ALLAHABAD HIGH COURT

Maya

Vs.

Raja Dulalji

Second Appeal No. 1348 of 1961 dated 7th January, 1961 in Civil Appeal No. 13 of 1959
(Gyanendra Kumar, M.N. Shukla and S. Malik, JJ.)

18.03.1970

JUDGMENT

M.N. Shukla, J.

1. This appeal was originally heard by a learned single Judge who felt that the two division Bench decisions of this Court, namely *Dularey v. Rajeshwari*[1], and *Hasina Bibi v. Ram Din*[2] required reconsideration. He, therefore, referred the case to a larger Bench which endorsed his opinion and referred the following points to us for decision:

> (1) Whether in the circumstances of this case and on the facts stated above Ram Gharan and other Plaintiffs became adhivasis or asamis of the plots in dispute?
> (2) For the purposes of Section 21 (1)(h) of the UP ZA and LR Act, whose disability has to be seen?
> (3) Does Section 21(1)(h) of the UP ZA and LR Act apply to a tenant, subtenant or occupant as the case may be, where the landholder did not belong to anyone or more of the classes mentioned in Sub-section (1) of Section 157 of the UP ZA and LR Act on the date of vesting but belonged to such class or classes both on the date of letting or occupation and on 9-4-1946?
> (4) For the purposes of Section 21(1)(h) of the UP ZA and LR Act is the land-holder the person who was the landholder immediately preceding the date of vesting or a person who was the landholder on the material dates?

2. We proceed to deal with this case on the basis of the facts which were accepted by the learned single Judge, who posed the above questions. The disputed plots belonged to one Bijain and were inherited on his death by his widow Smt. Lakshmi. When she died her minor unmarried daughter Kumari Maya became the landholder. Her elder sister Saheb Kunwar acting as her guardian executed a registered lease of the plots in favour of the Plaintiffs, Ram Charan etc., on 15-10-1947 for a period of five years. Later on Maya was also married to her sister's husband, Thakur Das, who was admitted to the holding as co
tenant with Maya, with the consent of the Zamindar in the year 1948. Thus on the date of

vesting both Maya (who was still a minor and disabled person) as well as her husband,

[1]11966 A.L.J. 199

[2]1967 A.L.J. 27

Thakur Das were the land-holders of the plots in question. The present suit was filed by the lessee Plaintiffs in the year 1954 for a declaration that they had become adhivasis of the land on the coming into force of the UP ZA and LR Act and had subsequently acquired sirdari rights on the passing of UP Act XX of 1954. The question, therefore, arose as to the interpretation to be put on Clause (h) of Section 21(1) of the UP ZA and LR Act (hereinafter called the Act).

3. The suit was decreed by both the Courts below and hence Maya Defendant preferred a second appeal to this Court. The success of the Plaintiffs' claim depends upon whether for the purposes of Section 21(1)(h) the disability of the land-holders who are in existence on the date of vesting is material or the disability of the land-holders who let out the land is the deciding factor. Section 21(1)(h) of the Act (UP Act No. 1 of 1951) was for the first time introduced in the UP ZA and LR Act (UP Act XVI of 1953) and was later on amended by UP Act XX of 1954 and has thereafter continued in its present form. Section 21(1)(h) as originally enacted ran as under:

> "(h) a tenant of sir of land referred to in Sub-clause (a) of Clause (1) of the explanation Under Section 16, a sub tenant or an occupant referred to in Section 20, where the landholder or if there are more than one landholder, all of them were person or persons belonging, both on the date of letting and on the date immediately preceding the date of vesting, to anyone or more of the classes mentioned in Sub-section (2) of Section 10 or Clause (8) of Sub-section (1) of Section 157. (The underlining's-herein italicised-are ours). The section in its present form as amended by Act XX of 1954 reads as follows:
> "(h) a tenant of sir of land referred to in Sub-clause (a) of Clause (i) of the explanation Under Section 16, a sub tenant referred to in sub Clause (ii) of Clause (a) of Section 20 or an occupant referred to in sub Clause (i) of Clause (b) of the said section where the landholder or if there are more than one landholder, all of them were person or persons belonging--
> (a) if the land was let out or occupied prior to the ninth day of April, 1946, both on the date of letting or occupation as the case may be and on the ninth day of April, 1946, and
> (b) if the land was let out or occupied after the ninth day of April, 1946, on the date of letting or occupation, to any one or more of the classes mentioned in Sub-section (1) of Section 157.

