

Dr. Chandra Mohan Singhal and ors. Vs. State of U.P.

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Court : Allahabad

Decided On : Jul-25-2002

Reported in : 2002(4)AWC2686

Judge : B.K. Rathi, J.

Acts : [Code of Civil Procedure \(CPC\) , 1908](#) - Order 6, Rule 4 - Order 7, Rule 11

Appeal No. : Civil Revision Nos. 51 and 52 of 2002

Appellant : Dr. Chandra Mohan Singhal and ors.

Respondent : State of U.P.

Advocate for Def. : P.P. Srivastava, ;Anil Srivastava and ;D.V. Singh, Advs.

Advocate for Pet/Ap. : A.K. Gupta and ;V.K.S. Chaudhary, Advs.

Disposition : Revision allowed

Judgement :

B.K. Rathi, J.

1. Both these revisions have been directed against the common order passed in suits Nos. 44 of 1993 and 45 of 1993 by Illrd Additional District Judge, Hamirpur on 27.9.1993. The facts of both the suits are connected and, therefore, the matter has been decided by the common judgment by the trial court. Both the revisions

are accordingly disposed of by this common order.

2. I have heard Sri V. K. S. Chaudhary, learned senior advocate assisted by Sri A. K. Gupta. Learned counsel for the revisionists. Sri P. P. Srivastava, learned senior advocate and Sri Anil Srivastava were appearing on behalf of the opposite party and they took several adjournments for advancing their arguments. However, ultimately on 8.7.2002 they have withdrawn from the case and thereafter no body appeared for the opposite party. It appears that they were unable to support the order of the learned Additional District Judge and, therefore, had withdrawn from the matter and thereafter, no body has come forward to argue the matter on behalf of the State of U. P.

3. The facts giving rise to these revisions in brief are as follows :

'Two Suits Nos. 44 of 1993 and 45 of 1993 were filed by the opposite party. State of U. P. against the revisionists of the two revisions. The property in dispute in Suit No. 44 of 1993 are plot Nos. 16, 17 and 18 of Patti Ram Swroop of village Meerapur Danda which comprises a portion of the premises of Kothi Narain Rao in Hamirpur Town. In Suit No. 45 of 1993 the dispute is regarding plot Nos. 3, 4, 5, 6, 7 and 9 of the same Kothi of the same village, however, of different Patti of Madan Mohan. The reliefs in both the suits are for declaration that the State of U. P. is absolute owner of the said plots and Kothi since its confiscation in the year 1858 and the present revisionists had no title or interest in the said plots, with further request for cancellation of decrees of suit No. 21 of 1972 regarding plot Nos. 3, 4, 5, 6, 7 and 9 and suit No. 88 of 1972 regarding plot Nos. 16, 17 and 18, which are in favour of the revisionists. The request for permanent injunction to restrain the revisionists from interfering in the possession of the opposite party over the said property has also been made. In suit No. 45 of 1993, a further request has been made for issue of mandatory injunction directing the revisionist No. 1 to refund a sum of Rs. 9,64,996.17 p. illegally taken by him, as compensation on 24.5.1978 for plot Nos. 5 and 7 with interest @ 15% till the date of the payment.

4. In brief it was pleaded in the suits by opposite party that the Kothi was constructed in the year 1830 by an English Officer and subsequently sold it to Narain Rao and Madho Rao. This Kothi was known as 'Kothi Narain Rao' situated

in an area 58.14 acres. That this Kothi always remained in the ownership of the State Government and on the basis of forged and fictitious entries, it was claimed by the revisionists. That the entries were obtained in collusion with the revenue officials for illegal gains. That the decrees of two suits were obtained on the basis of the collusive entries. The plaintiff-opposite party came to know about the fraud and collusion in the year 1980 when the decree were put to execution. Accordingly, the suits were filed. In both the suits, the defendants-revisionists moved applications under Order VII Rule 11, C.P.C. for rejection of the plaints alleging that their title is admitted and the matter has been decided finally several times from the highest Court of the land and it cannot be agitated again. That, therefore, the plaint does not disclose any cause of action and the suits are totally vexatious and meritless. Both the applications were rejected by the common order by the trial court and, therefore, these two revisions have been preferred.

