REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 4041 OF 2014

(@ SPECIAL LEAVE PETITION (CIVIL) No. 31721 of 2012)

UNION OF INDIA AND ORS. ..... APPELLANTS

VERSUS

ROBERT ZOMAWIA STREET ..... RESPONDENT

J U D G M E N T

Chandramauli Kr. Prasad

Defendants are the petitioners before us and they are aggrieved by the judgment and decree dated 16th of December, 2011 of the High Court of Guwahati in Second Appeal No. 1 of 2010, reversing the judgment and decree of affirmance and granting permanent injunction restraining the Defendants-petitioners from interfering with the possession and title of

the Plaintiff-Respondent over Bungalow No. 18, hereinafter referred to as “the suit land”.

According to the Plaintiff, the suit land comprises Bungalow No. 18, lying on a plot measuring 4.261 acres within the Shillong Military Cantonment area. Plaintiff claims to be the absolute owner thereof on the basis of a Will dated 6th of December, 1980 executed by Late St. John Perry. The probate of the Will was granted by the District Judge, Shillong by an order dated 26th of June, 1987 and, according to the plaintiff, it had become final as no appeal was preferred against the said order. On the basis of the aforesaid order, the Plaintiff approached Defendant No. 2, D.E.O., Guwahati Circle for mutation of the suit land in his name in the General Land Register (for short “GLR”). Plaintiff was asked to fill up a pro-forma declaration form, inter alia, admitting the proprietary rights of the Government of India over the property and their right to resume the same as a condition for

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mutation. This was refused by the plaintiff. It is further case of the Plaintiff that soon thereafter, on 12th of December, 1986, a notice was served on him by the Ministry of Defence, intimating him of their decision to resume the suit land and asking him to deliver the possession to Defendant No. 2 within a month. The Plaintiff was thereafter served with a show cause notice dated 23rd of March, 1993 by Defendant No. 3, the Station Commander, Eastern Headquarter, Shillong, informing him that a Committee of Officers had determined the compensation payable to him at Rs. 1,72,094/- on account of resumption of the suit land and to file reply by 19th of April, 1993, failing which it would be assumed that he had no objection to the order of resumption. This determination of compensation payable, according to the Plaintiff, was done without giving him an opportunity of hearing. It is in these circumstances that Plaintiff instituted Title suit No. 5(H) of 1993 before the learned Assistant District Judge, Shillong for a

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declaration that the order of resumption dated 23rd of March, 1993 is illegal, invalid, without jurisdiction and not binding on him and for permanent injunction, prohibiting the Defendants from interfering with the possession of the Plaintiff in any manner.

On the other hand, the case of the Defendants is that the suit land was settled with the British Government in 1863 under the Bengal Army Regulation, upon which the Cantonment was established. The suit land was originally granted free of rent to Mr. G.H. James in the year 1880 as “old grants”. Mr. James transferred the suit land to Mr. L.H. Musgrave in 1932, who further transferred it by way of a Will to Mrs. G.M. De La Nonger in 1939. On the death of Mrs. G.M. De La Nonger, the suit land was transferred to St. John Perry vide Will dated 29th of May, 1980. The Plaintiff came to occupy the suit land pursuant to a Will executed by Late St. John Perry, bequeathing the said land to the Plaintiff. It is the case

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of the Defendants that since the land held under old grants is resumable, the occupancy holder is required to admit the title of the Government at the time of mutation. It is in these circumstances that St.John Perry had executed an admission deed dated 13th of May, 1982, duly stamped and registered in the office of Sub-registrar, Shillong, bearing Serial No. 3046, admitting the title of the Government over the suit land and their right of resumption. Similar admission deeds had been executed by the predecessors-in-interest of St.John Perry and hence the holder of the suit land only had occupancy rights in the property as a grantee. The Defendants disputed the title of the Plaintiff over the suit land, barring the authorized structures, which vested in him by virtue of the probate granted to the Will of Late St.John Perry. It is further case of the Defendants that the suit land was required for *bona fide* defence use and, hence, a resumption order dated 23rd of March, 1993 was served on the Plaintiff. The amount of compensation for

the authorised structures was re-examined at the prevalent market rate and computed at Rs. 1,72,094/-. The Plaintiff was also offered an alternative site for accommodation.