4. By the amending Act the words "both on the date of letting and on the date immediately preceding the date of vesting" were omitted. In the 1953 enactment it was provided that the landholder should be a disabled person on the date of letting and on the date immediately preceding the date of vesting. By the amending Act of 1954 the words referring to the disability of the landholder on the date immediately preceding the date of vesting were dropped.

5. It was contended on behalf of the Appellant that on a plain reading of the amended Section 21(1)(h) the disability of the landholder or land-holders, if there are more than one on the date of vesting, is not a relevant consideration at all. It was strenuously pressed that when the Legislature omitted the reference to the date of vesting by passing Act XX of 1954, it would be futile to consider the disability of the landholder on the date of vesting as well. To do so, it was urged, would be to interpret the section against the intention of the Legislature, because by omitting a reference to the date of vesting the Legislature clearly did away with the necessity of enquiring about the disability of the land holder on the date of vesting. It was suggested that if the section was interpreted keeping in view the intention of the amending Act it would be manifest that for the purposes of Section 21(1)(h) of the Act what had to be looked into was the disability of the land holder or land holders only on the 'material dates', i.e., if the land was let out or occupied prior to 9-4-1946, both on the date of letting or occupation, as the case may be and on 9-4-1946 if the land was let out or occupied on or after 9-4-1946, then on the date of letting or occupation. The mere fact that on the date of vesting the land holder or land holders or his successors in interest were not disabled persons would not confer adhivasi rights, but on the contrary, the sub-tenants or the occupants would become asamis. The learned Counsel for the Appellant relied on the rule of interpretation of statutes, known as the mischief rule, as enunciated in Heydon's case. The Supreme Court approved of the said rule in *Kochuni v. State of Madras and Kerala*[2], To have a correct appreciation of the scope of the amended provisions of any statute, Subba Rao, J. observed (in para 23) that it was necessary to consider, in the words of Lord Coke, the following circumstances:

(i) What was the law before the Act was passed;
(ii) What was the mischief or defect for which the law had not provided;
(iii) What remedy Parliament has appointed; and
(iv) the reason of the remedy.

It was argued that to insist on examining the disability of the land holder both on the date of letting and the date of vesting would be to defeat the very intention of the Legislature in amending the section. It was submitted that the two Division Bench cases decided by this Court namely *Dularey v. Rajeshwari* [3]*E*and *Hasina Bibi v. Ram Din*[4] did not correctly interpret the section and lost sight of the object with which Section 21(1)(h) was amended by UP Act XX of 1954.

6. The contention of the Respondent, in short, was that Section 21(1)(h) intended to confer a personal protection on the disabled land holder letting out his or her land. It was, therefore, essential that the identity of the land holder must not change and the land holder on the date of vesting must be the very land holder who let out the land and at the time of letting suffered from any of the disabilities mentioned in Section 157 of the Act. Since the rights of a sub-tenant or occupant etc. accrue on the date of vesting, that date cannot be ignored but it has to be

ascertained whether the landholder or landholders on the date of vesting is or are the same, who let out the land and who suffered from any of the aforesaid disabilities at the time of letting. Thus, it is the common case of the parties that the disability of the landholder letting out the land has to be taken into account. According to the Defendant-Appellant the right conferred by Section 21(1)(h) subsists in favour of the landholder or landholders existing on date of vesting (who may be different from the original landholder or landholders letting out the land); while according to the learned Counsel for the Plaintiff Respondent the landholder or landholders on the date of letting and on the date of vesting must be the same. Therefore, the limited area of divergence between the two contentions is as to the identity of the landholder or

[2] AIR 1960 SC 1080 [4]1967 A.L.J. 27
[3]1966 A.L.J. 199

landholders on the date of vesting.

7. There is yet another common ground between the parties. As already observed by us, the Appellant's counsel underlined the effect of the amending Act XX of 1954 and referred to the intention of the Legislature in deleting the words "both on the date of letting and on the date of immediately preceding the date of vesting." It was suggested that the plain intention of the Legislature in omitting the aforesaid words was not to make it obligatory that the landholder must be a disabled person on the date immediately preceding the date of vesting as well. It was conceded by the learned Counsel for the Respondent that it was not necessary that the landholder must be a disabled person on the date of vesting. In other words, even though the disability might cease on the date of vesting, the benefit of Section 21(1)(h) would still accrue to the land holder, provided he was a disabled person on the "material dates" and he continued to be the land holder (notwithstanding the cessation of disability) on the date immediately preceding the date of vesting.