5. There is very long history of litigation between the parties regarding the disputed Kothi and the plots on the basis of which it has been submitted that matter has been decided finally and that the plaint does not disclose any cause of action and is liable to be rejected.

6. It has been submitted that U. P. Urban Area Zamindari Abolition and Land Reforms Act came into force on 12.3.1957 and the notification under Section 8 of the Act regarding vesting of the agricultural land in the State of U. P. was issued on 1.7.1961. The Board of Revenue on 4.5.1962 issued circular directing the scrutiny and correction of demarcation record to remove clerical and arithmetical mistakes in demarcation of agricultural areas. The demarcation officer on 5.9.1964 approved the correction under Section 6 of the Act and at the instance of Collector, Hamirpur demarcated the disputed land as non-agricultural area. The compensation assessment roll was prepared under Section 27 of the Act on 5.8.1965 for the land vested in the Government, but no compensation was awarded in respect of the disputed land 'as Zamindari was not abolished for the same and the land was non-agricultural ; that the Kothi was known as 'Sarkar Bahadur Mutallika Bangla Collector Bahadur' and was in occupancy tenancy of 'Sarkar Kaisre Hind.' The ancestors of the revisionists were recorded as Zamindars and were landlords. This Kothi was divided into three portions included

in three mohals and the land was let out to the State of U. P. to enhance the elegance of the bungalow of the District Magistrate. The State of U. P. committed the breach of the conditions of the lease and, therefore, the Zamindars and landlords, the present revisionists filed suit No. 21 of 1972 for ejectment of State of U. P. and Anr. suit No. 88 of 1972 was filed by the other revisionists with the similar allegations. The copies of the complaints of both suits are Annexure-1 of each affidavit filed in support of the civil revisions. Both these suits were contested by Collector, Hamirpur and the written statements duly verified by the Collector, Hamirpur were filed admitting the revisionists as Zamindars and landlords of the land in dispute. The suits were contested mainly on the ground of jurisdiction, limitation, proprietary interest by adverse possession, estoppel and acquiescence. The copy of the written statement of suit No. 21 of 1972 is Annexure-2 to the affidavit, which shows that para 1 of the complaint was admitted, in which it was pleaded that the plots are situated in mahal Madan Mohan of village Meerapur Danda. In para 2 of the complaint, it was pleaded that previously Lala Madan Mohan Lal was the sole and exclusive owner in possession of the land in dispute. This para was also admitted and it was pleaded in reply that Lala Madan Mohan' Lal was Zamindar. However, only possession was denied. The fact that the plots were let out to the State of U. P. was also admitted in para 5 of the written statement. It was also admitted that no proceedings for the acquisition of the land has been started. In para 15 of the written statement, it was pleaded that the plot Nos. 5 and 7 mentioned in the complaint has been acquired by the State of U. P. under the Land Acquisition Act and the possession has been delivered to Sri J. P. Pandey, that the Court has no jurisdiction to try the suit. Similar admissions were made in the written statement of Suit No. 88 of 1972. In these two suits, two preliminary issues were framed regarding the jurisdiction of the civil court to decide the suits and regarding the valuation of the suits. The trial court in both the suits held that the civil court has jurisdiction to try the suits and they have been properly valued. Against findings on these issues, the State of U. P. filed appeals which were dismissed by the Civil Judge on 17.9.1973 as not maintainable. Thereafter, the State of U. P. filed two Civil Revision Nos. 5 of 1974 and 6 of 1974 before the District Judge with an application for condonation of delay in filing the revisions. Both the revisions were dismissed on 20.9.1975. Thereafter. Civil Revision Nos.

2290 and 2291 of 1975 preferred in this Court were also dismissed on 28.1.1976 and the findings on the preliminary issues were confirmed. Ultimately on 19.12.1977 both the suits were decreed for ejectment of the State of U. P. and for recovery of arrears of rent and damages.

