

HIGH COURT OF CHHATTISGARH, BILASPUR**Second Appeal No.197 of 1993****Judgment reserved on :12.11.2018****Judgment delivered on: 03.12.2018**

1. Joshep S/o Sadhu, aged about 40 years (now (died))
 - 1.a) Alavina Tigga Wife of Late Joseph, aged about 75 years
 - b) Agastus Tigga son of Late Joseph, aged about 49 years
 - c) Phalyanus tigga son of Joseph, aged about 45 years
 - d) Nirmal Tigga D/o Joseph, aged about 49 years
 - e) Adharyas Tigga Son of Joseph, aged about 34 years
 - f) Matiyas Tigga Son of Joseph, aged about 32 years

All above are resident of Village-Dipatoli, Post Office & Thana and Tahsil Duldula, District-Jashpurnagar (CG)

2. Edmon S/o Joseph, aged about 20 years,
3. Jerem S/o Joseph, aged about 20 years
4. Phili S/o Joseph, aged about 18 years,

All are Oraon by caste & Cultivators Resident of Village Duldula, Tehsil-Jashpurnagar, District Raigarh

---- Appellants**Versus**

- 1.Dhaneshwar Sao S/o Deodhari (now died)
 - 1.i Suresh Prasad S/o Dhaneshwar, aged about 40 years, Caste-Baniya
 - ii. Satyanarayan S/o Dhaneshwar aged about 35 years, Caste-Baniya
 - iii. Shivnarayan S/o Dhaneshwar aged about 30 years, Caste-Baniya
 - iv. Smt. Bhago Bai W/o Dhaneshwar, Caste-Baniya,

All the four resident of Kunkuri Opposite Police Station- District Jashpur

2. State of M.P. (Now C.G.) Through the Collector Raigarh

---- Respondents

For Appellants	:	Mr.Bharat Rajput, Advocate
For Res.No.1(i) to (iv)	:	Mr.Hemant Gupta, Advocate
For Respondent No.2	:	Mr.Arun Sao, Dy.A.G.

Hon'ble Shri Justice Sanjay K. Agrawal

C.A.V. Judgment

1. The substantial question of law involved, formulated and to be answered in the defendants' second appeal is as under:-

“Whether in view of Section 165(6) of the M.P. Land Revenue Code, 1959 and Section 41A(5) of the M.P. Co-operative Societies Act, 1960, the respondent gets any right title in the suit property by virtue of auction dated 27/2/1976 ?”

[For the sake of convenience, the parties would be referred hereinafter as per their status shown and nomenclature in the suit before the trial Court].

2. The plaintiff, who is auction purchaser of the suit land bearing khasra No.948, area 3.49 acres in auction held by Sewa Sahkari Samiti, a society registered under the M.P. Co-operative Societies Act, who auctioned the suit land owned by the defendants (aboriginal tribe) for recovery of loan amount, filed a suit for declaration of title and permanent injunction stating inter-alia that the defendants are not entitled to interfere with his possession as he has purchased the suit property in auction held by the said registered co-operative society on 27.2.1976 for a cash consideration of ₹3,100/- and obtained possession thereafter, as such, his name has already been recorded, but on 12.11.1976 the defendants have harvested the crop sown by him and therefore, he is entitled for declaration of title and permanent injunction.

3. The defendants filed their written statement stating inter-alia that

auction sale made by the said Co-operative Society of his land in favour of the plaintiff is hit by Section 41-A(5) of the M.P. Co-operative Societies Act, 1960 (hereinafter called as “the Act of 1960”) and rules made thereunder as the defendants are basically aboriginal tribe of Oraon caste, as such, the plaintiff is not entitled for decree of declaration and permanent injunction, as prayed.

4. The trial Court after appreciating oral and documentary evidence available on record, by its judgment and decree dated 10.4.84 decreed the suit and also negated the ground raised under Section 41-A of the Act of 1960.

5. In first appeal preferred by the defendants, the First Appellate Court upheld the judgment and decree passed by the trial Court and dismissed the appeal.

6. Questioning legality and validity of the judgment and decree passed by the First Appellate Court, this second appeal under Section 100 of the CPC has been filed by the appellants/defendants, in which substantial question of law has been framed by this Court, which has been set-out in the opening paragraph of this judgment.

