scheme of the Code, is plainly designed and intended to cover interlocutory orders; at least it does not exclude interlocutory orders merely because they are interlocutory.

The case of a defendant seeking revision of an adverse order on a question of Court-fee is, from every relevant point of view, distinguishable from that of the plaintiff seeking similar relief, in that, in the case of the plaintiff the impugned order has the practical effect of refusal by the Court to proceed with the trial of his suit until and unless he pays more Court-fee. Dictates of justice in his case must speak in a tone different from the case of a defendant who merely wants the plaintiff to pay more Court-fee to the State. To equate these two cases is to ignore and miss the plain basic distinction between the effect of the two orders on the parties to whose prejudice they may respectively operative.

I may here appropriately repeat, what is often apt to be forgotton, ignored or missed, that the Code of Civil Procedure is designed and intended to facilitate justice and further its ends. Section 115, like other provisions of the Code, has, therefore, to be construed in this background so that if a case is covered by the language of this section and there is no other material legal infirmity, the High Court's jurisdiction should not be shut out, and the aggrieved party should get speedy justice in accordance with law without further avoidable delay, expense or hardship. To construe and interpret section 115 in the manner suggested by the respondent appears clearly to ignore, or at least to give insufficient consideration, to this fundamental background. From whichever point of view we may consider the question, the respondent's contention is not easy to sustain.

PREM CHAND PANDIT, J.—I also agree.

K.S.K.

FULL BENCH

Before S. B. Capoor, I. D. Dua and D. K. Mahajan, JJ.

PRITAM SINGH AND OTHERS,—*Petitioners.*

versus

THE STATE AND OTHERS,—*Respondents.*

Civil Writ No. 1453 of 1963.

1965

December, 24th

Pepsu Tenancy and Agricultural Lands Act (XIII of 1955)—Ss. 32-FF and 32-G,—Whether valid—Gift of part of the property in favour of next heir—Whether amounts to acceleration of succession—Notice to the donee—Whether necessary to be given before declaring surplus area of the donor.

Held, that sections 32FF and 32G of the Pepsu Tenancy and Agricultural Lands Act, 1955, are constitutionally valid as they are saved by Article 31-A of the Constitution and their validity cannot be challenged on the ground that they are violative of Articles 14, 19 and 31 of the Constitution.

Held, that the doctrine of acceleration of succession will only apply where the last male holder effaces himself and not where he parts with some of his property by gift in favour of his next heirs.

Held, that as provided in section 32FF of the said Act, the transfers of land made after 21st August, 1956, are not to affect the right of the State Government to the surplus area to which it will be entitled but for such transfer or disposition. The result is that the transfers made after 21st August, 1956, are to be ignored and, therefore, no notice need be given to the transferees before the surplus area of the transferer is declared. Such transferees are not deemed to be the owner of the transferred land for the purposes of the Act.

Petition under Article 226 of the Constitution of India praying that a writ of certiorari, mandamus or any other appropriate writ, order or direction be issued quashing the orders dated the 22nd October, 1962, 29th January, 1963 and 2nd July, 1963, passed by respondents No. 2, 3 and 4 respectively.

BAL RAJ TULI, SENIOR ADVOCATE WITH B. S. BAJWA AND S. K. TULI, ADVOCATES, for the Petitioners.

LACHHMAN DASS KAUSHAL, SENIOR DEPUTY ADVOCATE-GENERAL, ASSISTED BY JAGMOHAN LAL SETHI, AND P. R. JAIN, ADVOCATES, for the Respondents.

ORDER

The following Judgment of the Court was delivered by —

Mahajan, J. MAHAJAN, J.—Civil Writs Nos. 1635 of 1962 and 985, 1023 and 1453 of 1963 have been placed before us for consideration, whether the Division Bench decision of this Court in *Bir Singh, etc.* v. *State of Punjab, etc.* (1), is correctly decided. In case, it held that the decision in *Bir Singh's* case is correct, it is not disputed that Civil Writs Nos. 1635 of 1962 and 985, 1023 and 1453 of 1963, would fail. In Civil Writs Nos. 14

(1) I.L.R. (1963) 2 Punj. 852=1963 P.L.R. 961.

and 616 of 1964, besides the question referred for our decision, two additional matters are raised. Our decision will only conclude the point, which is the subject-matter of the reference. But these two petitions will go back to the learned Single Judge for decision of the additional matters which require determination.