7. Against decrees of the trial court, the State of U. P. preferred two first appeals before the District Judge. Both these appeals were dismissed by the District Judge, Hamirpur on 30.3.1980. Against the same, the State of U. P. filed two second appeal Nos. 1741 of 1980 and 1747 of 1980 in this Court. Since there was no stay order staying the execution of the decrees, the decree holders filed Execution Case No. 36 of 1978. The executing court appointed a Commissioner to execute the decree. An application was moved by the State Government for staying the execution, which was rejected by executing court on 29.7.1980 and the decree was executed on 30.8.1980 and the decree holder Sri J. S. Singhal and Ors. of O. S. No. 88 of 1972 were put in possession of the land. The Commissioner, submitted his report on 2.9.1980 to the effect that the decree has been executed and the possession has been delivered to the decree holder.

8. The State Government also filed an application in second appeal No. 1747 of 1980 for staying the execution of the decree, which was contested by the revisionists on the ground that the decree has already been executed. This Court did not grant stay of the execution but directed the parties to maintain status quo.

9. During the pendency of the second appeal, in order to change the entries, the Collector of Hamirpur filed an application before his subordinate officer for changing the entries of the land from non-agricultural to agricultural. It was got registered as Case No. 11 of 1980, Collector v. Sarkar, The owner and Zamindars of the land were not made parties nor any notice was issued to them nor they got knowledge of that case. The Sub-Divisional Magistrate passed a collusive order under the pressure of the Collector on 15.11.1980 for changing the entries of the land in dispute from non-agricultural to agricultural in the revenue records. This was done behind the back of the revisionists in spite of the order passed by this Court for maintenance of status quo on 10.9.1980 in Second Appeal No. 1747 of 1980.

10. After the change in the entries, the State of U. P. filed applications on 13.1.1981 in the second appeals under Order XLI, Rule 27, C.P.C. to bring on record the change in the entries and also the order of the Sub-Divisional Magistrate dated 25.11.1980. The said applications were rejected by this Court vide order dated 29.9.1981, Annexure-7 to the affidavit, filed in support of the civil revision.

11. Since the revenue entries were changed by the order dated 25.11.1980, as such the owners filed Writ Petition No. 4129 of 1981 Dr. C. M. Singhal v. State of U. P. The said writ petition was allowed on 27.4.1988 by a Division Bench of this Court, quashing the order dated 25.11.1980 (reported in 1988 ALJ 1190). This Court held that the action of the State of U. P. in getting entries changed is not bona fide but mala fide. The relevant portion of the judgment is quoted below :

'13. In the present case under the circumstances of the case, we are satisfied that the impugned order was not passed in good faith but rather it was passed in bad faith. The impugned order was passed in violation of principles of natural justice, particularly by affording no opportunity of filing objections or hearing as contemplated by Rules 26, 31 and 33 of the U. P. Urban Areas Zamindari Abolition and Land Reforms Rules, 1957.'

It was further held in the aforesaid writ petition :

'15. Reverting to the next question emanating from the first one, as to whether it was open to the respondents to proceed to redetermine nature of the land once the declaration in respect of non-agricultural area of the land has been upheld in the civil suit which was finally decided by this Court. As this Court has finally determined that the nature of the land was correctly rectified as non-agricultural area hence that position must have been honourably accepted by the State of U. P. It cannot be equated with an ordinary rectification nor State is expected to play game of hide and seek to the prejudice of persons whose rights are to be validly affected. It was, therefore, not justified on the part of the respondents to have passed the impugned orders declaring the land to be agricultural area and carrying out consequential changes in the relevant khatauni without notice to the petitioners and without hearing them.'

Against the above judgment of this Court dated 27.4.1988 allowing Writ Petition No. 4129 of 1981, the State of U. P. filed special leave petition before the Apex Court which was dismissed on 23.10.1990.