The trial Court on the basis of the pleadings of the parties framed several issues including the issue as to whether the suit land is covered by an old grant and can it be legally resumed by the defendants. The trial court on appreciation of the evidence and pleading came to the conclusion that the suit land forms part of an old grant and can be legally resumed and the plaintiff has no right over that; except for the value of the authorised structure. The appeal preferred by the plaintiff against the aforesaid judgment and decree had failed and the lower appellate court while dismissing the appeal has affirmed the aforesaid finding. However, the High Court in the second appeal preferred by the plaintiff set aside those findings and decreed the

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plaintiff's suit and while doing so observed as follows:

> "**19**. ….. In my opinion, the law relating to cantonment area cannot obviate the requirement of registering a deed of conveyance. No other evidence is produced by the respondent authorities to prove that the suit land is under the old grant term with the right of resumption at their pleasure. There can be no presumption of ownership in favour of the respondent authorities. The appellant has created a high degree of probability that he is the owner of the suit land and the onus to prove that he is not the owner has now shifted to the respondent authorities. Apart from relying on such admissions, they have not been able to show any entry in the GLR or any other document/order to indicate that the suit land is under the old grant with the right to resumption. Having miserably failed to discharge such onus, I am constrained to hold that the appellant is able to prove his title to the suit land. The courts below put the onus of proving title to the suit land wrongly upon the appellant, which has raised substantial question of law. The concurrent findings of the courts below are consequently perverse, cannot be sustained in law and are liable to be interfered with in this second appeal."

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Aggrieved by the same, the Defendants have preferred the present special leave petition.

Leave granted.

Mr. Mohan Parasaran, learned Solicitor General appearing on behalf of the Defendants-appellants submits that entries made in the GLR maintained under Cantonment Land Administration Rules is conclusive evidence of title. In support of his contention, Mr. Parasaran places reliance on a judgment of this court in **Union of India v. Ibrahim Uddin, (2012) 8 SCC 148** and our attention has been drawn to the following paragraph:

> "**83.** The General Land Register and other documents maintained by the Cantonment Board under the Cantonment Act, 1924 and the Rules made thereunder are public documents and the certified copies of the same are admissible in evidence in view of the provisions of Section 65 read with Section 74 of the Evidence Act. It is settled legal position that the entries made in the General Land Register maintained under the Cantonment

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> Land Administration Rules is conclusive evidence of title."

(underlining ours)

Yet another decision to which our attention has been drawn is **Union of India v. Kamla Verma (2010) 13 SCC 511.** In the said case, it has been held as follows:

> "**15.** Even in the instant case, the land in question, was originally permitted to be used by a civilian on "old grant" basis and the said fact is reflected in the lease deed executed by late Shri Roop Krishan Seth. Moreover, even in the sale deed executed in favour of the respondent, it has been stated that the vendor was an "occupancy-holder of the land and trees of the aforesaid premises and owner of superstructure of the bungalow…". It is also pertinent to note that even in the land register the Government of India has been shown as a "landlord" and Shri Mohan Krishan Seth has been shown to be having occupancy right and his nature of right is shown to be of "old grant". These facts had been duly incorporated in the counter-affidavit filed by the present appellants before the High Court."

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Mr. K.K. Venugopal, learned Senior Counsel appearing on behalf of the Plaintiff-respondent, however, points out that the suit land has been classified as B3 land in the GLR. According to him, Rule 6 of the Cantonment Land Administration Rules, classifies B3 land as "held by any private person". It is his contention that the word "held" means "to own with legal title" and, hence, the plaintiff cannot be said to be a tenant of the suit land. In support thereof our attention has been drawn to the meaning of the expression "hold" in Black's Law Dictionary (Eighth Edition). According to this dictionary the term "hold" means "to possess by a lawful title". To drive home his point, he has also referred to a large number of dictionaries and decisions of this Court, viz. **Bhudan Singh v. Nabi Bux, (1969) 2 SCC 481, State of U.P. v. Sarjoo Devi, (1977) 4 SCC 2, State of A.P. v. Mohd. Ashrafuddin, (1982) 2 SCC 1** and **Hari Ram v. Babu Gokul Prasad, 1991 Supp (2) SCC 608**. All these cases

and dictionaries have been referred to by this Court in **A.G. Varadarajulu v. State of T.N., (1998) 4 SCC 231** and, therefore, we are not inclined to burden this judgment by all those authorities. However, we consider it appropriate to reproduce the following paragraphs from **A.G. Varadarajulu (supra):**