In order to appreciate the controversy, it will be proper to set out the facts of Civil Writ No. 1453 of 1963. It is not necessary to advert to the facts of the other petitions. On the 26th September, 1956, the land-holder executed gift deeds of part of his land in favour of his sons and daughters. The mutations on the basis of these deeds were entered on the 28th September, 1956. The mutations were sanctioned on the 4th October, 1956. It is common ground that at the time when these gifts were made, there was no law which, in any manner, affected their validity or which could or did stand in the way of the donees becoming the absolute owners of the land gifted to them. The PEPSU Tenancy and Agricultural Lands Act (Act No. 13 of 1955) hereinafter referred to as the Act received the assent of the President on the 4th March, 1955 and was published in the Patiala and East Punjab States Union Gazette (Extraordinary) of that very date. Certain provisions came into force on the 6th March, 1955 and others later on. The Act was enacted, as the preamble denotes, to amend and consolidate the law relating to the tenancies of agricultural lands and to provide for certain measures of land reforms. This Act has been amended from time to time and we are only concerned with a few of them. One of them is the PEPSU Tenancy and Agricultural Lands Second Amendment Act 15 of 1956. This amendment added Chapter IV-A to the original Act. This chapter is headed "Ceiling on land and acquisition and disposal of surplus areas." Before this amendment, there was no provision for a ceiling on land nor was there a provision with regard to surplus area or for the vesting of the surplus area in the State Government. The PEPSU Tenancy and Agricultural Lands Act 13 of 1955 prescribed a 'permissible limit' for the purposes of the Act. The 'permissible limit' was 30 standard acres and where 30 standard acres, on being converted into ordinary acres, exceeded 60 acres—such 60 acres. There were two provisos to the permissible limit and it is not necessary for our purposes to notice them. This Act only safeguarded

Pritam Singh and others
v.
The State and others

Mahajan, J.

the rights of the tenants so far as their eviction was concerned. It further conferred certain benefits on the tenants, the most important of which was that the tenant could acquire his holding by payment of compensation to the landlord, to be determined and to be paid in accordance with the provisions of the Act.

The provisions of Chapter 4-A, which need be noticed for our purposes, are contained in section 32-A, which places a ceiling on the holing of a landowner or of a tenant, the ceiling being the total land held by such landowner or tenant which did not exceed in the aggregate the permissible limit. The permissible limit is fixed by section 3 as 30 standard acres which if converted into ordinary acres exceeds 80 acres,—such 80 acres. In the case of a displaced person, who has been allotted land in excess of 30 standard acres, the permissible limit was 40 standard acres and on being converted into ordinary acres 100 acres.

Section 32-E vests the surplus area in the State Government. Section 32-F confers power on the State Government to take possession of the surplus area. Section 32-F, the validity of which is impugned, is in the following terms:—

> "32-F. (1) The Collector may, by order in writing, at any time after the date on which the final statement in respect of a landowner or tenant is published in the Official Gazette direct the landowner or the tenant or any other person in possession of the surplus area to deliver possession thereof within ten days of the service of the order on him to such person as may be specified in the order.
>
> (2) If the landowner or the tenant or any other person in possession of the surplus area refuses or fails without reasonable cause to comply with the order made under sub-section (1), the Collector may take possession of the surplus area and may for that purpose use such force as may be necessary.

Section 32-G is another provision, the constitutionality of which has been impugned before us. This section is in the following terms:—

> "32-G(1) Where any land is acquired under section 32-E, there shall be paid compensation which

shall be determined by the Collector or any other officer in the manner and in accordance with the principles hereinafter set out, that is to say—

(a) in respect of land other than *banjar* land—

(i) for the first twenty-five standard acres of land, twelve times the fair rent; and

(ii) for the next twenty-five standard acres of land, nine times the fair rent; and

(iii) for the remaining land, ninety times the land revenue (including rates and cesses) payable for such land or two hundred rupees per acre whichever is less:

Provided that the compensation under this clause shall in no case be less than ninety times the land revenue (including rates and cesses) payable for the land or two hundred rupees per acre, whichever is less :

Provided further that where the land exceeds fifty standard acres, it shall, for the purposes of computing compensation under this clause, be allocated to sub-clauses (i), (ii) and (iii) in such manner as may be prescribed.