12. In spite of the order for status quo passed by this Court in Second Appeal No. 1741 of 1980, the Collector, Hamirpur, Sri S. P. Gaur did an unlawful act by using his powers and influence took forcible possession of the land in December, 1980 violating the order of the status quo. Therefore, Sri J. S. Singhal filed Contempt Petition No. 51 of 1981 in this Court. In that contempt petition, this Court found that the then Collector, Sri S. P. Gaur has wilfully and deliberately flouted the order of the status quo passed on 10.9.1980 as the possession was delivered to the decree holder, Sri J. S. Singhal on 30.8.1980 but was forcibly taken by the Collector in December, 1980. The contempt petition was decided on 21.5.1991, Annexure-13 of the affidavit, filed in support of the civil revision. The following observation of the Court is material :

'Having been faced with the above facts and circumstances Sri M. C. Dwivedi, learned standing counsel, representing Sri S. P. Gaur, the then D. M., Hamirpur has been very honest and straightforward in submitting that in view of the decision of this High Court in the Second Appeal No. 1747 of 1980 and the Civil Misc. Writ Petition No. 4129 of 1981 and the observation of this Court therein, the conduct of Sri S. P. Gaur cannot be justified. Prima facie he did disobey the order of the Court. In view of the very well submission of the learned standing counsel in spite of the misconduct of the contemnor Sri S. P. Gaur in disobeying the order of the Court and also in getting the entries changed in the revenue records, thereby misusing his official position as Head of the District, with constraint, this Court condemns the misconduct of Sri S. P. Gaur. When a District Magistrate who represents the height of the State in the district and is supposed to be absolutely aboveboard and carrying credence in its letter and spirit of the word could stoop down to the extent as above is indeed very painful. When the salt itself would lose its flavour, from where it would be salted. However, as the learned Government standing counsel has undertaken to get the wrong undone by delivering possession of the land to the petitioner by 16.9.1991 positively and also in getting submitted an unqualified apology, expressing sincere sorrow for his misconduct by

Sri S. P Gaur. the then District Magistrate, Hamirpur and placing himself at the mercy of this Court by 16.9.1991, the Court thinks that it should be accepted as sufficient and the proceedings be then dropped on the compliance of the above undertaking. If the compliance is not done, then the Court would have no option but to take serious action against the contemnor Sri S. P. Gaur.

As regards Sri K. D. Tripathi, opposite party No. 2 though he has also filed this counter-affidavit but as submitted by the learned counsel for the petitioner notice on him of these proceedings has not been duly served, no action need be taken against him.'

It may also be mentioned that copy of the judgment of this contempt petition was also ordered to be sent to the Chief Secretary. State of U. P. for compliance.

13. The direction issued in the contempt petition were not followed, hence Sri J. S. Singhal filed another Contempt Petition No. 654 of 1992 on 13.4.1992. On 28.4.1992 this Court issued notice to Sri S. P. Gaur, the then Collector, Hamirpur directing him to appear in this Court. On 16.11.1992 this Court again directed that the order dated 21.5.1991 of the contempt petition be complied with by 7.3.1993 and directed the Chief Secretary, State of U. P. and the then District Magistrate Dr. B. P. Nilratana and earlier District Magistrate Sri S. P. Gaur to be present in person, but the order was not complied with. On the other hand, an application was filed for recall of the order dated 21.5.1991 passed in Contempt Petition No. 51 of 1981, in which the operation of the order was stayed by an ex-parte order.

14. It is also submitted by the learned counsel for the revisionists that the State of U. P. never disputed the title of the Zamindars. On the other hand, it started proceedings for the acquisition of certain portion of the disputed land vide notification under Section 4 of the Land Acquisition Act on 23.1.1974 and that under Section 6 of the Act was also issued. The possession of the land was taken on 28.3.1977. The Special Land Acquisition Officer gave its award on 15.4.1978 awarding the compensation to the owners, the present revisionists. The compensation was also paid to the revisionists by the State of U. P. in the year 1978.

