of Plaintiff/Appellant. If the point was pressed then it must be deemed to have been decided against the Appellant as Court has permitted dispossession by following due course of law.

10. The Respondents then filed an Appeal before the District Judge, Ambala. No cross Appeal was filed by the Appellants. The District Judge dismissed the Appeal on 6th September, 1979. We have read the Judgment of the District Judge. Here also there is no claim that the land was not under an old grant. The District Judge has also in the final paragraph of his Judgment held as follows:

> "9. Lest there be any misunderstanding it is clarified that neither the assailed order dated 27.11.1978 of the learned trial Court nor the judgment in this appeal would in any way stand in the way of Union of India initiating proceedings for resumption of the disputed land after compliance of the statutory formalities."

This clarification could only have been issued, provided it was an admitted position that the land belonged to the Union of India and that they could resume it by following due process of law. If there had been a claim to the ownership of the land by the Appellants such clarification could not have been issued.

11. The Respondents then filed a Second Appeal before the High Court of Punjab & Haryana at Chandigarh. During the pendency of this Appeal, this Court in the case of Union of India vs. Harish Chand Anand reported in 1995 Supp. (4) SCC 113, held that the Respondents were entitled to resume the land without prior determination of the amount of the structure. This Court held that the view that it was a condition precedent for the Respondents to give notice to the parties concerned, determine the compensation and then only resume the property was not correct. It was held that the view taken by the Delhi High Court in the case of Raj Singh vs. Union of India , was a correct view and that the Government could resume the land merely by giving one month's notice. It was held that the amount may have to be determined after giving an opportunity but that this could be done thereafter. As this Court had now finally laid down the law and as the Judgment of the Trial Court and the first Appellate Court were only on the basis that prior opportunity of being heard had not been given, the High Court by its Judgment dated 7th November, 1997 reversed the Judgment of the Trial Court as well as the first Appellate Court and dismissed the Suit. In its Judgment the High Court observed as follows:

> "It is not in dispute that the plaintiffs are in possession of the property in dispute on what are known as 'old grant' terms. The terms are contained in order No. 179 of 12-12-1836 issued by the Governor General of India in Council and have been produced on record."

Thus it is to be seen that before the High Court it had not been disputed that the land was under an old grant term and that the terms of the old grant had been produced on record.

12. At this stage, it must be mentioned that this Court again had occasion to consider whether the view taken by the Delhi High Court in Raj Singh's case (supra) was correct. This Court has, in the case of Union of India & Anr. vs. Tek Chand and ors. reported in (1999) 3 SCC 565, again approved the view in Raj Singh's case.

13. As the Appellants were now non-suited on the basis of law finally laid down by this Court, they filed on 10th December, 1997 a Review Petition. In this Review Petition, for the first time, they sought to raise a point that the land was not under the old grant terms. For the first time, after all these years, they sought to rely on certain documents and seek a clarification from the High Court that its comments to the effect that "it was not in dispute that the land was on old grant terms" were not correct and that the same should be deleted. It was now sought to be contended that they had never admitted that the land was on old grant terms. This Review Petition came to be dismissed on 24th December, 1997. Thus the High Court has confirmed that at the time when the original Appeal was argued it was not in dispute that the land was under old grant terms.

14. Civil Appeals Nos. 917-918 of 1998 are filed against the Judgment dated 10th November, 1997 and the order dated 24th December, 1997.

15. In Civil Appeals arising out of SLP (C) Nos. 22436-22437 of 1997 also the bungalow and land are in Ambala Cantonment. The notice of resumption was given on 30th July, 1971. The Suit was filed in the Court of the Sub-Judge, Ist Class, Ambala. In this Suit it was contended that it was not proved that the land was on old grant terms. It was also urged that the terms of the old grant did not permit resumption of land. However, no evidence was led to prove that plaintiffs were owners. Plaintiff/Appellant and his witnesses did not depose that land did not belong to the Respondents. The Respondents had brought on record and got exhibited an admission in writing, by the predecessors of the Appellants, that the land was on old grant terms, the GGO No. 179 dated 12th September, 1836 and the Register of Land Records. In this case on the basis of evidence on record the Trial Court dismissed the Suit.