> "**26**. The word "hold" or "held" in the context of land has come up for consideration in several cases before this Court. In State of U.P. v. Sarjoo Devi, (1977) 4 SCC 2, while dealing with the said word in Section 3(14) of the U.P. Zamindari Abolition and Land Reforms Act, 1950, as follows: (SCC p. 8, paras 8 and 10)
>
> > "The word 'held' occurring in the above definition which is a past participle of the word 'hold' is of wide import. In the Unabridged Edition of The *Random House Dictionary of the English Language*, the word 'hold' has been inter alia stated to mean 'to have the ownership or use of; keep as *one's own*'.
> >
> > * * *
>
> In *Webster's New Twentieth Century Dictionary* (Second Edition), it is stated that in

legal parlance the word 'held' means to possess by '*legal title*'. Relying upon this connotation, this Court in Bhudan Singh v. Nabi Bux, (1969) 2 SCC 481, interpreted the word 'held' in Section 9 of U.P. Zamindari Abolition and Land Reforms Act, 1950 as meaning *possession by legal title*."

(emphasis supplied)

Again in State of A.P. v. Mohd. Ashrafuddin, (1982) 2 SCC 1, it was held as follows: (SCC p. 4, para 8)

> "According to *Oxford Dictionary* 'held' means: to possess; to be the owner or holder or tenant of; keep possession of; occupy. Thus, 'held' connotes both ownership as well as possession. And in the context of the definition it is not possible to interpret the term 'held' only in the sense of possession."

The word "holds" was again interpreted in Hari Ram v. Babu Gokul Prasad, (1991) Supp.2 SCC 608, where it occurs in Section 185(1) of the Madhya Pradesh Land Revenue Code, 1959. It was observed: (SCC p. 611, para 5)

> "The word 'holds' is not a word of art. It has not been defined in the Act. It has to be understood in its ordinary normal

> meaning. According to *Oxford English Dictionary*, it means, to possess, to be owner or holder or tenant of. The meaning indicates that *possession must be backed with some right or title*."
>
> **27**. We are, therefore, of the view that the word "held" in Section 3(42) is used in the sense that the female must be in possession of the land as owner or with some element of title on 15-2-1970, the date of commencement of the Act."

We have given our thoughtful consideration to the rival submissions and plea of Mr. Parasaran that entries made in the GLR are the conclusive proof of title commend us and the decisions relied on clearly support his contention. In the case of **Ibrahim Uddin *(supra),*** relying on the decision of **Kamla Verma (supra)** and ***Chief Executive Officer v. Surendra Kumar Vakil, (1999) 3 SCC 555***, this Court has observed that "it is settled legal position that the entries made in the General Land Register maintained under the Cantonment Land Manual Rules are conclusive evidence of title".

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We respectfully concur with this view. In this background, it is apt to reproduce the relevant details mentioned in the GLR in respect of the property in question:

1.	Survey No.	65
5.	Area	4.261 Ac.
6.	Description	Bungalow No. 18
7.	Class	B3
8.	By whom managed	MEO
9.	Land Lord	Govt of India
10.	Holder of Occupancy Right	Lawrence Hugh Musgrove
11.	Nature of Holder Rights with description	Old Grant

Chapter II of the Military Land Manual inter alia, provides for classification and transfer of land, standard table of rent and management. Rule 3 of Chapter II of the Military Land Manual, hereinafter referred to as 'the Manual', casts duty on the Military Estate Officer to prepare in prescribed form a General Land Register of all lands in the Cantonment. Rule 4 provides for classification

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of land, including Class B land, which reads as follows:

> **"(c)** Class "B" land, that is land which, though not actively occupied by the Army nor reserved against building, yet must be retained in the cantonment by the Government of India, because the cantonment is primarily a place of residence for troops and it is the duty of the Government of India, in the interest of troops and of civil population which is essential to the welfare of the troops, both to provide them with amenities such as postal, telegraphic and railway communications, rest houses, bungalows, shops, places of amusement, open spaces, agricultural produce and so forth; and also to keep in their hands a sufficient area to meet all possible future requirements that may arise in the course of the efficient discharge of their duties in respect of Army administration."

