Reserved On : 25/03/2026
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IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/LETTERS PATENT APPEAL NO. 823 of 2013
In
R/SPECIAL CIVIL APPLICATION/3184/2004

FOR APPROVAL AND SIGNATURE:

HONOURABLE THE CHIEF JUSTICE MRS. JUSTICE SUNITA AGARWAL
and
HONOURABLE MR.JUSTICE D.N.RAY

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Approved for Reporting	Yes	No
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SHANTILAL MOHANLAL SHAH & ORS.
Versus
STATE OF GUJARAT & ORS.
==
Appearance:
ABATED for the Appellant(s) No. 1,3.1,3.2,3.8,4.1,4.2,4.4,4.5
MR APURVA VAKIL, SENIOR ADVOCATE with MR KARTIKEY KANOJIYA with MR DILIP L KANOJIYA(3691) for the Appellant(s) No. 2,2.1,2.2,3,3.3,3.3.1,3.3.2,3.3.3,3.4,3.5,3.6,3.7,4,4.3
MR SANJAY UDHWANI, ASSISTANT GOVERNMENT PLEADER for the Respondent(s) No. 1,2,3
==

CORAM: **HONOURABLE THE CHIEF JUSTICE MRS. JUSTICE SUNITA AGARWAL**
and
HONOURABLE MR.JUSTICE D.N.RAY

CAV JUDGMENT

(PER : HONOURABLE THE CHIEF JUSTICE MRS. JUSTICE SUNITA AGARWAL)

1. This is an intra-court appeal directed against the judgment and order dated 12.04.2013 passed by the learned Single Judge in dismissing the writ petition challenging the order passed by the Gujarat Revenue Tribunal, Ahmedabad upholding the order passed by the ceiling authority under the Gujarat Agricultural Land Ceiling Act, 1960 *(in short 'the Ceiling Act' 1960').* The appellants herein are referred as the petitioners herein, for the sake of clarity.

2. The undisputed facts, which can be disearned from the judgment impugned are that the proceedings under the Ceiling Act' 1960 was initiated on a form filled by one person as a partner of the firm namely, B. Shantilal & Co. declaring that the firm was holding agricultural land (the land in question) at village Chiklota, Taluka Valia, District Bharuch. The said form was processed and ultimately the Mamlatdar & ALT vide order dated 18.04.1983 declared the land admeasuring 56 Acres and 30 Gunthas surplus land under Section 21(1)(2) of the Ceiling Act' 1960. This order was carried in appeal before the Deputy Collector, who by an order dated 13.08.1984 rejected the Appeal No.10 of 1984. In Revision Application, being B.A. Nos.1329 of 1984 and 1534 of 1984, the Gujarat Revenue Tribunal vide common order dated 27.06.1988 remanded the matter to the Mamlatdar, Krushi Panch with a direction to decide afresh. In the remand

proceedings, Mamlatdar, Krushi Panch vide order dated 27.06.1988 has declared the land in question as a surplus land, against which the appeal before the Deputy Collector was rejected on 17.07.1989. In the second round before the Gujarat Revenue Tribunal, the Revision Application was allowed on 28.06.1983 and the matter was again remanded for deciding afresh.

3. In the remand proceedings, Mamlatdar, Krushi Panch passed an order dated 30.09.1993 deciding to withdraw the notice issued by the Collector, Bharuch. The Deputy Collector vide order dated 24.04.1994 had confirmed the order of the Mamlatdar, Krushi Panch, against which revision was preferred by the State before the tribunal.

4. In the revision proceedings, it was argued by the petitioners herein before the revenue tribunal that there were four partners, who were cultivating the land in question and the partnership firm having no right to hold the agricultural land, cannot be given only one unit of land to declare the remaining land as excess or surplus. The four partners are required to allocate one unit each being individual owners as co-owners of the land in question and if that is done, no land can be declared as surplus.

5. The State, on the other hand, pressed that the land being jointly held by four partners in the name of the partnership firm, they can get only one unit and excess land of more than 45 Acres (allocated to one unit) is to be declared as

surplus.

6. The said revision has been allowed by the Gujarat Revenue Tribunal vide order dated 05.03.2003 setting aside the orders of the Deputy Collector and restoring the first order of the Mamlatdar dated 18.04.1983, declaring the area admeasuring 56 Acres and 30 Gunthas as surplus land under the Ceiling Act' 1960, which has led to the filing of the writ petition, out of which the present appeal has arisen.

7. The learned Single Judge upon giving due consideration to the arguments of the learned Counsel for the parties, in the facts of the present case has concluded in paragraphs '10' and '11' as under:-

> *"10. If the facts of the present case are examined, it is not a matter where two or more persons, without any purpose or object, had purchased the property in the joint name, but is a case where the partnership firm was formed and the land was purchased. Not only that but the partnership firm had filed the form through its partners. It is hardly required to be stated that when a partnership firm is formed, the same is as a joint venture by all partners of the firm with an object to earn profit or gain. Further, the partnership firm is governed by the statute under the partnership Act. The rights of the partners and the liabilities of the partners are, inter se, inter-linked and inter-connected. Hence, the partnership firm could be termed as a body of individuals or an association of persons, even if not incorporated to be included in the definition of 'a person' and the same can rather be read in contradistinction to the cases where two or more persons jointly purchased the property without any joint venture for earning income, profit or gain.*

> *11. Therefore, it appears that the view taken by the Tribunal cannot be said to be erroneous. It is hardly required to be stated that in a petition under Article 227 of the Constitution arising from the order of the Tribunal, scope of judicial scrutiny is limited. Even if two views are possible, Court may decline interference to the order of the lower authority. In the present case, the view of the Tribunal is not only based on the view taken by the Division Bench of this Court in the above referred Letters Patent Appeal, but is also getting support from the above referred decision of the Apex Court in the case of* ***Ramanlal Bhailal Patel & Ors. v. State of Gujarat (supra)****. Under these circumstances, it appears that the order passed by the Tribunal, which is impugned in the present petition does not deserve to be interfered with."*

8. The findings returned by the Gujarat Revenue Tribunal as affirmed by the learned Single Judge holding that the partnership firm could be termed as a body of individual or an association of persons even if not incorporated, is to be included in the definition of a "person", has to be read in contradiction to the cases where two or more persons jointly purchased the property without any joint venture for earning income, profit or gain, in light of the decision of the Apex Court in the case of ***Ramanlal Bhailal Patel and Others [(2008) 5 SCC 449],*** is subject matter of challenge before us in this Appeal.