16. The Appellants then filed an Appeal. In the Appeal also it was contended that it was not proved that the land was on old grant terms. The Appellate Court, after considering the evidence, dismissed the Appeal on 3rd September, 1986. The Appellants then filed a Letters Patent Appeal which was dismissed by the High Court on 8th July, 1997. A Review Petition was also filed and the same was also dismissed on 7th October 1997. Thus in this case the Appellants have lost in all Courts. All Courts have, on evidence and facts, held against the Appellants.

17. It must be mentioned that, in some other case filed by these Appellants in 1990, an application is made calling upon the Respondents to produce the old grant and certain other documents. In that Suit the Respondents have replied that the original records regarding the bungalow in question and the Notification through GGO 179 of 12th September, 1836 were applied to the Ambala Cantonment, but that the papers showing that Ambala Cantonment was a station of the Bangalore Army and the Notification were not available on record.

18. These are the facts in brief. Now let us consider the submissions.

19. Mr. Andhyarujina submitted that his case was not covered by the decision in Harish Chand's case (supra). Relying on Para 4(b) of the Plaint, which has been set out hereinabove, he submitted that his clients had always disputed that the land was on old grant basis. He submitted that in the Suit the old grant has not been brought on record by the Respondents till date. He pointed out that all that had been brought on record was the cyclostyled copy of the Governor General in Council Order No. 179 dated 12th September, 1836. He submitted that this was not the old grant. He submitted that the grant would necessarily have to be a registered document. He submitted that as the Respondents were contending that the land was on old grant terms, it was for the Respondents to prove their case by producing the old grant. Mr. Andhyarujina submitted that an admission did not confer title. He submitted that if the Respondents were claiming to be owners of the land it was for them to prove their ownership.

20. He submitted that the Appellants had ample evidence to show that they were the owners of the land. In support of this he relied upon a Sale Deed dated 21st April, 1926 between Milliam Robert Pearce and George Erner Sysmes on the one hand and Lala Balmokand Bhalla on the other. In this Deed it is receded that one Lewis Herbert Robbin had appointed the vendors as his executors to administrate his affairs and that the said Lewis Herbert Robbin had expired on 1st May, 1925. It is stated that the Will had been proved in the High Court at Lahore and that the vendors were now the owners of the property and were selling the same. He pointed out that the recital showed that the property was on a perpetual lease free from rent from the Secretary of State for India in Council. He submitted that this was a registered document which showed that the land in question was not under old grant terms.

21. Mr. Andhyarujina also relied upon a Lease dated 28th August, 1936, wherein Lala Balmokand Bhalla had leased out a dwelling house along with out houses and land to the Secretary of State for India in Council. He submitted that if the land was on old grant terms, then there was no question of the predecessors in title of the Appellants leasing out the land to the Secretary of State for India in Council. Mr. Andhyarujina also relied upon another Sale Deed dated 25th January, 1943, by which Balmokand Bhalla sold the property to Lala Padam Pershad and Lala Mahabir Pershad.

22. Mr. Andhyarujina submitted that if this land was on old grant terms, then not only the lease would not have been executed, but such sales could not have taken place as the old grant terms did not permit transfer without written permissions.

23. At this stage it must be noticed that none of these documents had been brought on record in the Suit. These documents had been annexed for the first time, only in the Review Petition filed in the High Court.

24. Mr. Andhyarujina submitted that earlier the Himachal Pradesh High Court had, in the case of Durga Das Sud vs. Union of India , taken the view that principles of natural justice had to be complied with and that no notice of resumption could be given unless and until compensation was first fixed after hearing the concerned parties. He pointed out that the Allahabad High Court had taken the same view in the case of Mohan Agarwal vs. Union of India . He submitted that this was the law which prevailed. He submitted that because of this law the trial Court took an easy way out and decided his clients' suit only on the narrow point of principles of natural justice not having been followed. He submitted that it has nowhere been mentioned that his clients had not pursued or had given up their case that the land was not on old grant terms. He submitted that merely because the Trial Court took an easy way out and did not decide all the points urged by his clients would be no reason for depriving the Appellants of their valuable right. He submitted that as his clients had succeeded in the trial Court they did not need to file an Appeal. He submitted that before the first Appellate Court also his clients succeeded. He submitted that only in 1995, In Harish Chand's case (supra), this Court overruled the view taken by Allahabad High Court and the Himachal Pradesh High Court and approved a contrary view taken by the Delhi High Court in Raj Singh's case (supra). He submitted that the trial Court and Appellate Court decided in his clients favour only on the basis of the law then existing. He submitted that the Courts chose to decide the case merely on one point, even though his clients had at all stages not given up the case that the land was not on old grant terms. He submitted that his client cannot be made to suffer because the Courts chose not to decide other aspects.