7. Mr. Bharat Rajput, learned counsel for the appellants/defendants, would submit, that both the Courts below concurrently erred in holding that the suit is not barred by Section 165(6) of the M.P. Land Revenue Code, 1959 (hereinafter called as “the Code”) read with Section 41-A of the Act of 1960, as such, the second appeal deserves to be allowed and the decree passed by both the Courts below is liable to be set aside.

8. Mr.Hemant Gupta, learned counsel for the the plaintiff/legal heirs of respondent No.1, would submit that Section 41-A(5) of the Act of 1960 was inserted w.e.f. 15.3.1976 and as such, auction had already been made on 27.2.1976 though confirmed on 6.4.1976 is valid in law. He would further submit that Section 165(6) of the Code was newly substituted w.e.f. 29.11.1976, whereas in the instant suit, auction sale was made on 27.2.1976, as such, bar would not apply and both the Courts below are perfectly justified in decreeing the suit filed by the respondent/plaintiff.

9. I have heard learned counsel for the parties and considered their rival submissions made herein-above and also went through the records with utmost circumspection.

10. The question for consideration would be, whether auction sale made on 27.2.1976 by the society registered under the provisions of the Act of 1960 was barred by Section 165(6) of the Code and Section 41-A(5) of the Act of 1960 which was inserted w.e.f. 15.3.1976.

11. Section 165(6) of the Code as originally stood prior to amendment states as under:-

“165(6): Notwithstanding anything in sub-section (1) the right of Bhumiswami belonging to a tribe which has been declared to be an aboriginal tribe by the State Government by a notification in that behalf for whole or part of the area to which this Code applies, shall not be transferred to a person not belonging to such tribe without the permission of Revenue Officer not below the rank of Collector, given for reasons to be recorded in writing.”

12. Sub-section (6) of Section 165 of the Code was substituted by

M.P. 61 of 1976 w.e.f. 29.11.1976 which states as under:-

“165(6) Notwithstanding anything contained in sub-section (1) the right of Bhumiswami belonging to a tribe which has been declared to be an aboriginal tribe by the State Government by a notification in that behalf, for the whole or part of the area to which this Code applies shall-

(i) in such areas as are predominately inhabited by aboriginal tribes and from such date as the State Government may, by notification, specify, not be transferred nor it shall be transferable either by way of sale or otherwise or as a consequence of transaction of loan to a person not belonging to such tribe in the area specified in the notification;

(ii) in areas other than those specified in the notification under clause (i), not to be transferred or be transferable either by way of sale or otherwise or as a consequence of transaction of loan to a person not belonging to such tribe without the permission of a Revenue Officer not below the rank of Collector, given for reasons to be recorded in writing.

Explanation.-For the purposes of this sub-section the expression “otherwise” shall not include lease.”

13. In the instant case, auction was made on 27.2.1976 and thereafter auction sale was confirmed on 6.4.1976. Section 165(6) of the Code was amended w.e.f. 29.11.1976, as such, unamended Section 165(6) of the Code would apply in which there was clear bar that the right of Bhumiswami belonging to a tribe which has been declared to be an aboriginal tribe by the State Government by a notification in that behalf to which this Code applies, shall not be transferred to a person not belonging to a tribe without prior permission of the Collector for reasons to be recorded in writing.

14. It is the case of the defendants that they belong to Oraon tribe which is an aboriginal tribe declared by notification issued by the

erstwhile State of Madhya Pradesh. The State of Madhya Pradesh had issued notification dated 25.11.60 in which Oraon finds place at Sr.No.35. Since Section 165(6) of the Code (unamended) would apply in the instant case, the question would be whether, "auction sale" made by society in favour of the plaintiff would be a 'transfer' requiring permission of the Collector under Section 165(6) of the Code before auctioning defendant No.1's land who is notified aboriginal tribe.

15. Section 165(6) of the Code prohibits transfer of land belonging to an aboriginal tribe, therefore, it should not be restricted to transfers which are valid according to the Transfer of Property Act or any other law. The term "transfer" is not defined in the Chhattisgarh Land Revenue Code. The object behind enactment of the provision is to see that the aboriginal tribes, basically downtrodden and mostly nomadic by nature, do always have land with them, so that they have a settled position in their life and sustain themselves by agriculture.