(b) in respect of *banjar* land, forty-five times the land revenue payable in respect of any equal area of any *barani* land in the village concerned or where there is no such land in the village, in the nearest village, which is assessed to land revenue at the lowest rate, or at the rate of one hundred rupees per acre, whichever is less.

Explanation.—In this sub-section 'fair rent' means fair rent as determined by the PEPSU Land Commission appointed under section 32-P.

(2) The Collector or the officer authorised by the State Government shall prepare a compensation statement in the form and manner prescribed and shall give notice to all persons known to

Pritam Singh and others v. The State and others

Mahajan, J.

have any interest in the land for which compensation is to be paid, to appear personally or by duly authorised agent before him at a time and place therein mentioned (such time not being earlier than fifteen days after the date of service of the notice) and to state the nature of their respective interests in the land and the amount and particulars of their claims to compensation shall be apportioned among the persons having interest in the land.

(2-A) Where in the surplus area of any person mortgagee rights have vested in the State Government, the compensation payable to the mortgagee shall be the mortgage money due to the mortgagee, or the compensation payable under this Act, whichever is less.

(3) In apportioning compensation between a landowner and a tenant not more than twenty times the land revenue shall be awarded to the tenant.

(4) Where on the land there is any building, structure, tube-well or crop, the owner thereof shall, in addition to the compensation payable in respect of the land, be entitled to be paid by the State Government compensation therefor which shall be equivalent to three-fourths of the market value of such building, structure, tube-well or crop, as the case may be, and which shall be determined,—

(a) in the case of crop, by the Collector; and

(b) in other cases, by the PEPSU Land Commission or, in respect of the surplus area declared under sub-section (12) of section 32-K by the Board referred to in sub-section (6) of that section:

Provided that an option in writing may be given by the Collector to the owner to remove such building, structure, tube-well or crop within the period prescribed, and if such building structure, tube-well or crop, as the case may be, is removed by

the owner within the period prescribed or within such further period as the Collector may extend for the purpose, no compensation shall be paid to the owner in respect thereof :

Provided further that the cost incurred in raising the crop shall be the market value of the crop."

Section 32-J deals with the disposal of surplus area. Section 32-L places an embargo on the acquisition or possession of agricultural land after 30th October, 1956, by transfer, exchange, lease, agreement or settlement. Any such acquisition or possession is made null and void. Section 32-M places an embargo on the acquisition of land in excess of the permissible limit by inheritance. This embargo is also placed with effect from the 30th October, 1956. Section 32-N defines 'surplus area' as—

".....the area in excess of the permissible limit and the area which is deemed to be surplus area under sub-section (2) of section 32-BB."

Section 32-BB, sub-section (2) is in the following terms:—

"32-BB. * * *.

(2) If a landowner or tenant fails to furnish the declaration supported by an affidavit as required by sub-section (1), the prescribed authority not below the rank of Collector may, by order, direct that the whole or part of the land of such landowner or tenant, in excess of ten standard acres, to be specified by such authority shall be deemed to be the surplus area of such landowner or tenant, and thereupon such area shall be included by the Collector as the surplus area of such landowner or tenant in the statement to be prepared in respect of him under section 32-D:

Provided that nothing herein shall affect—

(a) the lands of such landowner or tenant which have been exempted under section 32-K; or

(b) the right of such person to any compensation in respect of such surplus area to which he may be entitled under this Act:

Pritam Singh and others
v.
The State and others

Mahajan, J.

Provided further that no such order shall be made without giving the person concerned an opportunity of being heard.

* * *.