8. Before examining the merits of the respective contentions of the parties it is necessary to appreciate precisely the ratio of the two Division Bench cases which have given rise to this reference.

9. Sri V.K.S. Chowdhry, learned Counsel for the Respondent, placed strong reliance on *Hasina Bibi and Ors. v. Ram Din and another*[5]*, which interpreted the earlier decision of this Court in Dularey v. Rajeshwari and Ors*[6]*. On a* close scrutiny, Hasina Bibi's case appears to have laid down the following propositions:

> (i) that for the purposes of Section 21(1)(h) of the Act, the landholder on the date of vesting has to be taken into consideration because it is the crucial date on which the rights of the sub-tenant or the occupant accrue;
> (ii) that the aforesaid landholder i.e. landholder on the date of vesting is the very person or persons who was or were the landholder or landholders on the relevant dates i.e. the date

of letting and 9-4-1946 (where the land was sub let before the last mentioned date).
(iii) that Section 21(1)(h) of the Act applies to a tenant, sub-tenant or occupant, as the case may be, whether the land holder belonged to one or more classes mentioned in Sub-section (1) of Section 157 of the UP ZA and LR Act both on the date of letting or occupation and on 9-4-1946.

10. Thus, it is clear that Hasina Bibi's case is not an authority for the proposition that the land holder must belong on the date of vesting to one or more of the classes mentioned in Sub-section (1) of Section 157 of the UP ZA and LR Act. The amending Act XX of 1954 left no doubt about the proposition that the disability of the land holder need not exist on the date immediately preceding the date of vesting. The relevance of the land holder on the date of vesting is merely for the twin purposes of ascertaining who the land holder was on the date when the rights of the sub tenant or occupant etc. came into existence and

[5]51967 ALJ 27

[6]1966 ALJ 199

whether that land holder was the very person whs let out the land as a disabled person.
The first head note in Hasina Bibi's case is apt to be a trifle misleading on account of being cryptic. The body of the case reveals beyond doubt that the disability of the land holder on the date of vesting is otherwise irrelevant. The only utility of ascertaining the land holder on the date of vesting is to find out whether he can be identified with the land holder who let out the land as a disabled person. In other words, it is only for an ancillary purpose that the land holder on the date of vesting becomes relevant; the crucial land holder is the person who was a land holder on the relevant dates i.e. the date of letting and 9-4-1946 (in a case where the letting was before 9-4-1946). It appears that in Hasina Bibi's case the land was let out before 9-4-1946. Thus, the effect of Hasina Bibi's case is that the identity of the landholder who let out the land must remain unchanged even on the date of vesting.

11. There is nothing in Dularey's case 1966 ALJ 199 which militates against the above proposition. In that case the land was let out in 1943 (i.e. before 9-4-1946) by two persons jointly namely Phulbasa, who was a widowed disabled person and her sister Bitto whose husband was alive and was not disabled. The joint holding was partitioned between Phulbasa and Bitto in 1948 and the land in dispute fell in the share of Phulbasa and since then according to the finding recorded by the revenue courts Phulbasa was the only land holder and she alone was the land holder on the date of the vesting. Another finding of fact recorded in the case was that by a private arrangement Phulbasa had been doing all the work of letting out land, collecting rents, filing suits etc. She was at all times and for all practical purposes the sole land holder, even though ostensibly there were two land holders originally. In these circumstances it was held that Phulbasa the sole land holder on the date of vesting was the person who had let out the land and who belonged to a class mentioned in Section 157(1) both on the date of letting and on 9-4-1946. Thus, the identity of the land holder did not change and the person who claimed the benefit of Section 21(1)(h) as a result of the consequences ensuing on the date of vesting was the very person who had originally let out the land and who belonged to a class mentioned in Section

157(1) on the material dates i.e. on the date of letting or occupation and on 9-4-1946. On the facts of that case it was correctly found that the identity of the sole land holder on the date of vesting remained the same as that of the land holder, letting out the land. The other land holder namely Bitto who joined in letting was rightly excluded from consideration, inasmuch as she had ceased to be the land holder since the partition of 1948 and was not really the person whose; rights as land holder on the date of vesting were to be determined. As a result of the status of the sole land holder, namely Phulbasa it was held that the sub-tenant became an asami Under Section 21(1)(h). It was a case in which the original letting was done partly by a disabled person and partly by a non-disabled person but the claimant on the basis of the rights accruing on the date of vesting Under Section 21(1)(h) was the person who belonged to a class mentioned in Section 157(1) both on the date of letting and on 9-4-1946. The fact that one of the land holders who had originally let out had disappeared was regarded as of no consequence. In other words, the decision in Dularey's case also postulated three things:

> (i) that certain consequences arose directly on the vesting of the estates of intermediaries in the State and one of them is the situation contemplated in Section 21(1)(h) i.e. the sub-tenant or the occupant acquired certain asami rights on account of the vesting and with effect from the date of vesting. Hence, the first fact which has to be considered in such cases is as to who was the land holder on the date of vesting.
> (ii) that the said land holder was the very person who had originally let out the land.
> (iii) that the said land holder was a person belonging to a class mentioned in Section 157(1) on the date of letting and on 9-4-1946.