16. In the matter of Pandey Orson v. Ram Chander Sahu and others¹ the Supreme Court considered term 'transfer' occurring in Section 71A of the Chhotanagpur Tenancy Act, 1908, as that was not defined in the Act. That provision was the beneficial piece of legislation intended to protect the weaker sections of citizens who could not protect their land otherwise. Their Lordships chose to adopt liberal construction so as to give full effect to the legislative purpose and held as under:-

¹ AIR 1992 SC 195

“In S. 71A in the absence of a definition of transfer and considering the situation in which exercise of jurisdiction is contemplated, it would not be proper to confine the meaning of transfer to transfer under the Transfer of Property Act or a situation where transfer has a statutory definition. What exactly is contemplated by transfer in S. 71A is where possession has passed from one to another and as a physical fact the member of the Scheduled Tribe who is entitled to hold possession has lost it and a non-member has come into possession would be covered by transfer and a situation of that type would be amenable to exercise of jurisdiction within the ambit of S. 71A. ”

17. The Madhya Pradesh High Court in the matter of Chambaram S/o Gangaram v. Chanda and others² while

considering the word 'transfer' occurring in Section 165(6) of the Code has held that it has to be assigned an extended meaning so as to cover every contingency which results in depriving the aboriginal holder of his title in favour of any non-aboriginal tribe and further held that acquisition of title by non-aboriginal by adverse possession by extension of title of aboriginals as a result of adverse possession is not recognized under Section 165(6) of the Code and held as under:-

“13. The definition in Section 5, Transfer of Property Act itself suggests that it is meant for 'following sections' of the Transfer of Property Act. It is also not exhaustive of all modes of transfers and there may be modes of transfer which would not come within the special modes discussed in Transfer of Property Act. (See, Amir Bibi vs. Aropiam and others³ and Bhagwatibai vs. Bhagwandas⁴).

14. The term 'transfer' also occurs in sections 4 and 5 of the M.P. Ceiling on Agricultural Holdings Act, 1960. In Jagdish vs. State of M.P. and others, Second Appeal No.8/1992, decided on 12-10-1992, this Court departed from the definition of 'Transfer of Property' as given in section 5 of the Transfer of Property Act, 1882, and held

² 1993 M.P.L.J. 80

³ AIR 1919 Madras 1113

⁴ AIR 1927 Sind 206

that-

“The transfer in any form whatsoever and howsoever styled, if it has the result of effecting the holding held by the holder, it was covered”.

“Keeping in view the Legislative intent and objective behind enactment it is clear that such decrees which would have the effect of extinguishing the title of the holder and vesting the same in someone else, though not falling within the ordinary meaning of the phrase 'transfer of property' would be 'transfers' within the meaning of the term as used in sections 4 and 5 of the Act.”

16. Any other interpretation of the term 'transfer' occurring in section 165(6) of the M.P. Land Revenue Code, 1959, would defeat the purpose behind its enactment and would open gates for tricks and designs being adopted by unscrupulous lands greedies to deprive aboriginals of the land held by them. It is a judicially noticeable fact that aboriginals are liberally granted land by the State, mostly on priority basis, with the object of settling them and for their upheaval. If only the theory of extinction of title of the aboriginals and acquisition of title in non-aboriginals by resort to the plea of 'adverse possession' was to be recognised it would not be difficult to find out cases where non-aboriginals would purchase the land though prohibited by law and then file suits of the nature as is at hand, compelling or persuading the aboriginal holders in conceding to the claim and thereby securing transfer of title in disguise.

17. This Court is definitely of the opinion that the term 'transfer' as occurring in section 165(6) of the Code is not to be given restricted meaning, also not to be read in the light of the definition given in section 5 of the Transfer of Property Act. It has to be liberally construed, assigning an extended meaning so as to cover every contingency which results in depriving the aboriginal holder of the title and vesting the same in any non-aboriginal. That interpretation only would satisfy the Legislative intent and the laudable public purpose behind.”

- 18.** The Supreme Court in the matter of Keshabo and another v. State of M.P. and others⁵ while considering the nature and object of the MP Land Revenue Code qua the provisions contained in

⁵ (1996 7 SCC 765

Section 165(6) as it stood prior to 1976 amendment, held that MP Land Revenue Code is a welfare legislation made to protect the ownership rights in the land of the Scheduled Tribe. It was observed as under:-

“It is welfare legislation made to protect the ownership rights in the land of a Scheduled Tribe to effectuate the constitutional obligation of Articles 39(b) and 46 of the Constitution read with the Preamble. Economic empowerment of a tribal to provide economic democracy is the goal. Prevention of their exploitation due to ignorance or indigency is a constitutional duty under Article 46. Agricultural land gives status to the tiller. Therefore, any alienation of land in contravention of the above objectives is void.”