It may be mentioned that Sections 32-BB and 32-FF were inserted by the PEPSU Tenancy and Agricultural Lands (Amendment) Act, 1959 (Punjab Act No. 3 of 1959). The effect of this amendment was that transactions made between 21st August, 1956 and 30th October, 1956 were not to affect the right of the State Government under the Act to the surplus area, to which it would be entitled, but for such transfer or disposition. The only acquisitions excepted were the acquisition of land by the State Government or the acquisition of land by an heir by inheritance or up to 30th July, 1958 by a landless person or a small landowner, who was not a relation in terms of rule 23-A of the Rules framed under the Act. Rule 23-A is in these terms:—

"23-A. *Prescribed relations for the purposes of section 32-FF of the Act.*—For the purposes of section 32-FF of the Act, the prescribed relations shall be the wife or husband, male or female descendants and the descendants of such female, father, mother, father's or mother's sister, brother and his descendants, mother's brother and his descendants, wife's brother and sister's husband."

The only other provision, which may be noticed is section 32-DD, which was added by the PEPSU Tenancy and Agricultural Lands (Amendment and Validation) Act No. 16 of 1962. Here again the relevant date is the 30th October, 1956. This provision does not go back to the 21st of August. 1956 as does section 32-FF. The provisions of the amending and validation Act, already referred to, came into force with effect from 20th July, 1962, excepting sections 2, 4, 5, 7 and 10, which were to be deemed to have come into force on the 30th October, 1956.

We have already set out the various provisions of the Act and also the purpose for which this legislation was enacted. The contention in these cases is a very limited one. It is argued that there was no fetter on the powers of the landowner to transfer his land, in any manner, he liked, between the 21st August, 1956 and 30th October, 1956. The transactions of transfer that took place during

this period were valid in law at the time, when they took place. Their validity has been affected by the PEPSU Tenancy and Agricultural Lands (Amendment) Act No. 3 of 1959, which has directly hit the transfers made between 21st August, 1956 and 30th October, 1956,—*vide* section 32-FF. These transactions have not to be taken into account for the purpose of determining the surplus area of the landowner in view of the aforesaid section 32-FF.

The second contention of the learned counsel for the petitioners regarding the *vires* of the Act, which need be noticed, is that section 32-G, which provides for compensation on the basis of a slab system is violative of Article 14 of the Constitution of India because it fixes discriminatory standards for the payment of compensation to the landowners. In support of this contention, reliance is placed on the decisions of the Supreme Court in *A. P. Krishanaswami Naidu* v. *The State of Madras* (2) and *Karimbil Kunhikoman and K. Ganapathy Bhat and others* v. *State of Kerala* (3). It is urged that if section 32-G is held *ultra vires*, the entire Act will become unconstitutional.

It will be apparent that in substance, the *vires* of the Act is challenged on the basis of certain provisions of the Act coming in conflict with Articles 14 and 19 of the Constitution of India.

It is not disputed that the decision in *Bir Singh, etc.* v. *State of Punjab, etc.* (1), negatives the contentions raised and if it is correctly decided, it applies with full force to the present petitions. But it is urged that this decision does not lay down the correct rule of law. The learned counsel, in support of his first contention, relies upon the decisions in *Triveni Shyam Sharma* v. *Board of Revenue, Rajasthan* (4) and *Punjab Province* v. *Daulat Singh and others* (5). The provision in the Rajasthan Act is somewhat similar to the provision in the PEPSU Tenancy and Agricultural Lands Act and while dealing with the same, Dave C.J., observed as follows:—

"It is obvious from the language of the proviso, which was added to section 42, Rajasthan

(2) A.I.R. 1964 S.C. 1515.
(3) A.I.R. 1962 S.C. 723.
(4) A.I.R. 1965 Raj. 54.
(5) A.I.R. 1946 P.C. 66.

Pritam Singh and others
v.
The State and others

Mahajan, J.