15. It may also be mentioned that Collector, Sri S. P. Gaur was so much interested in the matter that he suo motu made reference under Section 30 of the Land Acquisition Act to the District Judge, Hamirpur claiming that the land was property of State of U. P. under the U. P. Act No. IX of 1957. The reference of the Collector was rejected by the District Judge, Hamirpur on 30.5.1981. Aggrieved by it, the Collector sought for permission from Legal Remembrancer to file the appeal in this Court but the permission was refused. Thereupon the Collector filed Civil Revision No. 380 of 1981 in this Court against the order of the District Judge rejecting the reference. This Court allowed the revision and remanded the matter to the District Judge. Aggrieved by the order of this Court, Dr. C. M. Singhal filed Special Leave Petition No. 3522 of 1983 before the Hon'ble Supreme Court. The special leave petition was allowed by the Apex Court on 23.10.1990, Annexure-9 to the affidavit, filed in support of the civil revision, holding that the land cannot vest in the State of U. P. and that entries showing the land to be non-agricultural area continued to be effective.

16. Now coming to the fate of two appeals filed by the State of U. P. After hearing the learned counsel for the parties, both Second Appeal Nos. 1741 of 1980 and 1747 of 1980 were dismissed by this Court by judgment dated 28.5.1982 in 1982 ALJ 1302. The following observation of this Court regarding the title of the land is material:

'7. It has been found and is not disputed that the State Government was the occupancy tenant of Kothi Narain Rao, which has a big compound in which the land in dispute is situated of which also the State Government was occupancy tenant and which is in occupation of Collector, Hamirpur since long and was in occupation when the Act was enforced. Both courts below have found that plaintiff was the Zamindar and owner and respondent was lessee and occupancy tenant. Apart from evidence the finding is based on admission in the written statement. Further the respondent contravened the terms of lease by cutting trees and raising constructions over occupancy tenancy, and these constructions could not be considered improvement within U. P. Tenancy Act. Finding as stated earlier has not been challenged. If the constructions over land in dispute is not an improvement then the proviso is fully applicable. Kothi Narain Rao known as

Collector's Bungalow of which State Government was occupancy tenant could not, therefore, be declared agricultural area. Nor could the land of compound be considered to be agricultural area within meaning of Act, because what is expected in the proviso is not only building but land appurtenant to it. In *Babu Lal v. Ram Prasad* : AIR1939 All37 'appurtenant to an agricultural holding' means something which is adjacent to or an integral part of the holding which was and is in occupancy tenancy of State Government over which the building namely, Collector's bungalow stands is land appurtenant thereto, therefore the building and the land could not be agricultural area.'

The matter regarding the acquisition was also considered in this case and the following observation was made by this Court :

' 13. Learned counsel for respondent pointed out that entire argument of vesting is built on hollow foundation. According to him as late as in 1978 State Government itself acquired part of the land in dispute by land acquisition proceedings. Compensation for it was paid to respondent and delivery of possession was taken by Government. According to learned counsel if the land had vested in State Government or the title of respondent was affected in any manner there could be no question of paying entire compensation to respondent. In fact claim of State for compensation was repelled. Argument is supported by paper Nos. 58/3/C2 and 58/4/C2. These facts speak for themselves and cut across the argument advanced on behalf of the State.'

17. The State of U. P. did not feel satisfied with the decision of the above second appeals and filed Special Leave Petition Nos. 8388 of 1983 and 8389 of 1983 before the Hon'ble Supreme Court. Both these appeals were dismissed with cost on 23.10.1990 and the order of this Court was confirmed. The State of U. P. again filed Review Petition Nos. 783 and 784 of 1993 regarding the decision of Special Leave Petition Nos. 8388 and 8389 of 1983 in the Apex Court. The review petitions were also dismissed on 24.9.1991 by order Annexure-12 of the affidavit.