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Another rule which is relevant is Rule 6 which provides for division of Class B land in sub-classes. The same reads as follows:

> **"6.Class "B" Land** – Class "B" land shall be divided by the Central Government, or such other authority as they may empower in this behalf, into the following sub-classes, namely:-

xxx xxx xxx

> **(iii)** Class "B3" Land, which is held by any private person under the provisions of these rules, or which is held or may be presumed to be held under the provisions of the Cantonment Code of 1899 or 1912, or under any executive orders previously in force, subject to conditions under which the Central Government reserve, or have reserved, to themselves the proprietary rights in the soil; and
>
> xxx xxx xxx"

The entries made in the GLR show that it is an old grant and that it is managed by the plaintiff as B3 land. Class B3 is such land which is held by any private person subject to the conditions that the Central Government has proprietary rights over it. True it is that the plaintiff held the land but the word "held" does not necessarily mean to own with legal title. It is not a word of art and its meaning has to be understood in the context it has been used. In a given context the word "held" may

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connote both ownership as also possession, but it will not carry the same meaning in all context and circumstances. In the case in hand, the plaintiff held the land but being an old grant the Central Government has the right of its resumption and, therefore, it cannot be said that the plaintiff possesses the land as owner. In view of what we have observed above, the meaning of the word "held" in various dictionaries and explanation of said word in the several decisions of this Court referred to above in no way advance the case of the plaintiff.

The tenures under which permission is given to civilians to occupy Government land in the cantonment for construction of bungalows on the condition of a right of resumption, if required, is known as old grant tenures. It is governed by regulation contained in Order No. 179 of 1836 which is self contained and provides for the manner of grant and resumption

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of land in cantonment area. In respect of old grant tenure, the Government retains the right of resumption. The GLR in unequivocal terms deseribes the nature of holder's right as "old grant". Thus, the plaintiff has not been able to establish his title over the suit land in question and, therefore, the plaintiff deserves to be non-suited on this ground alone. However, in deference to Mr. Venugopal, we must answer an ancillary submission projected before us. He points out that, according to the defendants themselves, the land was given as old grant to the predecessor-in-interest of the plaintiff but the said grant has not been produced and in the absence of any explanation by the defendants for its non-production, adverse inference has to be drawn. According to him, once such inference is drawn, the plaintiff's suit deserves to be decreed and was, therefore, rightly decreed by the High Court. This submission of Mr. Venugopal does not appeal to us. It is not possible to accept

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the contention that since actual grant was not produced, the case pleaded by the defendants that the plaintiff held the land as old grant was not proved. The GLR maintained under the Cantonment Land Administration Rules supports the defendants' contention that the plaintiff held the land on old grant basis. The plaintiff, on the other hand, has not produced any document to show the title of his predecessor-in-interest. *Nemo dat quid non habet* is the maxim which means no one gives what he does not possess, aptly applies in the case. It needs no emphasis that the successor will not have better title than what his predecessor had. Hence, we reject this submission of Mr. Venugopal.

The High Court while decreeing the suit has observed that plaintiff has created a high degree of probability that he is the owner of the land and in such circumstance, the onus to prove that he is not the owner shifted on the

defendants. It went on to observe that apart from relying on the admission made by the plaintiff's predecessor-in-interest, defendants have not been able to show any entry in the GLR to indicate that suit land is under the old grant. In our opinion, the whole approach of the High court in this regard is absolutely erroneous. Besides relying on the admission, the defendants have produced the GLR, which clearly shows that the land in dispute is covered under old grant. The classification of the land as B3 land also points towards the same conclusion. Thus, the High Court committed grave error in decreeing the plaintiff's suit.

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To put the record straight, the learned Solicitor General has raised various other points to assail the impugned judgment and decree, but as this appeal is to succeed in the light of the view, which we have taken above,

we are not inclined to either incorporate or answer the same in this judgment.

In the result, we allow this appeal, set aside the judgment and decree of the High Court and dismiss the plaintiff's suit but without any order as to cost in present appeal.

……..J.
(CHANDRAMAULI KR. PRASAD)

…….J.
(PINAKI CHANDRA GHOSE)

NEW DELHI,
MARCH 27, 2014.