19. In the matter of Murlidhar Dayandeo Keshkar v. Vishwanath Pandu Barde and another⁶, the Supreme Court while dealing with refusal to alienate permission to the Scheduled Tribe to non-tribal under the Bombay Revenue Code held that right to development is an inalienable right by virtue of which every human person is entitled to participate in contribution to and to enjoy economic, social, cultural and political development, in which all human rights and fundamental freedom can be fully realised. It was held as under:-

“The prohibition from alienation is to effectuate the constitutional policy of economic empowerment under Articles 14, 21, 38, 39 and 46 read with preamble of the Constitution. Accordingly it was held that refusal to permit alienation is to effectuate the constitutional policy.”

20. Similarly, in the matter of R. Chandevappa and others v. State of Karnataka and others⁷ while considering Section 43(5) of the Karnataka Revenue Code, the Supreme Court held that once

⁶ 1995 Supp (2) SCC 549

⁷ (1995) 6 SCC 309

relevant rules prohibit alienation of property granted to depressed class for all times to come, it cannot be got over by grant made contrary to statutory rules and prohibiting clause is absolute in its term and held as under:-

“6. Having given our anxious considerations to the respective contentions, the first question that arises for determination is what would be the nature of the right given to the assignee Dasana Rangaiah Bin Dasaiah. Article 39(b) of the Constitution of India envisages that the State shall in particular direct its policy towards securing that the ownership and control of the material resources of the community are so distributed as best to subserve the common good. Admittedly, Scheduled Castes and Scheduled Tribes are the weaker sections of the society who have been deprived of their economic status by obnoxious practice of untouchability and the tribes living in the forest area far away from the civilised social life. To augment their economic status and to bring them on par into the main stream of the society, the State with a view to render economic justice envisaged in the Preamble and Articles 38 and 46 of the Constitution distributed the material resources, namely, the land for self-cultivation. It is an economic empowerment of the poor. It is common knowledge that many a member of the deprived classes live upon the agriculture either by cultivation on lease hold basis or as agricultural labour. Under these circumstances, the State having implemented the policy of economic empowerment to do economic justice assigned lands to them to see that they remain in possession and enjoy the property from generation to generation.”

21. The Supreme Court in the matter of Lincai Gamango v. Dayanishi Jena⁸ relying upon the matter of Amrendra Pratap Singh v. Tej Bahadur Prajapati⁹ has held that no right can be acquired by adverse possession on such inalienable property, adverse possession operates on an alienable right. It was also held that non-tribal would not acquire a right or title on the basis of

⁸ (2004) 7 SCC 437

⁹ (2004) 10 SCC 65

adverse possession. It was held as under:-

"7. We find both these reasons given by the High Court are not sustainable. Coming first to the second point, we find that there is a decision of this Court directly on the point. It is reported in *Amrendra Pratap Singh v. Tej Bahadur Prajapati*. The matter related to transfer of land falling in tribal area belonging to the Schedule Tribes. The matter was governed by Regulations 2, 3 and 7-D of the Orissa Scheduled Area Transfer of Immovable Property (By Scheduled Tribes) Regulations, 1956 viz. the same Regulations which govern this case also. The question involved was also regarding acquisition of right by adverse possession. Considering the matter in detail, in the light of the provisions of the aforesaid Regulations, this Court found that one of the questions which falls for consideration was 'whether right by adverse possession can be acquired by a non-aboriginal on the property belonging to a member of aboriginal tribe? In context with the above question posed, this Court observed in para 23 of the judgment as follows : (SCC p. 80)

"23.....The right in the property ought to be one which is alienable and is capable of being acquired by the competitor. Adverse possession operates on an alienable right. The right stands alienated by operation of law, for it was capable of being alienated voluntarily and is sought to be recognised by doctrine of adverse possession as having been alienated involuntarily, by default and inaction on the part of the rightful claimant....."

22. In the matter of **Ram Karan (Dead) Through Legal Representative and others v. State of Rajasthan and others**¹⁰ the Supreme Court while considering the transfer prohibited by proviso to Section 42 of the Rajasthan Tenancy Act, 1955 held that transfer of landholding by member of Schedule Caste in favour of person not belonging to Schedule Caste being forbidden and unenforceable, such transfer would be unlawful under Section 23 of the Contract Act as it is statutorily barred.