9. Assailing the opinion drawn by the learned Single Judge, Mr. Apurva Vakil, learned Senior Counsel appearing for the appellant would argue:-

(i) The partnership firm is not a legal entity and hence cannot be included in the definition of a "person" as contemplated under Section 2(21) of the Ceiling Act' 1960.

(ii) The petitioners (four in numbers) cannot be termed to be an "association of persons / body of individuals" so as to consider them as one single "person", entitled only to one unit under the Ceiling Act' 1960.

(iii) The statement under Section 10 of the Ceiling Act' 1960 was furnished by one of the four individuals-petitioners herein, on behalf of others, in the name of partnership firm – B. Shantilal & Co.

(iv) The partnership firm is not a separate legal entity / a person much less capable of "holding land" so as to "cultivate it personally", as contemplated under Section 2(12) of the Ceiling Act' 1960.

(v) Four joint owners are individual holders of agricultural land and they are entitled to one unit each. Consequently, there would be no surplus agricultural land in excess of ceiling limit.

(vi) Referring to the definition of Sections 2(16) and 2(21) of "joint family" and " person", it was argued that besides these words, other words defined in Section 2 of the Ceiling Act' 1960 such as, "agriculturists"; "appointed day"; "to cultivate"; "to cultivate personally"; "to hold land"; "land"; "surplus land"; "tenant" and "landlord", as also the relevant tenancy laws are to be looked into to understand the meaning of the word "person" included in the Ceiling Act' 1960, for the purposes of Section 6 of the said Act.

(vii) Placing the word "person" defined in Section 3(35) of the Bombay General Clauses Act, 1904, it was argued that the definition therein can be imported into the definition of "person" under Section 2(21) read with Section 2(16) of the Ceiling Act' 1960. However, the said general definition is to be either modified or restricted or expanded in different statutes, with reference to the object of enactment or context in which it is used (referring paragraphs '24' and '25' of the Apex Court in ***Ramanlal Bhailal Patel and Others (supra)***.

(viii) It was argued that in the above context, the observations in paragraph '28' of ***Ramanlal Bhailal Patel and Others (supra)*** assume significance, which read as under:-

> *"28......... For example, when the word "person" occurs in a statute relating to agriculture or ceiling on landholding, the term "association of persons/body of individuals" may refer to a combination of individuals who join together to acquire and own land as co-owners and carry on agricultural operations as a joint enterprise."*

(ix) Placing paragraph '25' in ***Ramanlal Bhailal Patel and Others (supra)*** it was argued that the word "person" in the Ceiling Act' 1960 referred therein has been considered, unless the context otherwise requires in the following manner:-

> *"25......*

(i) a natural human being;

(ii) any legal entity which is capable of possessing rights and duties, including any company or association of persons or body of individuals (whether incorporated or not); and

(iii) a Hindu Undivided Family or any other group or unit of persons, the members of which by custom or usage, are joint in estate and residence."

(x) Placing the meaning assigned to the word "person" in the Ceiling Act' 1960, in clause (ii) in paragraph '25' of ***Ramanlal Bhailal Patel and Others (supra)*** extracted hereinabove, it was argued by the learned Senior Counsel for the petitioners that the said clause refers to a "legal entity, which is capable of possessing rights and duties". However, the partnership firm within the meaning of Section 4 of the Indian Partnership Act, 1932 cannot be treated as a "legal entity" so as to include it in the definition of a "person", so as to be entitled to only one unit in the ceiling proceedings.

(xi) It was vehemently argued that the partnership firm cannot "cultivate personally" as understood under Section 2(12) of the Ceiling Act' 1960 and it is not capable of holding an agricultural land possessing rights and duties therein. In that context, in view of the expansive meaning given to the definition of the word "person" under the Ceiling Act' 1960, by employing the definition of "person" under the Bombay General Clauses Act 1904 by the Apex Court to hold that "any legal entity, which is capable of possessing rights and duties including any company or association of persons or body of individual (whether incorporated or not)" would not cover a partnership firm. Besides that, the partnership firm would not fall in any of the other two clauses (i) and (iii) narrated in paragraph '25' of ***Ramanlal Bhailal Patel and Others (supra)*** extracted hereinabove, to include such persons within the meaning of "person" defined under the Ceiling Act' 1960.

(xii) Elaborating further, it was argued that four individuals / petitioners herein cannot be considered as "association of persons or a body of individuals, whether incorporated or not", as stressed upon by the learned Single Judge in the judgment impugned.

(xiii) It was submitted that the mere combination of persons or coming together of persons without anything more, without any intention to have a joint venture or to carry on some common activity with a common understanding and purpose, will not convert two or more persons into a body of individuals. An association of persons or a body of individuals is one in which two or more persons join in a common purpose and common action to achieve some common benefit. The common object will have some relevance to determine where a group or set of persons is an association of persons or body of individuals, with reference to a particular statue.

(xiv) It was submitted that in paragraph '28' of ***Ramanlal Bhailal Patel and Others (supra)*** it is observed that when the word "person" occurs in a statue relating to agriculture or ceiling on land holding, an association of persons / body of individuals may refer to “a combination of individuals, who join together to acquire and own land as co-owners and carry on agricultural operations as a joint enterprise”, they can be considered in the inclusive definition of “person” under the Ceiling Act’ 1960. However, in the present case, there is absolutely no evidence on record to establish or even demonstrate that any of these conditions, referred to in paragraph “28” of ***Ramanlal Bhailal Patel and Others (supra)*** are fulfilled in the facts of the present case.

(xv) It was argued that the partnership firm namely, B. Shantilal & Co. was formed as far back as in 1930. A copy of the deed dated 15.01.1930 was placed before us during the course of argument as Anneuxre-‘1’ to the written submissions, to argue that the said deed evidences the relationship between four petitioners. However, it nowhere remotely or otherwise suggest that the partners have joined together to acquire and own land as co-owners and carry on “agricultural operations” as a joint enterprise. Infact, as per the said deed, four partners (petitioners herein) were to carry on business of cloth in the name of B. Shantilal & Co., and also to do business of manufacturing of soap and chemicals in the name of Hindia Soap and Chemical Works.