18. In spite of losing battle at all stages upto the Apex Court and recording of the concurrent findings that the land is not agricultural area and the revisionists are the owner of the same, and facing contempt proceedings, the Collector,

Hamirpur made another attempt and filed the above two suits Nos. 44 of 1993 and 45 of 1993 before the Civil Judge, Hamirpur for the reliefs as mentioned above in which he applied for interim injunction which was refused. The only plea taken in the suits was regarding the revenue entries showing the land to be agricultural. The claim is based on the following paragraphs of Suit Nos. 44 and 45 of 1993 justifying the filing of these suits :

'21. That the said fraud and collusion was detected by the plaintiff in the year 1980 when Sri Jagdish Saran Singhal put his decree dated 19.12.1977 of Suit no. 88 of 1972 Sri Jagdish Saran Singhal and Ors. v. State of U. P., was put in execution and an enquiry was made. The then S.D.O. after an enquiry ordered on 25.11.1980 restoration of the entries of those plots as agricultural. That order challenged by Dr. Chandra Mohan Singhal and Sri Jagdish Saran Singhal by writ petitions in the Hon'ble High Court of Judicature at Allahabad which were allowed on the ground that the said restoration was made without affording any opportunity of hearing to them.

22. That the entries with respect to the plots of Kothi Narain Rao either as agricultural plots or as non-agricultural plots are not final because they have not been finalised by the Demarcation Commissioner under Section 5 of the said U. P. Urban Area Zamindari Abolition and Land Reforms Act, 1956 and the rules framed thereunder. The plots in dispute have been agricultural plots' and there had been no demarcation of those plots and declaration of it vesting in the State under the U. P. Urban Areas Z.A. and L.R. Act on account of the aforesaid fraud and collusion. As such the U.P. Tenancy Act is applicable to the plots in question of the said Kothi Narain Rao as before. The said fraud and collusion apparent on its face could not divest the Government of its alleged occupancy tenancy rights if that entry had been correct which is denied by the plaintiff and also the benefits of the provisions of the U. P. Urban Areas Zamindari Abolition and Land Reforms Act, 1966. If the Zamindari of the plots in question is held to have been abolished, the plots being agricultural vested in the plaintiff State and the so-called Zamindar's rights, if any in the said land, extinguished under the U. P. Urban Areas Zamindari Abolition and Land Reforms Act.

25. That when the U. P. Urban Areas Zamindari Abolition and Land Reforms Act, 1956 came in force, plot Nos. 3, 4, 5 and 7 were agricultural plots, plot No. 8 had already lost its character of an agricultural land 30 or 35 years ago when it was utilised by the Government for the extension of police lines. Plot Nos. 6 and 9 were metalled roads and as such plot Nos. 3, 4, 5 and 7 were rightly recorded in the demarcation khatauni as agricultural plots. Even if the entry of occupant is held to be correct, the State Government became Bhumidhar of those plots and Dr. Chandra Mohan Singhal lost all said rights, title or interest, if any, in those plots.

43. That the cause of action for the suit arose to the plaintiff against the defendants in the year 1980 when the aforesaid fraud and collusion of the revenue officials and officers of Hamirpur with so-called Zamindars came to the notice of the plaintiff on an enquiry in the jurisdiction of this Hon'ble Court and the Hon'ble Court has jurisdiction to try the suit.'

19. It may be mentioned that all these pleas have already been contended and tested in the two suits upto the highest Court of the land, and in the matter of correction of revenue records, and acquisition of land under Land Acquisition Act. It may also be mentioned that in earlier suits, as would appear from the written statement, ownership of the land in dispute was admitted. It was also admitted that land is non-agricultural. On the other hand, the suits were contested mainly on the ground of jurisdiction, limitation, proprietary interest by adverse possession, estoppel and acquiescence. The title having been admitted now cannot be permitted to be raised again. Admitting the title, the land was acquired and compensation was paid by the State of U. P.

20. Another attempt was made by changing the revenue entries with the help of Sub-Divisional Magistrate but that attempt has also failed. The present suit is the last attempt. As discussed above, all the matters involved in the suits have been finally decided. The present suits are not maintainable and they do not disclose any cause of action and accordingly, the plaints of both the suits are liable to be rejected under Order VII, Rule 11, C.P.C.