23. The Supreme Court in the matter of **Rajasthan Housing**

¹⁰ (2014) 8 SCC 282

Board v. New Pink City Nirman Sahkari Samiti Ltd.¹¹ relying upon the matter of **Lincai Gamango** (supra) and **Amrendra Pratap Singh** (supra) has held that transfer between Schedule Caste and non-Scheduled Caste is void under Section 42 of the Rajasthan Tenancy Act, 1955 being prohibited by law and held as under:-

“26. In the instant case, the transaction is ab initio void, that is, right from its inception and is not voidable at the volition by virtue of the specific language used in Section 42 of the Rajasthan Tenancy Act. There is declaration that such transaction of sale of holding “shall be void”. As the provision is declaratory, no further declaration is required to declare prohibited transaction a nullity. No right accrues to a person on the basis of such a transaction. The person who enters into an agreement to purchase the same, is aware of the consequences of the provision carved out in order to protect weaker sections of Scheduled Castes and Scheduled Tribes. The right to claim compensation accrues from right, title or interest in the land. When such right, title or interest in land is inalienable to non-SC/ST, obviously the agreements entered into by the Society with the Khatedars are clearly void and decrees obtained on the basis of the agreement are violative of the mandate of Section 42 of the Rajasthan Tenancy Act and are a nullity. Such a prohibited transaction opposed to public policy, cannot be enforced. Any other interpretation would be defeasive of the very intent and protection carved out under Section 42 as per the mandate of Article 46 of the Constitution, in favour of the poor castes and downtrodden persons, included in the Schedules to Articles 341 and 342 of the Constitution of India.”

24. Reverting to the facts of the present case in the light of principle of law laid down by the Supreme Court and the Madhya Pradesh High Court in above-stated judgments (supra) construing the word “transfer” occurring in Section 165(6) of the Code, liberally giving it extended meaning to further the object of legislature behind enacting the said provision, it would appear that the 'auction-sale' of

11 (2015) 7 SCC 601

land belonging to aboriginal tribe to recover amount of loan, would amount to "transfer" within the meaning of Section 165(6) of the Code, as this interpretation only furthers the object of the legislature rather than defeats it, taking the other view of the matter, would deprive the aboriginal to be his title, vesting land in favour of non-aboriginal tribe and the same is void being prohibited by law and even by auction sale in order to recover the amount advanced to the plaintiff, his property could not be sold being expressly forbidden by law and being opposed to public policy within the meaning of Section 23 of the Indian Contract Act, 1872. Section 2(g) of the Indian Contract Act, 1872 also provides that an agreement which is unenforceable by law is said to be void, as such, by way of auction sale title has not been conferred to the plaintiff, even though the express provision of this effect barring auction sale as a consequence of transaction of sale came into force w.e.f. 29.11.76.

25. This would bring me to next question whether auction sale was barred by Section 41-A(5) of the Act of 1960 ?

26. Section 41-A(5) of the Act of 1960 provides as under:-

"(5). Nothing in section shall be construed to empower the society to sell any land or interest therein of a person belonging to an aboriginal tribe which has been declared to be aboriginal tribe by the State Government by notification under sub-section (6) of Section 165 of the Madhya Pradesh Land Revenue Code, 1959 by a person not belonging to such tribe."

27. From a careful and close perusal of Section 41-A(5) of the Act of 1960, it would appear that the provisions of sub-section (5) of the Act of 1960 has carved out an exception and it prohibits the

society to sell any land or interest of a person belonging to an aboriginal tribe notified as such by the State Government under Section 165(6) of the Code to a person not belonging to such tribe. The provisions of sub-section (5) of the Act of 1960 is a special provision enacted for welfare of aboriginal tribe on the matters of sale of their property and this special provision prevails and the matters shall not come within the general provisions of Section 165(9) of the Code.