(xvi) It was submitted that it is to be noted that the land in question was purchased only in the year 1939 (nine years after the deed was executed). There is no evidence, much less any inquiry having been conducted by any authority to ascertain if the petitioners have joined together to acquire and own land as co-owners and carry on agricultural operations as a joint enterprise. There is also no evidence of any joint cultivation of the land nor any intention of having any joint venture.

(xvii) In this scenario, the petitioners cannot be considered to be association of persons / body of individuals and, thus, cannot be termed as “one single person” under the Ceiling Act’ 1960 as interpreted by the Apex Court ***Ramanlal Bhailal Patel and Others (supra)***.

(xviii)The contention is that the Apex Court in the case of ***Ramanlal Bhailal Patel and Others (supra)***, had remanded the matter back while setting aside the order of the High Court (this very Court) with the directions to the authorities below to decide the matter afresh with certain directions therein. However, if the arguments of the petitioners herein are accepted, this case is not even worth remand as no fruitful purpose would be served of making any inquiry at this stage when the lands were purchased far as back as in the year 1939 and all the four original purchasers have since passed away.

(xix) Commenting on the reasoning giving by the learned Single Judge and the order of the Gujarat Revenue Tribunal, it was submitted that the learned Single Judge has erred in observing in paragraph ‘11’ that the view of the tribunal is getting support from the decision of the Apex Court in the case of ***Ramanlal Bhailal Patel and Others (supra)***.

(xx) The learned Single Judge was, however, required to assess / evaluate the impugned order of the Gujarat Revenue Tribunal independently before forming any opinion on the basis of the decision of the Apex Court in the case of ***Ramanlal Bhailal Patel and Others (supra)***.

(xxi) With these submissions, it was vehemently argued that four petitioners are required to be treated as four separate (individuals) “persons” for the purpose of the Ceiling Act’ 1960 and each of them will thereby be entitled to one unit under the Ceiling Act’ 1960 and if that is done, there will be no land in excess of ceiling limit under the Ceiling Act’ 1960.

(xxii) It was, thus, submitted that while allowing the present appeal both the decisions of the learned Single Judge and the impugned order of the Gujarat Revenue Tribunal are liable to be set aside and the writ petition deserves to be allowed to issue direction to the respondents authorities to drop the proceedings under the Ceiling Act’ 1960 by allocating one unit to each of the four petitioners, who are individual land holders of the agricultural lands, subject matter of the ceiling proceedings.

10. The learned Assistant Government Pleader appearing for the State – respondents heavily relying upon the decision of the Apex Court in the case of ***Ramanlal Bhailal Patel and Others (supra)*** would submit, in rebuttal, that all these arguments of learned Senior Counsel for the petitioners

deserve to be rejected from a bare reading of the judgment wherein the Apex Court has interpreted the meaning of the word “person” so as to include “an association or person or body of individuals, whether incorporated or not, joining in a common purpose and common action to achieve some common benefits”. The submission is that the common object will have relevance to determine whether a group or set of persons is an association of persons or body of individuals with reference to the Ceiling Act’ 1960.

11. Having considered the submissions of the learned Counsels for the parties and perused the record, at the outset, we may set out the relevant provisions of the Ceiling Act’ 1960 as under:-

> ***“2. In this Act, unless the context requires otherwise-***
>
> *(11) "to cultivate" with its grammatical variations and cognate expressions means to till or husband the land for the purpose of raising or improving agricultural produce, whether by manual labour or by means of cattle or machinery or to carry on any agricultural operation thereon ;*
>
> *Explanation.-A person who enters into a contract only to cut grass or to gather the fruits or other produce of trees, on any land, shall not on that account only; be deemed to cultivate such land;*
>
> *(12) "to cultivate personally", means to cultivate land on one's own account—*
>
> *(i) by one's own labour, or*
>
> *(ii) by the labour of any member of one's family, or*

(iii) under the personal supervision of oneself or any member or one's family by hired labour or by servants on wages payable in cash or kind but not in crop share:

Explanation I.—A widow or a minor or a person who is subject to any physical or mental disability; or a serving member of the armed forces shall be deemed to cultivate land personally; if such land is cultivated by her or his servants or hired labour;

Explanation II.-In the case of a joint family, land shall be deemed to be cultivated personally, if it is so cultivated by any member of such family;"

(28) "surplus land" means land which is deemed to be or declared to be surplus land under the provisions of this Act:

12. We may also take note of the provisions of Section 6 of the Ceiling Act' 1960 as under:

"6. *(1) Notwithstanding anything contained in any law for the time being in force or in any agreement, usage or decree or order of a Court, with effect, from the appointed day no person shall, subject to the provisions of sub-sections (2), (3), (3A) and (3B) be entitled to hold whether as owner or tenant or partly as owner and partly as tenant land in excess of the ceiling area.*

(2) Where an individual, who holds lands, is a member of a family, not being a joint family which consists of the individual and his spouse (or more than one spouse) and their minor sons and minor unmarried daughters, irrespective of whether the family also includes any major son and land is also separately held by such individual's spouse or minor children, then the land held by the individual and the said members of the individual's family excluding major sons, if any shall be grouped together for the purposes of this Act and the provisions of this Act shall apply to the total land so grouped together as if such land had been held by one person.

(3) Where on the appointed day a person holds exempted land along with other land then,

(i) if the area of exempted land is equal to or more than the ceiling area he shall not be entitled to hold other land; and

(ii) if the area of exempted land is less than the ceiling area, he shall not be entitled to hold other land in excess of the area by which the exempted land is less than the ceiling area.

(3A) Where any person holds any land in any other part of the India outside the State, then, the area of land so held by him in such other part, not exceeding the maximum area of land which such person is entitled to hold in such other part of India under any law, if any, relating to ceiling on land, used or capable of being used for agricultural purposes, shall be excluded from the ceiling area in excess of which a person is not entitled to hold land under this section and the extent of land determined after so excluding such area shall in relation to such person, be deemed to be the ceiling area, to be held by him in this State :

Provided that where any such person disposes of, at any time before the determination of ceiling area under this Act, any land or part thereof so held by him in any other part of India outside the State, in accordance with the provisions of law in force in such part, the area equal to the land or part thereof so disposed of shall not be excluded while determining the ceiling area under this sub-section.