Tenancy Act by Act 28 of 1956 that after the amendment by Act 28 of 1956 a Khatedar tenant, who was a member of a scheduled caste or a scheduled tribe, was restrained from transferring his interest in the whole or any part of his holding to any person, who was not a member of a scheduled caste or a scheduled tribe. This restriction was imposed for protecting the interests of the Khatedar tenants, who were members of a scheduled caste or a scheduled tribe. A perusal of the language of the proviso would show that if it is read without the context of the deeming clause, it cannot be said that it was to be applied retrospectively. The difficulty was created only because of the words 'shall be deemed always to have been so added' inserted in section 4 of Act 28 of 1956 while introducing the proviso. The deeming clause was undoubtedly violative of the provisions of Article 19(1) of the Constitution of India. The effect of the deeming clause was that the proviso to section 42 should be read as if it appeared in the said section on 15th October, 1955, when the principal Act was brought into force. Its effect would be to invalidate the transactions which had taken place between 15th October, 1955 and 22nd September, 1956. Article 19(1)(f) of the Constitution guarantees to all the citizens of India a fundamental right to acquire, hold and dispose of property. It cannot be said that the proviso was added for the protection of the interests of the members of the scheduled tribe and, therefore, it was saved by Art. 19(5), because even, according to Art. 19(5), reasonable restrictions on the fundamental rights embodied in Article 19(1)(f) can be imposed only for the protection of the interests of the members of the scheduled tribe. The word 'interests' appearing in the said clause refers to subsisting interests and not to those interests which cease to exist even before the law is enacted. The term 'protection' is also suggestive of subsisting interests. If the interests already cease to exist, there would remain nothing which may be protected by law. In the case of interests which cease to exist, it

would be revival of the interests and not the protection thereof. In a case where a person had already transferred his interests before Act 28 of 1956 came into force, the deeming clause, if held to be valid, would not protect the vendor, but would tend to deprive the vendee of the rights and interests which had already vested in him. The deeming clause would not, therefore, be saved by clause (5) and it would be violative of Art. 19(1)(f) of the Constitution of India. The plain reading of section 3 of Act 12 of 1964 would show that the new section 42 was substituted in place of the old one with effect from the date this amended Act came into force, namely, 1st May, 1964. This Act also does not seek to validate the deeming clause appearing in section 4 of Act 28 of 1956, which was invalid from the very date it was introduced. The Constitution (Seventeenth Amendment) Act, 1964, protects the Rajasthan Tenancy Act, 1955, as it stood on the date the said amendment of the Constitution of India came into force."

To the similar effect are the observations in the Privy Council decision whereby section 13-A of the Punjab Alienation of Land Act (13 of 1900) as amended by Act 10 of 1938 was declared *ultra vires* the section 298(2) of the Government of India Act, 1935.

However, it is not necessary to probe into this matter any further because Article 31-A of the Constitution of India clearly saves the provisions of the Act, which are impugned before us. As already stated, the attack on the provisions of the Act is on the basis that the provisions of Articles 14 and 19 of the Constitution of India have been violated. The relevant part of Article 31-A of the Constitution of India is in the following terms:—

"31-A. (1) Notwithstanding anything contained in article 13, no law providing for—

(a) the acquisition by the State of any estate or of any rights therein or the extinguishment or modification of any such rights, or

* * *

* * *

* * *

Pritam Singh and others v. The State and others

Mahajan, J.

shall be deemed to be void on the ground that it is inconsistent with, or takes away or abridges any of the rights conferred by article 14, article 19 or article 31:

Provided that where such law is a law made by the Legislature of a State, the provisions of this article shall not apply thereto unless such law, having been reserved for the consideration of the President, has received his assent.

"(2) In this article,—

(a) the expression 'estate' shall, in relation to any local area, have the same meaning as that expression or its local equivalent has in the existing law relating to land tenures in force in that area and shall also include—

(i) any jagir, inam or muafi or other similar grant and in the States of Madras and Kerala, any janmam right;

(ii) any land held under ryotwari settlement;

(iii) any land held or let for purposes of agriculture or for purposes ancillary thereto, including waste land, forest land, land for pasture or sites of buildings and other structures occupied by cultivators of land, agricultural labourers and village artisans:

(b) the expression 'rights', in relation to an estate, shall include any rights vesting in a proprietor, sub-proprietor, under-proprietor, tenure-holder (raiyat, under-raiyat) or other intermediary and any rights or privileges in respect of land revenue."