Mr. Andhyarujina relied upon Section 110 of the Indian Evidence Act and submitted that whenever a question arises whether any person is the owner of anything of which he is shown to be in possession, the burden of proving that he is not the owner is on the person who affirms that he is not the owner. He submits that the Appellants and their predecessors in title have been in possession since at least 1926. He submits that the burden was entirely on the Respondents to show that they were not the owners. He submits that the only way that the burden could have been discharged was to produce the old grant. He submits that merely producing a Register in which it has been mentioned that the property is on old grant terms is not sufficient. He submits that the Register and the copy of GGO 179 of 1836 would be secondary evidence. He submitted that such evidence would be barred under the provisions of Section 91 of the Indian Evidence Act unless it was shown that the old grant was not available. He submitted that in this case no evidence had been led to show that the old grant, if there was one, had been lost or misplaced or that it was not available. He submitted that mere production of Register or a cyclostyled copy of the terms of the grant was no evidence at all.

In support of his submission he relied upon the case of Union of India vs. Purushotam Dass Tandon reported in 1986 (Supp) SCC 720. In this case Allahabad Polytechnic filed an interpleader Suit as there was a dispute between the persons who had let out the property to them and the Union of India as to the ownership of the property. In the interpleader Suit the question was whether the

person who had let out the property to the Polytechnic was the owner or whether the Union of India was the owner of that property. The Court held that the burden to prove its title was on the Union of India and that it should discharge their burden by producing the old grant. The Court held that the Court should know the terms and the date of the grant and that an admission in a standard draft for seeking permission of the Cantonment Board for transfer was no proof or title. However, to be noted, this was a case where the question of title of the Union was in serious dispute.

Mr. Andhyarujina also relied upon the authority in the case of T. Anklesaria vs. H. C. Vashistha . In this case the land and house in the Pune Cantonment were sought to be resumed. Resumption was challenged on the ground that this was not Government land. It was held that it cannot be said that all land in the Cantonment were Government land and there was no land of private ownership in the Cantonment. It was held that it had first to be established that the land belonged to the Government. It was held that even though there may be entries in the Register of the Government, those entries raised no presumption that they are true, until the contrary is proved. It must also be mentioned that this matter ultimately came up before this Court. This Court has remitted the matter back to the High Court with permission to the Union to lead proper evidence, if it so chose. This again was a case where there was a dispute whether the land belonged to the Government.

Mr. Andhyarujina then submitted that there was nothing to show that the GGO No. 179 dated 12th September, 1836 applied to Ambala. He submitted that there was nothing to show that Ambala was part of the Bengal Army. In this behalf he referred to the reply filed by the Respondents, wherein it has been stated as follows:

> "8. G.G.O. 179 of 12.9.1836 is applicable to all the cantonments of India. For the purpose of administration the Bengal Army was organized in two portions the Bengal Command and the Punjab Command. The Punjab Command included the Peshwar Cantonment. Notes on old grant terms in Military Land Manual are being filed as ANNEXURE-R- 2."

He submitted that in support of this contention the Respondents were relying upon the Extract from the Military Land Manual which had been annexed to the said Affidavit. He pointed out that in this Extract there was not a word about Ambala. He submitted that in the Rejoinder the Appellants have denied that Ambala fell within the Bengal Army.