(3B) Where a family or a joint family consist of more than five members comprising a person and other members belonging to all or any of the following categories, namely:-

(i) minor son,

(ii) widow of a pre-deceased son,

(iii) minor son or unmarried daughter of a pre-deceased son, where his or her mother is dead,

such family shall be entitled to hold land in excess of the ceiling area to the extent of one-fifth of the ceiling area for each member in excess of five, so however that the total holding of the family does not exceed twice the ceiling area and in such a case, in relation to the holding of such family, such area shall be deemed to be the ceiling area :

Provided that if any land is held separately also by any member of such family, the land so held separately by such member shall be grouped together with the land to such family for the purpose of determining the total holding of such family :

Provided further that where, in consequence of any member of such family holding any land in any other part of India outside the State, the ceiling area in relation to the family is reduced as provided in sub-section (3-A) the one-fifth of the ceiling area as aforesaid shall be calculated with reference to the ceiling area as would have been applicable had no such land been held by such member in any other part of India.

(3-C) Where a family or a joint family irrespective of the number of members includes a major son, then each major son shall be deemed to be a separate person for the purposes of sub-section (1).

(3-D) For the purpose of sub-section (2), (3B) or (3C), the members comprised in a family or as the case may be, a joint family on the specified date shall alone be taken into consideration and any changes in the character or number of members of the family occurring thereafter shall be ignored.

(4) Land in this State which under the foregoing provisions of this section a person is not entitled to hold shall be deemed to be surplus land held by such person.

13. Proceeding further, we are required to first go through the decision of the Apex Court in ***Ramanlal Bhailal Patel and Others (supra)***, which is basis of the reasoning of the learned Single Judge in the judgment impugned.

14. On a careful reading of the said decision, we may note relevant facts of the said case as under:-

(i) It was a case where five persons (appellants before the Apex Court) along with their respective spouses purchased certain agricultural lands under four sale deeds. Before such purchase, the ten purchasers (in total) entered into an agreement proposing to purchase the entire area of land in their joint name and recording the conditions subject to which they proposed to purchase the land. The reasons stated in the agreement for the joint purchase was to avoid each of them having to individually negotiate and enter into separate agreements with several owners of the land. They agreed that one of them would be authorized to hold negotiations and go through the procedural requirements for the purchase; and that after purchasing the land in their names, they would divide the lands equally as early as possible.

(ii) They had also agreed that there will be no collective or joint cultivation of the land proposed to be purchased by them. The agreement also recorded the division of total land purchased by them into ten portions among them and that they would get their names registered in the revenue records as per the division.

(iv) Subsequently, on their applications, mutation entry was made showing each co-owner as the separate owner of the lands, respectively allotted to him / her vide Hakpatrak (Village Form No.6) issued by the land revenue authorities.

(v) A notice under Section 20 of the Ceiling Act' 1960 was issued to the co-owners seeking particulars of the lands held by them, to determine whether they held any surplus land. The Mamlatdar passed an order under Section 21 of the Ceiling Act' 1960 holding that each couple (husband and wife together) were entitled to one unit, and therefore, five couples were entitled to hold five units and, thus, declared 1 Acre and 31 Gunthas as surplus land and vest the same in the Government.

(vi) The Deputy Collector, Dabhoi, in exercise of *suo motu* power of revision under Section 37 of the Ceiling Act' 1960 made determination by holding that the group of persons or association of persons purchasing agricultural lands together, had to be treated as a "person" under the Ceiling Act' 1960, and therefore, they could jointly hold only one unit in view of the provisions of Section 6(1) of the Ceiling Act' 1960. The surplus land of 145 Acres and 31 Gunthas was, thus, declared and the Mamlatdar was directed to obtain selection of the land to be surrendered.

(vii) The Gujarat Revenue Tribunal upheld the decision of the

Collector, by applying the definition of “person” in the Bombay General Clauses Act, 1904, to the word “person” in the Ceiling Act’ 1960.

(viii) In this context, the matter reached to this Court (Gujarat High Court) where the learned Single Judge had allowed the petition and remanded the matter to the Gujarat Revenue Tribunal to decide whether the definition of “person” in the Bombay General Clauses Act, 1904 could be imported into the definition of a “person” under the Ceiling Act’ 1960. This order was challenged in appeal before the Division Bench wherein the Court had held that there was no need for remand as the question whether the definition of “person” included an association of persons was a pure question of law which can be decided by the High Court.

(ix). However, reading the definition of “person” in the General Clauses Act, 1904 into the definition of “person” in the Ceiling Act’ 1960, the decision of the Gujarat Revenue Tribunal treating ten co-owners as an association of persons, and consequently, a “person” for the purpose of the Ceiling Act’ 1960, it was held by the Division Bench that ten co-owners are entitled to only one unit (36 Acres) and there was no error in the order of the tribunal. The matter then reached to the Apex Court wherein the following questions were framed for consideration:-

> *“**15.** On the contentions raised, the following questions arise for our consideration:*
>
> *(i) Whether the definition of “person” in the Gujarat Agricultural Lands Ceiling Act, 1960, includes a body of individuals/association of persons?*
>
> *(ii) Whether co-ownership, per se, is an “association of persons/body of individuals” and therefore constitutes a “person”?*
>
> *(iii) Whether the ten purchasers, who became co-owners of the land, together constitute a “body of individuals/association of persons” and therefore a “person” within the meaning of that expression in the Ceiling Act?*
>
> *(iv) Whether the partition dated 30-12-1971 among the co-owners is “deemed to have been made in anticipation to defeat the object of Gujarat Agricultural Lands Ceiling (Amendment) Act, 1972” under Section 8(1) of the Ceiling Act; and if so what is the effect of failure to make an application under sub-section (2) of Section 8 of the Ceiling Act?*
>
> *(v) What would be the position if some of the co-owners were non-agriculturists at the time of purchase of the lands? Whether the Mamlatdar can examine this issue when considering the question of surplus land under the Ceiling Act?”*

15. For our purpose, in the facts and circumstances of the present case, the answer to question No.(i) is to be noted at the outset.