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Defendants are the petitioners before us and they are aggrieved by the judgment and decree dated 16th of December, 2011 of the High Court of Guwahati in Second Appeal No. 1 of 2010, reversing the judgment and decree of affirmance and granting permanent injunction restraining the Defendants-petitioners from interfering with the possession and title of

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the Plaintiff-Respondent over Bungalow No. 18, hereinafter referred to as “the suit land”.

According to the Plaintiff, the suit land comprises Bungalow No. 18, lying on a plot measuring 4.261 acres within the Shillong Military Cantonment area. Plaintiff claims to be the absolute owner thereof on the basis of a Will dated 6th of December, 1980 executed by Late St. John Perry. The probate of the Will was granted by the District Judge, Shillong by an order dated 26th of June, 1987 and, according to the plaintiff, it had become final as no appeal was preferred against the said order. On the basis of the aforesaid order, the Plaintiff approached Defendant No. 2, D.E.O., Guwahati Circle for mutation of the suit land in his name in the General Land Register (for short “GLR”). Plaintiff was asked to fill up a pro-forma declaration form, inter alia, admitting the proprietary rights of the Government of India over the property and their right to resume the same as a condition for

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declaration that the order of resumption dated 23rd of March, 1993 is illegal, invalid, without jurisdiction and not binding on him and for permanent injunction, prohibiting the Defendants from interfering with the possession of the Plaintiff in any manner.

On the other hand, the case of the Defendants is that the suit land was settled with the British Government in 1863 under the Bengal Army Regulation, upon which the Cantonment was established. The suit land was originally granted free of rent to Mr. G.H. James in the year 1880 as "old grants". Mr. James transferred the suit land to Mr. L.H. Musgrave in 1932, who further transferred it by way of a Will to Mrs. G.M. De La Nonger in 1939. On the death of Mrs. G.M. De La Nonger, the suit land was transferred to St. John Perry vide Will dated 29th of May, 1980. The Plaintiff came to occupy the suit land pursuant to a Will executed by Late St. John Perry, bequeathing the said land to the Plaintiff. It is the case

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the authorised structures was re-examined at the prevalent market rate and computed at Rs. 1,72,094/-. The Plaintiff was also offered an alternative site for accommodation.

The trial Court on the basis of the pleadings of the parties framed several issues including the issue as to whether the suit land is covered by an old grant and can it be legally resumed by the defendants. The trial court on appreciation of the evidence and pleading came to the conclusion that the suit land forms part of an old grant and can be legally resumed and the plaintiff has no right over that; except for the value of the authorised structure. The appeal preferred by the plaintiff against the aforesaid judgment and decree had failed and the lower appellate court while dismissing the appeal has affirmed the aforesaid finding. However, the High Court in the second appeal preferred by the plaintiff set aside those findings and decreed the

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> "**19**. ….. In my opinion, the law relating to cantonment area cannot obviate the requirement of registering a deed of conveyance. No other evidence is produced by the respondent authorities to prove that the suit land is under the old grant term with the right of resumption at their pleasure. There can be no presumption of ownership in favour of the respondent authorities. The appellant has created a high degree of probability that he is the owner of the suit land and the onus to prove that he is not the owner has now shifted to the respondent authorities. Apart from relying on such admissions, they have not been able to show any entry in the GLR or any other document/order to indicate that the suit land is under the old grant with the right to resumption. Having miserably failed to discharge such onus, I am constrained to hold that the appellant is able to prove his title to the suit land. The courts below put the onus of proving title to the suit land wrongly upon the appellant, which has raised substantial question of law. The concurrent findings of the courts below are consequently perverse, cannot be sustained in law and are liable to be interfered with in this second appeal."

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Aggrieved by the same, the Defendants have preferred the present special leave petition.

Leave granted.

Mr. Mohan Parasaran, learned Solicitor General appearing on behalf of the Defendants-appellants submits that entries made in the GLR maintained under Cantonment Land Administration Rules is conclusive evidence of title. In support of his contention, Mr. Parasaran places reliance on a judgment of this court in **Union of India v. Ibrahim Uddin, (2012) 8 SCC 148** and our attention has been drawn to the following paragraph:

> "**83.** The General Land Register and other documents maintained by the Cantonment Board under the Cantonment Act, 1924 and the Rules made thereunder are public documents and the certified copies of the same are admissible in evidence in view of the provisions of Section 65 read with Section 74 of the Evidence Act. It is settled legal position that the entries made in the General Land Register maintained under the Cantonment

> Land Administration Rules is conclusive evidence of title."