Mr. Yogeshwar Prasad on behalf of the Appellants, in Civil Appeals arising out of SLP (C) Nos. 22436-22437 of 1997, supported Mr. Andhyarujina in his arguments. He further submitted that in his case it was all along disputed that the land was on old grant. He submitted that the grant had not been produced in this case. He pointed out that in the subsequent Suit which was filed in 1990 it had been admitted that these papers were not available. He submitted that Ambala became a Cantonment only in 1845. Therefore, GGO 179 of 1836 could not possibly apply to Ambala. He submitted that in his case also there was no proof to show that the land was on old grant terms. Mr. Yogeshwar Prasad also relied on certain Sale Deeds and a Lease Deed. However, these have been produced, for the first time, in this Appeal.

On the other hand, Mr. Rohtagi submitted that in Civil Appeal Nos. 917-918 of 1998 it was an admitted position that the land was on old grant terms. He submits in Civil Appeals (arising out of SLP (C) Nos. 22436-22437 of 1997) that on facts all Courts had held in favour of the Respondents. He points out that in both the cases the Appellants or the predecessors had given affidavits admitting the fact that the land was on old grant terms. He points out that the affidavits were tendered in evidence and marked as exhibits and/or are on record. He submits that the notices of resumption were given in 1971 and 1973. He submits that Mr. Andhyarujina's clients have litigated for the last approximately 17 years on an admitted position that the land was on old grant terms. He submits that it is now too late in the day and would be a travesty of justice if they were to be permitted to resile from the admitted position and at this belated stage be allowed to contend that the land did not belong to the Government. He submits that Mr. Yogeshwar Prasad's clients have lost in all Courts on facts and have not been able to show that the findings of the Courts below are not based on evidence in that case.

Mr. Rohtagi pointed out, from the original records which were available in this Court, that in Civil Appeal Nos. 917-918 of 1998 the Appellants had given evidence. He pointed out that in the evidence there was not even a statement that the Appellants or their predecessors were the owners of the property and/or that the Government was not the owner of the land. He points out that in this case the documents which have been relied upon by Mr. Andhyarujina were not part of the record and had been surreptitiously brought on record by way of Review Petition only after the High Court delivered the impugned Judgment. He further points out that in the Civil Appeals (arising out of SLP (C) Nos. 22436-22437 of 1997) some documents have been produced for the first time in the Appeal and are now sought to be relied upon. He submits that the ratios laid down, in the cases of P. T. Anklesaria and Purushotam Dass Tandon (supra), have no application to these cases. He submits that those were cases where it was denied that the land was on old grant terms. He submits that in those cases the Government was required to prove that it was the owner and had failed to do so. He submits that in one of these cases it has been an admitted position that the land was on old grant terms and in the other all Courts have, on facts, held in favour of the Respondents. He further points out that, even though it was not necessary, in Civil Appeal Nos. 917-918 of 1998, the witness of the Government had given evidence that this is a Government land. He points out that the witness has produced the Register of land records showing that the land is on old grant terms. He points out that the witness has produced GGO 179 dated 12th September, 1836. He submits that even in Civil Appeals (arising out of SLP (C) Nos. 22436-22437 of 1997) the Government has produced the Register of Land records and the GGO. He submits that in both the cases the Government has produced written admissions of the parties or their predecessors that the land was on old grant terms.

He submits that these cases are fully covered by the authority of this Court in Surendra Kumar Vakil's case (Supra). He further submits that an admission is a strong piece of evidence and is relevant and admissible by virtue of Section 21 of the Indian Evidence Act. He submits that such an admission would be binding unless he is able to explain away such admission. He submits that neither of the Appellants have given any explanation or even stated that the admission was given under force or compulsion. He submits that counsel cannot for the first time, in arguments during SLP, supply explanation on behalf of their clients. He submits that the Appellants have no case at all

and the Appeals must be dismissed.

We have considered the rival submission. In our view Mr. Rohtagi is quite right. It is now too late in the day for Mr. Andhyarujina's clients to take a contrary stand. Mr. Yogeshwar Prasad's clients have on facts lost in all Courts below. Notice to produce documents, given belatedly in some other case, is of no relevance so far as these Appeals are concerned. The practice of annexing irrelevant documents and trying to rely on them for the first time in the Appeal or in Review Petitions in the High Court should be deprecated.