16. Question No.(i) has been answered by the Apex Court in the following manner:-

"Question (i) — Who is a "person"?

22. The extent of land that could be held by the appellants depends upon the interpretation of the word "person" in Section 6(1) of the Ceiling Act which provides that "no person shall … be entitled to hold … land in excess of the ceiling area". If the ten co-owners are considered as an "association of persons" or "body of individuals", and consequently as a "person", then the ten co-owners together as a person, will be entitled to only one unit of land which is the ceiling area per person. But if "association of persons" or "body of individuals" is not a "person", or if a co-ownership is not an association of person/body of individuals, then each co-owner or the family of each co-owner, as the case may be will be a separate "person" having regard to the definition of person in Section 2(21) of the Ceiling Act, in which event, each family will be entitled to hold one unit of land.

23. The word "person" is defined in the Act, but it is an inclusive definition, that is, "a person includes a joint family". Where the definition is an inclusive definition, the use of the word "includes" indicates an intention to enlarge the meaning of the word used in the statute. Consequently, the word must be construed as comprehending not only such things which they signify according to their natural import, but also those things which the interpretation clause declares that they shall include. Thus, where a definition uses the word "includes", as contrasted from "means", the word defined not only bears its ordinary, popular and natural meaning, but in addition also bears the extended statutory meaning (see S.K. Gupta v. K.P. Jain [(1979) 3 SCC 54 : AIR 1979 SC 734] following Dilworth v. Commr. of Stamps [1899 AC 99 : (1895-99) All ER Rep Ext 1576 : 79 LT 473] and Jobbins v. Middlesex Country Council [(1949) 1 KB 142 : (1948) 2 All ER 610 (CA)]).

24. The ordinary, popular and natural meaning of the word "person" is "a specific individual human being". But in law the word "person" has a slightly different connotation and refers to any entity that is recognised by law as having the rights and duties of a human being. Salmond defines "person" as "any being whom the law regards as capable of rights and duties" or as "a being, whether human or not, of which rights and duties are the attributes" (Jurisprudence, 12th Edn., p. 299). Thus the word "person", in law, unless otherwise intended, refers not only to a natural person (male or female human being), but also any legal person (that is an entity that is recognised by law as having or capable of having rights and duties). The General Clauses Act thus defines a "person" as including a corporation or an association of persons or a body of individuals whether incorporated or not. The said general legal definition is, however, either modified or restricted or expanded in different statutes with reference to the object of the enactment or the context in which it is used. For instance, the definition of the word "person" in the Income Tax Act, is very wide and includes an individual, a Hindu Undivided Family, a company, a firm, an association of persons or body of individuals whether incorporated or not, a local authority and every other artificial juridical person. At the other extreme is the Citizenship Act, Section 2(f) of which reads thus: ' "Person" does not include any company or association or body of individuals whether incorporated or not.' Similarly, the definition under Section 2(g) of the Representation of People Act, 1950, is "person" does not include a body of persons.

25. Both definitions of the word "person", in the General Clauses Act and the Ceiling Act, are inclusive definitions. The inclusive definition of "person" in the General Clauses Act applies to all Gujarat Acts unless there is anything repugnant in the subject or the context. The inclusive definition of "person" in Section 2(21) of the Ceiling Act, does not indicate anything repugnant to the definition of "person" in the General Clauses Act, but merely adds "joint family" to the existing definition. Therefore the definition of person in the Ceiling Act, *would include the definition of person in Section 3(35) of the General Clauses Act. The resultant position can be stated thus: the definition of person in the General Clauses Act, being an inclusive definition, would include the ordinary, popular and general meaning and those specifically included in the definition. The inclusive definition of "person" in the Ceiling Act, in the absence of any exclusion, would have the same meaning assigned to the word in the General Clauses Act, and in addition, a "joint family" as defined. Thus, the word "person" in the Ceiling Act will, unless the context otherwise requires, refer to:*

(i) a natural human being;

(ii) any legal entity which is capable of possessing rights and duties, including any company or association of persons or body of individuals (whether incorporated or not); and

(iii) a Hindu Undivided Family or any other group or unit of persons, the members of which by custom or usage, are joint in estate and residence.

26. We are fortified in this view by the decision of this Court in Hasmukhlal Dahayabhai v. State of Gujarat [(1976) 4 SCC 100] wherein this Court had occasion to consider the definition of "person" in the Ceiling Act, in a different context. It was contended in that case that in view of the definition of "person" in the General Clauses Act, 1897, a Central enactment, that is, "person" shall include any company or association or body of individuals, whether incorporated or not, there cannot be a different definition in the Ceiling Act, and therefore, Section 6(2) of the Ceiling Act treating family as a "person" was unconstitutional. It was pointed out that Section 6(2) had the effect of making a person who held land within ceiling limit, to lose part of his/her holding, on marriage to someone who also held land within ceiling limit. (For example, if a bachelor who was holding 35 acres of land which is within ceiling limit, married someone who held 20 acres, they will together lose 19 acres by reason of the fact that they formed a "family".) This Court negatived the challenge to the definition of "person". In that context this Court *observed that the term "person" is not, strictly speaking, defined in the Act, and the definition merely clarified that the term includes a joint family and did not exclude an individual from being a person in the eye of the law. This Court observed that the term "person" for the purposes of the Ceiling Act would include individuals as natural persons as well as group or body of individuals as artificial persons, as also a joint family and a family. This Court proceeded to explain Section 6(2) thus: (SCC p. 106, para 16)*

> *"16. We do not find any fixed concept of 'person' anywhere. No doubt the concept is wide so that it could be contended that it should not be narrowed down or confined. But, does Section 6(2) do that? Section 6(2) does not either disable a husband or wife from owning or holding their separate properties separately. It does not merge or destroy their separate legal personalities. It requires their separate holdings to be grouped together as though they were held by one person only for the purpose of determining the ceiling limit for each member of a family. It may indirectly have the effect of disabling a member of a family from holding land up to the prescribed ceiling limit for a person holding as an individual. In other words, the result is that such a member of a family will have to be content with a holding less than that of an unmarried individual. It has the effect of making it clear that what have to be grouped together are the separate properties of individuals belonging to families other than what are 'joint families' in law. It takes in and applies to members of families other than undivided Hindu families. It means that married persons and their minor children will have to be viewed as though they hold one lot together even though they retain their separate legal personalities and remain competent owners of their separate holdings. It does not affect either their legal status or competence. It does reduce their individual holdings.""*