12. In Dularey's case the land holder on the date of vesting acquired significance merely on account of the fact that all the land holders who had let out the land did not survive until the date of vesting. The benefit of Section 21(1)(h) was, however, given only to the land holder whose rights were entitled to be considered on the date of vesting, i.e. who also satisfied the condition of being the very land holder who was a disabled person when she let out the land and whose disability continued on 9-4-1946. The argument that what had to be considered was as to how many persons were land holders at the time of vesting was rejected. In other words, the accrual of the benefit of Section 21(1)(h) was held to depend not on the disability of the land holder on the date of vesting but on two factors only, namely the identity of the original land holder remaining the same and his disability existing on the date of letting or occupation and on 9-4-1946. The land holder on the date of vesting, even though a disabled person on that date, would be disentitled to the advantage of Section 21(1)(h), if he was not also a disabled land holder who let out the land and whose disability continued on 9-4-1946.

13. Thus, there is really no conflict between the two Division Bench cases discussed above. We are inclined to agree with the view expressed therein and do not think that they require reconsideration. Those decisions, in our view, are sound and borne out by the language of the statute.

14. It was vehemently argued on behalf of the Appellant that the aim of the amending Act of 1954 was to confer benefit on a certain class of persons, namely the disabled land holders who let out their land and therefore, the words of the statute should be so construed as to retain that benefit, even though the original land holders who had let out the land might have disappeared on the date of vesting. To put a contrary construction on the words of the section would be, according to the Appellant, to defeat the object of the Legislature. No material was placed before us to indicate the precise aim and object of the Legislature. We were merely asked to speculate on the supposed objectives of the Legislature so as to make them consonant with the Appellant's contention. We are, however, of the opinion that it is not permissible to indulge in any such speculation about the intention of the Legislature, which must be gathered from the language employed in the enactment. There is no force in the contention that the amendment effected by Act XX of 1954 would be rendered futile if the construction suggested by the Appellant was not accepted. The amendment would have still served its purpose, inasmuch as it placed beyond doubt the fact that the disability of the land holder who let out the land need not subsist on the date immediately preceding the date of vesting.

15. The learned Counsel for the Appellant also relied on the rule of benevolent construction. It was contended that Section 21(1)(h) of the UP ZA and LR Act was a beneficial legislation and the Courts should therefore lean in favor of an interpretation which would further the object of such enactment. It was urged that if restricted grammatical interpretation gave rise to an absurdity or inconsistency, such interpretation should be discarded and an interpretation which would give effect to the purpose of the Legislature may reasonably be put on the words; if necessary, even by the modification of the language used. Section 21(1)(h) can bear the interpretation suggested by the learned Counsel for the Appellant only if we substitute the word "be" for "are" and add the words "or their predecessors in interest" after the words "all of them were person or persons belonging" occurring in Section 21(1)(h).

16. It cannot be disputed that the rule of benevolent construction is applicable only where a provision of law is ambiguous so that it is capable of two meanings, one which would preserve the benefit of a beneficial legislation and another which would take it away. In such circumstances the meaning which preserves it should be adopted. But the occasion for showing preference for one construction to the other can legitimately arise only when two constructions are reasonably possible, not otherwise. See *Mahadsolal Kanodia v. The Administrator General of West Bengal*[7], and *Madhya Pradesh Mineral Industry Association v. The Regional Labour Commissioner*[8], If the language of the statute is plain and unambiguous, no question of liberal construction arises. In their anxiety to advance the beneficent purpose of legislation the Courts must not yield to the temptation of seeking ambiguity when there is none. The intention of the Legislature must be accepted as expressed in the actual words used by it. The rule was stated by Tindal, C.J. in Sussex Peerage case (11 Clause and F. 85, p. 143) in the following form:

> "If the words of the statute are in themselves precise and unambiguous, then no more can be necessary than to expound those words in their natural and ordinary sense. The words themselves do alone in such cases best declare the intent of the law giver."