28. In the matter of **Chandrawati wd/o Surjanram and others v. Ganesh Prasad Lakshmi Prasad and others**¹² the High Court of Madhya Pradesh has held that where the person holding land belongs to aboriginal tribe, the provisions of Section 41-A(5) of the Act shall hold the field. It was observed as under:-

"10.....Section 165 of the Madhya Pradesh Land Revenue Code regulates the right and interest in land by the Bhumiswami. However, the riders put by the other clauses of Section 165 of the Code for transfer of interest of land by the Bhumiswami has been made inapplicable, in case of transfer by Bhumiswami to Co-operative Society to secure loan and the societies right to sell such right for the recovery of such advance. Provisions referred to above applies in the case of Bhumiswamis belonging to any class. However Section 41-A(5) of the Act has carved out an exception and it prohibits the society to sell any land or interest of a person belonging to an aboriginal tribe, notified as such by the State Government under Section 165(6) of the Code. It is relevant here to state that both the enactments, i.e. Madhya Pradesh Land Revenue Code and Madhya Pradesh Co-operative Societies Act are State enactments. Therefore, in the case, the submission of Shri Baghel is accepted, i.e. in view of Section 165(9) of the Code society has the right to sell interest of any class of people including the aboriginal tribe, it takes away what has been given by the legislature in Section 41-A(5) of the Act i.e. prohibition on transfer of land of an aboriginal tribe. It is well known rule of construction that such a course cannot be lightly assumed by a Court of law while interpreting the provisions of the statute. In my opinion, Section 165(9) of the Code deals with all classes of people and the

society's right to recover such advance. Section 165(9) of the Code has been enacted to overcome the rights and liability of the Bhumiswami vis-a-vis other provisions of Section 165 of the Code. Therefore, provisions of Section 165(9) can be invoked by the society and the other provisions of Section 165 shall not stand in its way. Section 165(9) of the Code specifically contemplates of non-application of the main section regarding the right of the society and it nowhere affects the operation of the Madhya Pradesh Co-operative Societies Act. Therefore in my opinion the provisions of Section 165(9) of the Code shall in no way control the operation of Section 41-A(5) of the Act. Further Section 41-A(5) of the Act is a special provision enacted for the Welfare of the aboriginal tribe on matters of sell of their property and in my opinion the special provision shall prevail and the matter shall not come within the general provisions of Section 165(9) of the Code."

- 29.** The above-stated provision came into force w.e.f. 15.3.1976 and in the instant case, auction sale was made on 29.2.76, but confirmed under the MP Co-operative Societies Rules, 1962 on 6.4.76. The Supreme Court in the matter of **Valji Khimji and Company v. Official Liquidator of Hindustan Nitro Product (Gujarat) Limited and others**¹³ has held that where the auction is subject to subsequent confirmation by same authority under a statute or terms of auction, the auction is not complete and no rights accrue until the same is confirmed by said authority and upon confirmation of sale by that authority, certain right accrue in favour of auction purchaser. Therefore, in the instant case, alleged right on suit land accrued in favour of the plaintiff by auction upon confirmation as per Rules of 1962 on 6.4.76 i.e. after coming into force of Section 41-A(5) of the Act of 1960 and since this provision bars the transfer of a land belonging to aboriginal tribe/defendants, it would also include transfer by auction sale and as such, auction sale was also statutorily barred by Section 41-A(5) of the Act of 1960, as such, their right in property is inalienable right and being

13 (2008) 9 SCC 299

notified ab-original tribes, they have right to development and come to main stream of the society.

30. Therefore, both the Courts below are absolutely unjustified in granting decree in favour of the plaintiff as auction sale of the land belonging to the plaintiff who is notified aboriginal tribe under Section 165(6) of the Code and such auction sale is hit by Section 165(6) of the Code as well as by Section 41-A(5) of the Act of 1960. The substantial question is answered accordingly.

31. As a fallout and consequence of the above-stated discussion, the judgment and decree passed by the trial Court as affirmed by the First Appellate Court are hereby set aside and the plaintiff's suit would stand dismissed.

32. The second appeal is allowed to the extent indicated hereinabove leaving the parties to bear their own cost(s).

33. A decree be drawn up accordingly.

Sd/-

(Sanjay K.Agrawal)
Judge

B/-

HIGH COURT OF CHHATTISGARH AT BILASPUR
Second Appeal No.197 of 1993

Appellants Joshep (died) through his LR's and others
Versus

Respondents Dhaneshwar Sao (died) through his LR's and another

(Head-note)

(English)

Aboriginal tribes have right to development, their right in the property is inalienable and their land cannot be auctioned for recovery of loan amount without permission from the Collector.

(हिन्दी)

आदिम जनजातियों को विकास का अधिकार है, सम्पत्ति में उनका अधिकार अन्तरण योग्य नहीं है तथा जिलाधीश की अनुमति के बिना ऋण की राशि की वसूली हेतु उनकी भूमि नीलाम नहीं की जा सकती।