In Civil Appeal Nos. 917-918 of 1998 it is clear that, at all stages, the case has progressed on the basis that it was not disputed that the land was on old grant terms. Of course, in the Plaint, in Para. 4(b) it had been averred that the land was not on old grant terms. However, except for making such an averment that point has clearly not been pressed at any stage. In evidence given by the plaintiff and/or on his behalf, there is no statement that the land was of plaintiff ownership and/or that the land did not belong to the Government. During trial the documents, now sought to be relied upon by Mr. Andhyarujina were neither produced nor tendered nor got marked as Exhibits. Were they produced Respondents would have had an opportunity to cross examine the witnesses and show that the averments in the documents were not correct and/or to explain how and why lease was taken by the Secretary of the State. It is clear that the averments in para 4(b) of the Plaint were not pressed. That they were not pressed is also clear from the Judgment of the Trial Court. It sets out all the arguments of the parties. No submission on the question of ownership of land by the Plaintiff and/or that the land was not on old grant terms has been recorded. If it was argued and their submissions were not recorded cross objections should have been filed particularly when in the last paragraph the Trial Court clarifies that the Government could resume the land after following due procedure of law. There could be no question of resumption if it was being disputed that the Government was the owner of the land. If Mr. Andhyarujina is right and the parties had not given up this contention, then it would be worse for the Appellants inasmuch as it would then mean that the trial Court had not accepted Plaintiffs/Appellants claim to ownership of land and had negatived it.

The Appellants never went in Appeal against the Judgment of the Trial Court. Even when the Respondents went in Appeal no cross objections were filed. Even before the first Appellate Court it has not been stated that their submissions were not dealt with and/or that the portion of the Judgment permitting resumption, after due process of law, could not have been granted. On the contrary the first Appellate Court is also clarifying that the Government can resume after following due process of law. This shows that even before the first Appellate Court it was an admitted position that the Government was the owner of the land and that the land was on old grant terms.

When the Respondents went in Second Appeal before the High Court, at this stage also, no cross objections were filed. Before the High Court it was not disputed that the land was on old grant terms. The High Court has so recorded in its Judgment. It is settled law that one has to proceed on basis of what has been recorded by the Court. If any party feels aggrieved of what has been recorded by the Courts a clarification has to be sought from that same Court. In this case the clarification was sought, by way of Review Petition, to which as stated above, fresh documents were purported to be attached for the first time. The High Court has rejected the Review Petition. The High Court has

thus confirmed that at the time the Second Appeal was argued it was not disputed that the land was on old grant terms. This Court has to go by what has been recorded in the Judgment. What is recorded in the Judgment is supported by the conduct of the parties inasmuch as no evidence was led to dispute the fact, no documents were tendered or marked as Exhibits and no submissions were made on this aspect. That it was not disputed that the land was on old grant terms is also supported by what has been recorded in the Judgments of the trial court and the First Appellate Court. There is no evidence that the written admissions were taken forcibly and/or that they were not binding or not correct. Admissions are relevant evidence if not explained away. Thus these cases have been fought over the last 17 years on an admitted position. Mr. Rohtagi is right that it would be a travesty of justice and would amount to permitting parties to misuse laws delays if at this stage they are permitted to change their stand and take contentions which are contrary to what has been the admitted position all these years.

In Civil Appeals (arising out of SLP (C) Nos. 22436-22437 of 1997) all the Courts below have given concurrent findings of fact. We see no infirmity in these findings. The findings of fact are based on evidence before the Trial Court and require no interference.

Once it is admitted that land was on old grant terms it is irrelevant to argue that it is not shown that Ambala was under the Bengal Army. The same would be the position when on evidence Court has held that land is on old grant terms.

It may only be mentioned that even in the three Appeals which were withdrawn, it had been an admitted position that the land was on old grant terms. As that position could not be controverted and as those parties were fully covered by Surendra Kumar Vakil's case (supra), those Appeals were withdrawn.

In these Appeals, the principles laid down in Purushotam Dass Tandon's case and P. T. Anklesaria's case (supra) would not apply. In our view, these Appeals are fully covered by the ratio laid down in Surendra Kumar Vakil's case. In our view there is no infirmity in the impugned Judgments of the High Courts. Accordingly, these Appeals are dismissed. There will, however, be no Order as to costs.