17. Further, while answering the question No.(ii) whether

the co-owners are together a "person", the observations in paragraphs '28' and '29' in ***Ramanlal Bhailal Patel and Others (supra)*** are also relevant to be noted as under:-

> *"28. The terms "association of persons" and "body of individuals" (which are interchangeable) have a legal connotation and refer to an entity having rights and duties. They are not to be understood literally. For example, if half a dozen people are travelling in a car or a boat, or standing in a bus-stop, they may be a group of persons or a "body of individuals" in the literal sense. But they are not an association of persons/body of individuals in the legal sense. When a calamity occurs or a disaster strikes, and a band of volunteers or doctors meet at the site and associate or cooperate with each other for providing relief to victims, and not doing anything for their own benefit, they may literally be an association of persons, but they are not "an association of persons/body of individuals" in the legal sense. A mere combination of persons or coming together of persons without anything more, without any intention to have a joint venture or carry on some common activity with a common understanding and purpose will not convert two or more persons into a body of individuals/association of persons. An "association of persons/body of individuals" is one in which two or more persons join in a common purpose and common action to achieve some common benefit. Where there is a combination of individuals by volition of the parties, engaged together in some joint enterprise or venture, it is known as "association of persons/body of individuals". The common object will have some relevance to determine whether a group or set of persons is an association of persons or body of individuals with reference to a particular statute. For example, when the said terms "association of persons" or "body of individuals" occur in a section which imposes a tax on income, the association must be one the object of which is to produce income, profit or gain (vide CIT v. Indira Balkrishna [AIR 1960 SC 1172] , Mohd. Noorulla v. CIT [AIR 1961 SC 1043] , N.V. Shanmugam*

and Co. v. CIT [(1970) 2 SCC 139 : AIR 1970 SC 1707] and Meera and Co. v. CIT [(1997) 4 SCC 677]). But the object need not always be to carry on commercial or business activity. For example, when the word "person" occurs in a statute relating to agriculture or ceiling on landholding, the term "association of persons/body of individuals" may refer to a combination of individuals who join together to acquire and own land as co-owners and carry on agricultural operations as a joint enterprise.

29. Normally, where a group of persons have not become co-owners by their own volition with a common purpose, they cannot be considered as a "person". When the children of the owner of a property succeed to his property by testamentary succession or inherit by operation of law, they become co-owners, but the co-ownership is not by volition of parties nor do they have any common purpose. Each can act in regard to his/her share, on his/her own, without any right or obligation towards the other owners. The legal heirs though co-owners, do not automatically become an "association of persons/body of individuals". When different persons buy undivided shares in a plot of land and engage a common developer to construct an apartment building, with individual ownership in regard to respective apartment and joint ownership of common areas, the co-owners of the plot of land, do not become an "association of persons/body of individuals", in the absence of a deeming provision in a statute or an agreement. Similarly, when two or more persons merely purchase a property, under a common sale deed, without any agreement to have a common or joint venture, they will not become an "association of persons/body of individuals". Mere purchase under a common deed without anything more, will not convert a co-ownership into a joint enterprise. Thus when there are ten co-owners of a property, they are ten persons and not a "body of individuals" to be treated as a "single person". But if the co-owners proceed further and enter into an arrangement or agreement to have a joint enterprise or venture to produce a common result for their benefit, then the co-owners may answer the definition of a "person".

18. The answer to question No.(iii) whether the ten purchasers constitute a "person", by the Apex Court is in paragraph "30" and "31" as under:-

> *30. We will now examine whether a group of individuals purchasing agricultural land jointly as co-owners, not with the intention of retaining the property in co-ownership and carrying on agricultural activities jointly, nor with the intention of managing it as a joint venture, nor with the intention of holding it together to generate income, profit or gain, but solely with the intention of dividing the land so purchased and hold their respective shares separately and individually, can be considered as a "person" for the purposes of the Ceiling Act. The Tribunal and the High Court have proceeded on the basis that the ten purchasers constituted an "association of persons" and therefore a separate juristic person. Let us examine whether the said conclusion is correct.*
>
> *31. Instead of buying the land (172 acres 36 guntas) jointly under the four sale deeds it was open to the ten persons to have bought the lands individually, that is each of them purchasing such extent of land as he or she wanted. If they had registered the sale deeds individually (subject to each of them being entitled to buy agricultural land, under the land reforms laws in force) each couple would have been entitled to hold land to the extent of one unit. Instead of each individual or couple purchasing the land in their respective names, if for convenience in negotiations, ten individuals buy the land jointly, the position will be no different. It cannot be said that merely because the sale deed is in the joint names of ten persons, they purchased the land as "an association of persons" or as "body of individuals" with the common intention of carrying on agricultural activities jointly or producing income, profit or gain or carry on some common joint venture. In fact before purchasing the lands, the ten persons had entered into an agreement placing on record that the object of purchasing the lands jointly was only to facilitate negotiations and avoid duplicating the purchase procedures and not to cultivate them jointly. There is no*

evidence of any joint cultivation, nor any evidence of any intention to have a joint venture. On the other hand, after purchase, they divided the lands and informed the Land Revenue Authorities and each co-owner was registered as the owner of the respective land allotted to him/her. This is not a case where a body of individuals purchased the land with the intention of having a continued community of interest by way of a joint venture or as a business venture. It is therefore not possible to treat the ten purchasers as an "association of persons/body of individuals" nor is it permissible to treat them as a single "person", thereby restricting their entitlement to hold land to only one unit, even though there are ten purchasers."