(underlining ours)

Yet another decision to which our attention has been drawn is **Union of India v. Kamla Verma (2010) 13 SCC 511.** In the said case, it has been held as follows:

> "**15.** Even in the instant case, the land in question, was originally permitted to be used by a civilian on "old grant" basis and the said fact is reflected in the lease deed executed by late Shri Roop Krishan Seth. Moreover, even in the sale deed executed in favour of the respondent, it has been stated that the vendor was an "occupancy-holder of the land and trees of the aforesaid premises and owner of superstructure of the bungalow…". It is also pertinent to note that even in the land register the Government of India has been shown as a "landlord" and Shri Mohan Krishan Seth has been shown to be having occupancy right and his nature of right is shown to be of "old grant". These facts had been duly incorporated in the counter-affidavit filed by the present appellants before the High Court."

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Mr. K.K. Venugopal, learned Senior Counsel appearing on behalf of the Plaintiff-respondent, however, points out that the suit land has been classified as B3 land in the GLR. According to him, Rule 6 of the Cantonment Land Administration Rules, classifies B3 land as "held by any private person". It is his contention that the word "held" means "to own with legal title" and, hence, the plaintiff cannot be said to be a tenant of the suit land. In support thereof our attention has been drawn to the meaning of the expression "hold" in Black's Law Dictionary (Eighth Edition). According to this dictionary the term "hold" means "to possess by a lawful title". To drive home his point, he has also referred to a large number of dictionaries and decisions of this Court, viz. **Bhudan Singh v. Nabi Bux, (1969) 2 SCC 481, State of U.P. v. Sarjoo Devi, (1977) 4 SCC 2, State of A.P. v. Mohd. Ashrafuddin, (1982) 2 SCC 1** and **Hari Ram v. Babu Gokul Prasad, 1991 Supp (2) SCC 608**. All these cases

and dictionaries have been referred to by this Court in **A.G. Varadarajulu v. State of T.N., (1998) 4 SCC 231** and, therefore, we are not inclined to burden this judgment by all those authorities. However, we consider it appropriate to reproduce the following paragraphs from **A.G. Varadarajulu (supra):**

> "**26**. The word "hold" or "held" in the context of land has come up for consideration in several cases before this Court. In State of U.P. v. Sarjoo Devi, (1977) 4 SCC 2, while dealing with the said word in Section 3(14) of the U.P. Zamindari Abolition and Land Reforms Act, 1950, as follows: (SCC p. 8, paras 8 and 10)
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> > "The word 'held' occurring in the above definition which is a past participle of the word 'hold' is of wide import. In the Unabridged Edition of The *Random House Dictionary of the English Language*, the word 'hold' has been inter alia stated to mean 'to have the ownership or use of; keep as *one's own*'.
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(emphasis supplied)

Again in State of A.P. v. Mohd. Ashrafuddin, (1982) 2 SCC 1, it was held as follows: (SCC p. 4, para 8)

> "According to *Oxford Dictionary* 'held' means: to possess; to be the owner or holder or tenant of; keep possession of; occupy. Thus, 'held' connotes both ownership as well as possession. And in the context of the definition it is not possible to interpret the term 'held' only in the sense of possession."

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> "The word 'holds' is not a word of art. It has not been defined in the Act. It has to be understood in its ordinary normal

> meaning. According to *Oxford English Dictionary*, it means, to possess, to be owner or holder or tenant of. The meaning indicates that *possession must be backed with some right or title*."
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> **27**. We are, therefore, of the view that the word "held" in Section 3(42) is used in the sense that the female must be in possession of the land as owner or with some element of title on 15-2-1970, the date of commencement of the Act."

We have given our thoughtful consideration to the rival submissions and plea of Mr. Parasaran that entries made in the GLR are the conclusive proof of title commend us and the decisions relied on clearly support his contention. In the case of **Ibrahim Uddin *(supra),*** relying on the decision of **Kamla Verma (supra)** and ***Chief Executive Officer v. Surendra Kumar Vakil, (1999) 3 SCC 555***, this Court has observed that "it is settled legal position that the entries made in the General Land Register maintained under the Cantonment Land Manual Rules are conclusive evidence of title".