In *Rannanjaya Singh v. Baijnath Singh and others*[9], S.R. Das, J. observed:

> "The spirit of the law may well be an elusive and unsafe guide and the supposed spirit can certainly not be given effect to in opposition to the plain language of the sections of the Act.

The same rule was approved by Gajendragadkar, J. in *Kanailal v. Paramnidhi*[10], when he observed:

> "If the words used are capable of one construction only, then it would not be open to the Courts to adopt any other hypothetical construction on the ground that such hypothetical construction is consistent with the alleged object and policy of the Act."

In *M.V. Joshi v. M.U. Shimpi*[11], Subbarao, J. remarked:

> "But these rules do not in any way affect the fundamental principles of interpretation, namely, that the primary test is the language employed in the Act

[7] AIR 1960 SC 936 (939)
[8] AIR 1960 SC 1068 (1071).
[9] AIR 1954 SC 749 (752)
[10] AIR 1957 SC 907 (910)
[11] AIR 1961 SC 1494 (1498),

> and when the words are clear and plain the Court is bound to accept the expressed intention of the Legislature."

17-18. The words used in Section 21(1)(h) are absolutely plain and unambiguous. Their natural and grammatical meaning is consistent only with the interpretation that the land holder on the date of vesting must be the same person as the one who let out the land and suffered from disability on the date of letting and also on 9-4-1946, in case the letting was before that date. The Legislature has used the word "are" in the section, which is significant. It is a present tense verb and denotes the existence of a certain position or state of affairs obtaining "on the date immediately preceding the date of vesting," which are the opening words of the section. There is no justification for substituting any other word for "are", because modifying the language of the statute is an exception rather than a rule and is not permissible except in cases of ambiguity leading to absurdity. The Legislature has also advisedly used a past tense verb namely "were" closely following the preceding word "are". The words "person or persons belonging" mentioned in the section obviously refer to the person or persons who let out the land and were disabled persons on the material dates. It is manifest that Section 21(1)(h) contemplates the land holder or

land holders, satisfying both conditions, the one relating to the present, i.e. the date immediately preceding the date of vesting and the other relating to the past namely being a disabled land holder who originally let out the land and suffered from a disability on the material dates. Such a combination of attributes is possible only when the identity of the land holder or land holders on the date of letting as well as the date immediately preceding the date of vesting is the same. In case the land holders on the date immediately preceding the date of vesting are different from those who let out the land, the words "all of them" would not bear a correct and consistent meaning unless the words "or their predecessors in interest" are added before "all". Thus, in order to confer the benefit of Section 21(1)(h) on a fresh set of land holders, different from the original land holders who let out the land, considerable violence will have to be done to the natural meaning of the words of the section. This is a licence which is not permissible by the canons of statutory interpretation. On the contrary, the language of the section as it stands is in full conformity with the interpretation that the identity of the land holder on the date of letting and the date immediately preceding the date of vesting must remain the same. The crucial words used in the section are "where the land holder or if there are more than one land holder all of them were person or persons belonging...." The word "are" and the word "them" together with the word "were" in the aforementioned phrase clearly show that the intention of the Legislature was that on the date of vesting the "land holder" should be the very person who was the land holder on the relevant dates, to earn the benefit of Clause (h) of Section 21(1). The reasoning has been noted in the case of *Smt. Hasina Bibi v. Ram Din and Anr*[12]. The counsel for the Appellant also contended that the interpretation which we are accepting would result in great hardship. It was submitted that if the identity of the land holder must remain unchanged, the heirs of a disabled land holder who let out his land would be deprived of the benefit of Section 21(1)(h). In other words, if a disabled land holder died after letting out his land and did not survive till the date of vesting, the sub tenant would not become an asami. It is not for a Court to decline to give effect to a clearly expressed statute because it may lead to apparent hardship. Hardship or inconvenience cannot alter the meaning of the language employed by the Legislature.

[12]1967 ALJ 27

Examples of hardship cited by the Appellant can be matched with other illustrations of equal hardship which might result on accepting the Appellant's interpretation of the section. It is impossible to devise an interpretation which might be completely immune from the element of hardship. When the words of the statute are clear, they must be given effect to and questions of fairness and hardship are not matters for the Courts to consider. We cannot allow hard cases to make bad laws. As observed by Sarcar, J. in *Martin Burn Ltd. v. Calcutta Corporation*[13],

> "A result flowing from a statutory provision is never an evil. The Court has no power to ignore that provision to relieve what it considers a distress resulting from its operation. A statute must of course be given effect to whether a Court likes the result or not.