19. It is worthy to note that with the above observations, in the facts of the said case therein, it was held by the Apex Court that both the tribunal and the High Court were right in holding that the word "person" in the Ceiling Act' 1960 includes an "association of persons / body of individuals", but they were not justified in treating the co-owners as an association of persons, or in holding that the ten co-owners will be entitled to own only one unit. Further having regard to Section 6(2) of the Ceiling Act' 1960, it was observed that the share of each couple (husband and wife) in the land, plus any other land individually held by them will have to be calculated to find out whether they held any land in excess of the ceiling limit. Thus, considering the effect of Section 8 of the Ceiling Act' 1960, it was observed in paragraph '34' that, in the facts of the said case, the exclusion of the partition may not have any significant effect because the ten co-owners together are not to be treated as a person, the share of the co-owner will have to be calculated and the lands individually

held by such co-owner will have to be added to determine his holding. The holdings of the person with that of his spouse and minor sons and unmarried daughter will have to be aggregated to determine the surplus. The matter was, therefore, remanded back with the directions as under:

> *“**36.** We, therefore, allow this appeal, set aside the orders of the High Court as also that of the authorities below. As a consequence, we direct the Mamlatdar:*
>
> *(a) to decide whether any of the ten purchasers is a non-agriculturist and if so, the extent of transfer in favour of such non-agriculturist which will be invalid and pass consequential orders in respect of such land in accordance with law;*
>
> *(b) to determine whether any of the ten purchasers who are agriculturists, holds excess land by considering their share in the lands purchased as co-owners, with other lands as provided in Sections 6 to 8 of the Ceiling Act, and pass appropriate orders in accordance with law.”*

20. In light of the above observations and directions issued by the Apex Court, in ***Ramanlal Bhailal Patel and Others (supra)*** in the peculiar facts and circumstances of the present case, the questions which has arisen before us are:-

(a) Whether the four petitioners herein can be said to be co-owners of agricultural land having individual rights in the land jointly purchased by them so as to exclude them from the meaning of “association of persons / body of individuals”, within the meaning of Section 2(21) of the Ceiling Act’ 1960 read with the definition of “person” under Section 3(35) of the Bombay General Clauses Act, 1904.

(b) In other words, whether the four original petitioners can be said to be “person” included in the meaning assigned to the word “person” by the Apex Court in clause (ii) in paragraph ‘25’ as noted hereinabove.

21. The answer to both these questions would be common for us, inasmuch as, there is no dispute about the fact that the land in question was purchased in the name of partnership firm, which was incorporated prior to the purchase, (i.e. in the year 1939). The form submitted by one of the partners of the firm under Section 10 of the Ceiling Act’ 1960 was also in the name of partnership firm, which fact itself is evidence to hold that four individuals joined together to form an association to acquire and own land in the name of partnership firm to carry on agricultural operations as a joint enterprise. The common intention of four original petitioners to come together by their own volition with the common purpose to have a joint enterprise or venture to hold and cultivate agricultural land to produce a common result for the benefit of the partnership firm is evident from the mere fact that the land was purchased in the name of the partnership firm and ceiling form under Section 10 of the Ceiling Act, 1960 was filed with the declaration that the agricultural land is of the partnership firm. The fact that the names of four individuals (petitioners herein) were recorded in the revenue record and that the partnership firm cannot be said to be a legal entity, legally

entitled "to hold and cultivate an agriculture land", would have no relevance for the purposes of the Ceiling Act' 1960.

22. As held by the Apex Court in ***Ramanlal Bhailal Patel and Others (supra)*** the question to be examined by us is as to whether a group of four individuals purchasing agricultural land in the name of partnership firm, can be said to have come together with the intention of retaining the land as individuals to carry on agricultural activity individually or with an intention of holding and managing it as a joint venture, with the intention to generate income, profit and gain for the purpose of partnership firm. In other words, can it be said that they have come together to purchase the land solely with the intention of holding their respective shares separately and individually, so as to not to include them in "association of persons or body of individuals, whether incorporated or not" within the meaning of Section 3(35) of the Bombay General Clauses Act, 1904, imported in Section 2(21) of the Ceiling Act' 1960 by the Apex Court in ***Ramanlal Bhailal Patel and Others (supra)***.

23. In view of the answer to question No.(i) in ***Ramanlal Bhailal Patel and Others (supra)*** the "person" defined under Section 2(21) of the Ceiling Act, 1960 includes "association of persons and body of individuals", whether incorporated or not (which are interchangeable).

24. It is clarified by the Apex Court while answering question No.(ii) "whether co-owners are together a "person",

that an "association of persons / body of individuals is one in which two or more persons join in a common purpose and common action to achieve some common benefit. Where there is a combination of individuals by their volition, engaged together in some joint enterprise or venture, it is known as "association of persons / body of individuals". The common object will have some relevance to determine whether a group or set of persons in an association of persons or body of individuals with reference to a particular statute. For example, when the word "person" occur in a statute relating to agriculture or ceiling on landholding, the term "association of person / body of individuals" may refer to a combination of individuals who join together to acquire and own land as co-owners and carry on agricultural operations as a joint enterprise.

25. While making a distinction between "association of persons / body of individuals" with the co-owners, it was observed therein that where a group of persons have not become co-owners by their own volition with a common purpose, they cannot be considered as a "person". Similarly, when two or more persons merely purchase a property under a common sale deed, without any agreement to have a common or joint venture, they will not become "association of persons / body of individuals". Mere purchase under a common deed without anything more, will not convert a co-ownership into a joint enterprise.

26. However, if the co-owners proceed further and enter

into an arrangement or agreement to have a joint enterprise or venture to produce a common result for their benefit, then the co-owners may answer the definition of a "person". To the contrary, when different persons buy undivided shares in a plot of land and engage a common developer to construct an apartment building of and individual ownership in regard to respective apartment and joint ownership of common areas, the co-owners of the plot of land, do not become an "association of persons / body of individuals" in absence of deeming provisions in a statute or an agreement.

27. In light of this meaning assigned by the Apex Court to the terms "association of persons" and "body of individuals", in paragraphs '28' and '29' of the judgment in ***Ramanlal Bhailal Patel and Others (supra)***, we are required to see whether four petitioners herein grouped together who purchased agricultural land in the name of a partnership firm namely, B. Shantilal & Co. would be covered within the meaning of the term "association of persons / body of individuals".

28. To answer this, it is noteworthy that the petitioners herein had submitted that the partnership firm was formed vide deed dated 15.01.1930 whereby four petitioners herein have joined together to carry on certain business of cloth and manufacturing of soaps and chemicals under different names. The land in question was purchased in the name of the partnership firm after nine years of constitution of the firm. The contention of learned Senior Counsel for the

petitioners is that the partners though may have joined together to purchase some agriculture lands in the name of partnership firm but the partnership deed does not suggest that these partners have joined together to acquire and own the land as co-owners and to carry on “agricultural operations” as a joint enterprise in the name of the partnership firm. However, it is noteworthy there is a complete silence as to the fact whether the land was purchased from the common pool funds of the partnership firm or it was purchased by four petitioners coming together by contributing money from their own pockets, individually.