The effect and scope of Article 31-A *vis-a-vis* agrarian reforms has come up for decision in a number of cases before the Supreme Court and it has been repeatedly held by their Lordships that such provisions, though violative of Articles 14, 19 and 31 are saved by Article 31-A of the Constitution. The very object of Article 31-A was to save such legislation from attack. In this connection, reference

may be made to the decision of Supreme Court in *Atma Ram and others* v. *State of Punjab and others* (6), a decision in which the similar provisions of the Punjab Security of Land Tenures Act fell for consideration on the same ground, namely, that those provisions were violative of Articles 14, 19 and 31. Their Lordships of the Supreme Court held as follows:—

"Keeping in view the background of the summary of land tenures in Punjab and elsewhere, we have to construe the amplitude of the crucial words 'any estate or of any rights therein' in Article 31-A(1)(a). Soon after the coming into effect of the Constitution, the different States in India embarked upon a scheme of legislation for reforming the system of land-holding, so as (1) to eliminate the intermediaries, that is to say, those who hold interest in land in between the State at the apex and the actual tillers of the soil—in other words, to abolish the class of rent-receivers, and (2) to create a large body of small landholders, who have a permanent stake in the land, and who are, therefore, interested in making the best use of it. As the connotation of the term 'estate' was different in different parts of the country, the expression 'estate' described in clause (2) of Art. 31-A, has been so broadly defined as to cover all estates in the country, and to cover all possible kinds of rights in estates, as shown by sub-clause (b) of clause (2) of Art. 31-A, which is in these terms:

'(b) the expression 'rights', in relation to estate, shall include any rights vesting in a proprietor, sub-proprietor, under-proprietor, tenure-holder (raiyat, under-raiyat) or other intermediary and any rights or privileges in respect of land revenue.'

The expression 'rights' in relation to an estate has been given an all inclusive meaning comprising both what we have called for the sake of brevity, the 'horizontal' and 'vertical' divisions of an

(6) A.I.R. 1959 S.C. 519.

Pritam Singh and others
v.
The State and others

Mahajan, J.

estate. A proprietor in an estate may be the proprietor holding the entire interest in a single estate, or only a co-sharer proprietor. The provisions aforesaid of Article 31-A, bearing on the construction of the expression 'estate' or 'rights' in an estate, have been deliberately made as wide as they could be, in order to take in all kinds of rights—quantitative and qualitative—in an area co-extensive with an estate or only a portion thereof. But it has been suggested that the several interests indicated in sub-clause (b), quoted above, have been used with reference to the area of an entire estate, but knowing as we do, that a raiyat's or an under-raiyat's holding generally is not co-extensive with the area of an entire estate, but only small portions thereof, it would, in our opinion, be unreasonable to hold that the makers of the Constitution were using the expression 'estate' or 'rights' in an estate in such a restricted sense. Keeping in view the fact that Article 31-A was enacted by two successive amendments—one in 1951 (First Amendment) and the second in 1955 (Fourth Amendment)—with retrospective effect, in order to save legislation effecting agrarian reforms, we have every reason to hold that those expressions have been used in their widest amplitude, consistent with the purpose behind those amendments. A piece of validating enactment purposely introduced into the Constitution with a view to saving that kind of legislation from attacks on the ground of constitutional invalidity, based on Articles 14, 19 and 31, should not be construed in a narrow sense. On the other hand, such a constitutional enactment should be given its fullest and widest effect, consistently with the purpose behind the enactment, provided however, that such a construction does not involve any violence to the language actually used."

To the similar effect are the decisions of the Supreme Court while dealing with similar legislation in other States of the Union of India, namely, *Sri Ram Ram Narain Medhi and others* v. *The State of Bombay* (7) (Bombay Act),

(7) A.I.R. 1959 S.C. 459.

Sonapur Tea Co., Ltd. and Mst. Mazirunnessa v. *Deputy Commissioner and Collector of Kamrup and others* (8); (*Assam Act*), *Raghuvir Singh, etc.* v. *The State of Ajmer and others* (9); (Rajasthan Act), *State of Bihar and another* v. *Umesh Jha* (10); (Bihar Act) *and Ranjit Singh and others* v. *The State of Punjab and others* (11) [East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act; Punjab Gram Panchayat Act and Punjab Village Common Lands (Regulation) Act]. Therefore, the contention of the learned counsel, that the provisions of section 32-FF are violative of Articles 14, 19 and 31, cannot bear scrutiny and must be repelled.