In *Commissioner of Agricultural Income Tax v. Keshab Chand*[14], Das, J. observed:

> "Hardship or inconvenience cannot alter the meaning of the language employed by the Legislature if such meaning is clear on the face of the statute or the rules."

If the law as it stands, is oppressive or inequitable, the Legislature which devised it can alone reform it. The rule was emphasised by the Supreme Court in *Bengal Immunity Co. v. State of Bihar*[15], Das, J. pointed out (at p. 685):

> "Why should the Court be called upon to discard the cardinal rule of interpretation for mitigating a hardship which after all may be entirely fanciful when the Constitution itself has provided for another authority more competent to evaluate the correct position to do the needful?
> "Again and again" says Viscount Simon, L.C. in *Emperor v. Benoari La*[16]*l,* "Again and again this Board has insisted that in construing the enacted words we are not concerned with the policy involved or with the results, injurious or otherwise, which may follow from giving effect to the language used."

19. Our interpretation is also countenanced by a historical survey of the parallel provisions contained in the preceding Tenancy Laws. It appears that the protection given to a disabled person has always been in the nature of a personal protection granted to the very individual who let out the land as a disabled landholder and the protection ceased to be available when the identity or personality of that landholder changed. Thus, for instance, Section 29(6) of the Agra Tenancy Act 1926 exempted certain disabled landholders from the restrictions on sub letting. Under Section 29(7) such sublease granted by a "disabled person" was to remain in force for not more than five years after the death of the lessor or his ceasing to be a disabled person. It is clear from this provision that the privilege granted was to the disabled person alone i.e. to the lessor and did not continue if he, the tenant, changed i.e. in case another person was inducted as a tenant. For instance, in case a person, who did not fall in the category of disabled persons named in Section 29(6), had been coopted with the permission of the zamindar landholder under the proviso to Section 23(2)(b) of the Act, the privilege would cease. A parallel provision
was made in Section 41 of the UP Tenancy Act, 1939 -whereby the disabled tenants were

[13] AIR 1966 SC 529 (535) [15] AIR 1955 SC 661
[14] AIR 1950 SC 265 (270) [16] AIR 1945 PC 48 (53)

exempted from the restrictions imposed on sub-letting. It was provided by Section 41(2) that a sub-lease by a disabled person would not remain in force beyond three years after the death of the lessor or on his ceasing to be a disabled person. The word used was "lessor" and not "tenant". The section did not apply where, for example, a tenant having been granted transferable rights Under Section 4(4) of the UP Tenancy Act might transfer his rights in the holding to another. The change of land holder could take place in many ways such as by transfer of transferable rights or co-opting of a cotenant. In all these cases the person or persons who constituted the new body of land holders did not become entitled to the benefit accruing from the disability of the land holder. If a disabled person transferred his right to an ablebodied person, the transferee was not entitled to the benefit of Section 41(2). Thus, from the historical perspective also it appears that what was

said to be protected was the interest of the lessor, who was himself disabled on the relevant dates.

20. Keeping in view the above principles our answers to the questions referred to us for decision areas follows:

1. In the circumstances of this case and on the facts assumed in the referring order that there were two land holders on the date of vesting namely Smt. Maya and her husband Thakurdas, a new body of "land holders" had come into existence and all of them were not the land holders who had originally let out the land as disabled persons. Hence, the Plaintiffs became adhivasis and the Defendants were not entitled to the benefit of Section 21(1)(h).
2. For the purposes of Section 21(1)(h) of the UPZA and LR Act what has to be considered is the disability of the land holder who let out the land and suffered from the disability on the date of letting as well as on 9-4-1946, (where the letting was done prior to that date) and who continued to be the land holder on the date immediately preceding the date of vesting.
3. Section 21(1)(h) of the UPZA and LR Act applies to a tenant, sub tenant or occupant as the case may be, where the landholder did not belong to any one or more of the classes mentioned in Sub-section (1) of Section 157 of the UPZA and LR Act on the date of vesting but belonged to such class or classes both on the date of letting or occupation and on the ninth of April, 1946 provided he continued to be the land holder on the date of vesting.
4. For the purpose of Section 21(1)(h) of the UPZA and LR Act the "landholder" is the person who was the land holder on the material dates and continued to be the land holder on the date immediately preceding the date of vesting, though his disability might have ceased on or before the date of vesting.

With the above answers the papers of this case will be returned to the learned single Judge who made the reference.

Questions answered.