29. As to the concept of formation of partnership firm which may not be a legal entity so as to be treated as a “person” in its own capacity, but a partnership firm can be conceived as an association of persons or body of individuals having a common pool of resources where two or more persons combine capital, skills and assets to achieve a shared business goal. Partners contribute capital based on their agreement (deeds) which may be equal or unequal. The partners may be silent, who may invest while others may be working partners who manage. The pool of money along with other assets purchased by the firm, becomes the “joint estate of all partners” rather than belonging to any “single individual”. Profit / loss sharing are according to the agreed ratio in the partnership deed and if there is no agreement, they are usually shared equally.

30. In a general partnership, partners have unlimited

liability, meaning thereby that their personal assets can be used to pay off the firms debts if the pool money is insufficient. Further in a general partnership, all partners normally contribute to the pool and are actively involved in management and liability. It is essential to have a written partnership deed to outline how the pool of money is managed and how profits are shared, and how disputes are handled. The registration of partnership firm is not mandatory in all places.

31. As noted hereinabove, there is an admission of the petitioners that the land in question was purchased in the name of the partnership firm. From this fact, in absence of anything to the contrary, it must be presumed that the money from the common pool of the partnership firm was utilized to purchase agricultural land in the name of the firm comprising of four partners. The result is that the agricultural operations carried over the land in question must be a shared business and the income out of the agricultural proceeds must have been brought into the common pool of partnership firm.

32. It seems that it is for this reason, the Ceiling form under Section 10 of the Ceiling Act, 1960 was filled in the name of the partnership firm being owner of the land in question. This fact itself is sufficient to cover four petitioners into an "association of persons and body of individuals" formed by their own volition with the common intention of retaining the agricultural land in co-ownership and carrying on agricultural activities jointly, with an intention of managing the land as a

joint venture, to hold it together to generate income, profit or gain, which would go to the common pool of resources of the partnership firm. Each of the partners of the firm become jointly and severally entitled to profit and loss sharing, as per the ratio agreed in the partnership deed.

33. Moreover, there is nothing on record that even after purchase of the land in question, it was held individually by each of the four petitioners and they carried on agricultural activities individually, and not jointly as co-owners or partners of the firm. There is no revenue receipt, no irrigation receipt and no other evidence of any kind on record which would establish that the petitioners came together solely with the intention of purchasing the land and then holding it as per their respective shares separately and individually.

34. From own case of the petitioners, it is evident that the petitioners jointly purchased the agricultural land to hold it jointly and carried on joint venture of agricultural activities as partners, it, therefore, cannot be accepted that the land in question was held by them individually and separately as co-owners and not as partners. The fact that the land in question was purchased in the name of the partnership is proof of the land having been purchased from the common pool of money of the partnership firm and after purchase even the land in question will go into the common pool of assets of the partnership firm, thus, became the “joint estate of all partners” rather than belonging to individual four partners.

35. In view of the above facts reflected from the record, the condition of a group of person coming together to purchase the land in their joint name, to be termed as an "association of persons" and "body of individuals" to be included in the definition of "person" within the meaning of Section 2(21) of the Ceiling Act, 1960 stands fulfilled.

36. The submissions made by the learned Counsel for the petitioners based on the decisions in the case of (i)***Dulichand Laxminarayan (Firm) v. CIT, [(1956) 1 SCC 269];*** *(ii)* ***M/s. Agarwal and Co. v. Commissioner of Income-tax [(1970) 2 SCC 48]****; (iii)* ***Senaji Kapurchand and Others v. Pannaji Devichand [AIR 1930 Privy Council 300]***(iv) ***Ramanlal Bhailal Patel and Others v. State of Gujarat [(2008) 5 SCC 449]*** *(v)* ***Narayan Bhimji Vadangale & Anr v. Hukumchand Chunilal Thole & Anr. [1992 (1) GLH 135*** *and (v)* ***Shantilal Mohanlal Shah & Ors V. State of Gujarat [2013 (3) GLR 1848]*** that the partnership firm is not a legal entity which can be said to be legally entitled "to hold" or "cultivate agricultural land personally", within the meaning of Section 2(15) and Section 2(12) of the Ceiling Act, 1960, is neither here nor there.

37. Coming to Section 6 of the Ceiling Act, 1960, it may be noted that the said provision recognizes only "individuals" who is a member of a family (not being a joint family, which consists of individual, his spouse, their minor sons and minor unmarried daughters) and "joint family" defined in Section 2(16) as a Hindu Undivided Family or a group or unit, the

members of which by custom or usage are joint in estate or residence, to be entitled to hold land, which is not in excess of the Ceiling area. Section 6(1) of the Ceiling Act, 1960 categorically provides that with effect from the appointed day, no "person" shall, subject to the provisions of sub-section (2), (3), (3-A) and (3-B), be entitled to hold, whether as owner or tenant or partly as owner and partly as tenant, land in excess of the ceiling limit, notwithstanding anything contained in any law for the time being in force or in any agreement, usage or decree or order of a Court.

38. In light of the above discussion, we do not find any substance in the submissions made by the learned Senior Counsel for the petitioners so as to make a distinction of this case, from the inclusive definition of "person" under Section 2(2) of the Ceiling Act, 1960 read with Section 3(35) of the Bombay General Clauses Act, 1904, as interpreted by the Apex Court in ***Ramanlal Bhailal Patel and Others (supra)***, specifically paragraph '25' therein.

39. No error can be attached to the opinion of the learned Single Judge as noted hereinabove. The present appeal stands dismissed. No order as to costs.

(SUNITA AGARWAL, CJ.)

(D.N.RAY, J.)

FURTHER ORDER

After delivery of the order, the prayer made by Mr. Apurva Vakil, learned Senior Counsel for the petitioners to stay the operation of this order and to continue the interim order operating as on date is hereby rejected.

(SUNITA AGARWAL, CJ.)

(D.N.RAY, J.)

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