The second contention of the learned counsel relating to the *vires* of the Act, which is based on the decision of the Supreme Court in *A. P. Krishanaswami Naidu's* case, *Karimbil Kunhikoman's* case and *Triveni Shayam Sharma* v. *Board of Revenue, Rajasthan, Ajmer and others* (4), also must fail on the same ground on which the first contention has failed. In both the Supreme Court decisions—*A. P. Krishanaswami Naidu's* case and *Karimbil Kunhikoman's* case—, their lordships were not dealing with the case of an estate. It cannot be disputed that Article 31-A only protects legislation which is violative of Articles 14, 19 and 31, provided that legislation relates to an estate or a part thereof. If the legislation is not saved by Article 31-A, the provisions of Articles 14, 19 and 31 will have full play. It was made clear in *A. P. Krishanaswami Naidu's* case that the legislation did not relate to an estate or a part thereof and, therefore, was not protected by Article 31-A. The same applies to *Karimbil Kunhikoman's* case. In the Rajasthan case, no reference was made to Article 31-A; and if the legislation in the Rajasthan case related to an estate, it would surely be protected by the provisions of Article 31-A and the decision of that Court would be clearly erroneous. It appears that the Rajasthan case had nothing to do with an estate and, therefore, no fault could be found with the decision in that case because then it will be in line with the Supreme Court decisions in *A. P. Krishanaswami Naidu's* case and *Karimbil Kunhikoman's* case.

---

(8) A.I.R. 1962 S.C. 137.
(9) A.I.R. 1959 S.C. 475.
(10) A.I.R. 1962 S.C. 50.
(11) A.I.R. 1965 S.C. 632.

Pritam Singh and others
v.
The State and others

Mahajan, J.

The net result, therefore, is that the contentions of the learned counsel for the petitioners that the provisions of section 32-FF are violative of Articles 14, 19 and 31 cannot be sustained and it must be held that section 32-FF is a valid piece of legislation.

This leaves two subsidiary contentions of Mr. Tuli, learned counsel for the petitioners, which may be noticed. One of these contentions is that the provisions of sections 32-FF and 32-M protect acquisition of land by inheritance and, therefore, the gifts in question should be construed as acceleration of succession and, therefore, the gifts are valid. What is effected between 21st August, 1956 and 30th October, 1956, is the transfer or other disposition of land. Inheritance will not be such transfer or other disposition. But that will not, in any way, help the learned counsel because the gifts in the present case cannot be held to be acceleration of succession. The doctrine of acceleration of succession will only apply where the last male holder completely effaces himself. It is common ground that in the present case what the last male holder did was that he kept part of the land with himself and in order to get over the provisions of the Act, parted with the surplus land in favour of his sons and daughters by gift. In this situation, it cannot be said that there was any acceleration of succession . Therefore, argument is accordingly repelled.

The last contention of Mr. Tuli is that no notice was issued to the donees before the surplus area was determined. Section 32-FF provides that no transfers or other disposition of land after 21st August, 1956, shall affect the right of the State Government, under this Act, to the surplus area to which it would be entitled, but for transfer or disposition. The net result of this provision is that the transfers have to be ignored. If the transfers are ignored, no question of any notice to the transferees arises. The transferred property will not vest in the transferees and for the purposes of the Act, they will not be deemed to be the owners of the property. Therefore, the contention, that the non-giving of notice to the transferees violates the principles of natural justice, has no substance. It is not disputed that notice was given to the donor.

We are, therefore, clearly of the view that there is no merit in any of these petitions and that the decision in *Bir Singh's* case lays down the correct rule of law.

The result, therefore, is that Civil Writ petitions numbers 1635 of 1962 and 985, 1023 and 1453 of 1963 are dismissed. Civil Writ petitions numbers 14 and 616 of 1964 will go back to the learned Single Judge for decision of the two additional questions that have not been decided by the Full Bench. In the circumstances of the case, the parties will bear their own costs in Civil Writ petitions numbers 1635 of 1962 and 985, 1023 and 1453 of 1963. The question whether costs should or should not be awarded in Civil Writs numbers 14 and 616 of 1964 will be determined by the learned Single Judge.

B.R.T.

8101 HC—1,000—23-5-66—C., P.&S., Pb, Chd.