21. In this connection, I may point out the observation of the Apex Court made in the case of T. Arvindandam v. T. V. Satyapal and Anr. : [1978]1SCR742 wherein it

is categorically laid down :

'that if on a meaningful reading of the plaint, it manifestly appears to be vexatious and meritless, in the sense of not disclosing a clear right to sue, the trial court, should exercise its power under Order VII, Rule 11 of the Code of Civil Procedure taking care to see that the ground mentioned therein is fulfilled since bogus litigation ought to be shot down at the earliest state.'

In view of this decision of the Apex Court, the present two suits cannot be permitted to proceed. There should be some end of the litigation. They are totally false, vexatious and meritless and, therefore, the plaint of both the suits are liable to be rejected.

22. It may also be pointed out that according to the plaint, the alleged fraud was detected in the year 1980. At that time, Second Appeal Nos. 1741 and 1747 of 1980 were pending before this Court. No attempt was made by the State of U. P. to bring on record the said facts.

23. Lastly, it has also been argued by the learned counsel for the revisionists that no details of the fraud as required under Order VI, Rule 4, C.P.C. have been pleaded in the plaints and, therefore, the plaints are liable to be rejected. In this connection, the learned counsel for the revisionists has referred the decision of Bal Gangadhar Tilak and Ors. v. Sri Niwas Pandit and Ors., AIR 1915 PC 7. It was observed that:

'Under the contract law of India as well as ordinary principles, coercion, undue influence, fraud and misrepresentations are all separate and separable categories in law. It is true that they may overlap or may be combined. But in the present case, it is impossible to discover what ground or grounds are really taken up. There is well known rule of pleading expressed in frequently quoted language of Lord Sellborne Walling Ford v. Mutual Society, 1980 (5) AC 63 that 'with respect to fraud if there be any principle which is perfectly well-settled, it is that general allegations, however, strong may be the words in which they are stated are insufficient even to amount to an averment of fraud of which any Court ought to take note.

The law of India is in no way different from this and it has been decided over and over again, e.g., in *Gunga Naratn Gupta v. Tiluck Ram Chaudhary*, (1888) 15 Cat 533.'

24. Another decision referred to is *Bishnudeo Naratn and Anr. v. Seogani Rai and Ors.* : [1951]2SCR548 , Constitution Bench has held as follows :

'It is also to be observed that no proper particulars have been furnished. Now if there is one rule which is better established than any other, it is that in cases of fraud, undue influence and coercion, the parties pleading it must set forth full particulars as laid. There can be no departure from them in evidence. General allegations are insufficient even to amount to an averment of fraud of which any Court ought to take note, however strong language in which they are couched may be and same applied to undue influence and coercion.'

25. The perusal of the complaints shows that no details of the fraud has been given nor it is mentioned as to who committed fraud. For this reason also, the complaint is bad under Order VI. Rule 4, C.P.C. and is liable to be rejected.

26. From the above discussions, it is clear that both the Suit Nos. 44 of 1993 and 45 of 1993 have been filed facing threat of eviction in the execution of the decree of O.S. Nos. 21 of 1972 and 88 of 1972 by the District Magistrate, who could not allow the fact that the land of his bungalow is taken forcibly under the decree of the civil court. It has been taken by the District Magistrate as his personal wealth and prestige and, therefore, without any cause of action, the above suits have been filed, which have no legs to stand. The suits are nothing but the mala fide attempt to thwart the lawful proceedings of eviction and to get rid of the contempt proceedings pending in this Court. The Collector, Hamirpur, who is enjoying the entire land does not want to leave possession of the land and had filed the suits on behalf of the State for his personal benefit so that he may retain the land and could also find defence for the contempt proceedings.

27. Accordingly, both the revisions are allowed with costs and complaint of both the Suit Nos. 44 of 1993 and 45 of 1993 are rejected under Order VII, Rule 11, C.P.C.