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We respectfully concur with this view. In this background, it is apt to reproduce the relevant details mentioned in the GLR in respect of the property in question:

1.	Survey No.	65
5.	Area	4.261 Ac.
6.	Description	Bungalow No. 18
7.	Class	B3
8.	By whom managed	MEO
9.	Land Lord	Govt of India
10.	Holder of Occupancy Right	Lawrence Hugh Musgrove
11.	Nature of Holder Rights with description	Old Grant

Chapter II of the Military Land Manual inter alia, provides for classification and transfer of land, standard table of rent and management. Rule 3 of Chapter II of the Military Land Manual, hereinafter referred to as 'the Manual', casts duty on the Military Estate Officer to prepare in prescribed form a General Land Register of all lands in the Cantonment. Rule 4 provides for classification

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of land, including Class B land, which reads as follows:

> **"(c)** Class "B" land, that is land which, though not actively occupied by the Army nor reserved against building, yet must be retained in the cantonment by the Government of India, because the cantonment is primarily a place of residence for troops and it is the duty of the Government of India, in the interest of troops and of civil population which is essential to the welfare of the troops, both to provide them with amenities such as postal, telegraphic and railway communications, rest houses, bungalows, shops, places of amusement, open spaces, agricultural produce and so forth; and also to keep in their hands a sufficient area to meet all possible future requirements that may arise in the course of the efficient discharge of their duties in respect of Army administration."

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Another rule which is relevant is Rule 6 which provides for division of Class B land in sub-classes. The same reads as follows:

> **"6.Class "B" Land** – Class "B" land shall be divided by the Central Government, or such other authority as they may empower in this behalf, into the following sub-classes, namely:-

xxx xxx xxx

> **(iii)** Class "B3" Land, which is held by any private person under the provisions of these rules, or which is held or may be presumed to be held under the provisions of the Cantonment Code of 1899 or 1912, or under any executive orders previously in force, subject to conditions under which the Central Government reserve, or have reserved, to themselves the proprietary rights in the soil; and

xxx xxx xxx"

The entries made in the GLR show that it is an old grant and that it is managed by the plaintiff as B3 land. Class B3 is such land which is held by any private person subject to the conditions that the Central Government has proprietary rights over it. True it is that the plaintiff held the land but the word "held" does not necessarily mean to own with legal title. It is not a word of art and its meaning has to be understood in the context it has been used. In a given context the word "held" may

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connote both ownership as also possession, but it will not carry the same meaning in all context and circumstances. In the case in hand, the plaintiff held the land but being an old grant the Central Government has the right of its resumption and, therefore, it cannot be said that the plaintiff possesses the land as owner. In view of what we have observed above, the meaning of the word "held" in various dictionaries and explanation of said word in the several decisions of this Court referred to above in no way advance the case of the plaintiff.

The tenures under which permission is given to civilians to occupy Government land in the cantonment for construction of bungalows on the condition of a right of resumption, if required, is known as old grant tenures. It is governed by regulation contained in Order No. 179 of 1836 which is self contained and provides for the manner of grant and resumption

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of land in cantonment area. In respect of old grant tenure, the Government retains the right of resumption. The GLR in unequivocal terms deseribes the nature of holder's right as "old grant". Thus, the plaintiff has not been able to establish his title over the suit land in question and, therefore, the plaintiff deserves to be non-suited on this ground alone. However, in deference to Mr. Venugopal, we must answer an ancillary submission projected before us. He points out that, according to the defendants themselves, the land was given as old grant to the predecessor-in-interest of the plaintiff but the said grant has not been produced and in the absence of any explanation by the defendants for its non-production, adverse inference has to be drawn. According to him, once such inference is drawn, the plaintiff's suit deserves to be decreed and was, therefore, rightly decreed by the High Court. This submission of Mr. Venugopal does not appeal to us. It is not possible to accept

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the contention that since actual grant was not produced, the case pleaded by the defendants that the plaintiff held the land as old grant was not proved. The GLR maintained under the Cantonment Land Administration Rules supports the defendants' contention that the plaintiff held the land on old grant basis. The plaintiff, on the other hand, has not produced any document to show the title of his predecessor-in-interest. *Nemo dat quid non habet* is the maxim which means no one gives what he does not possess, aptly applies in the case. It needs no emphasis that the successor will not have better title than what his predecessor had. Hence, we reject this submission of Mr. Venugopal.

The High Court while decreeing the suit has observed that plaintiff has created a high degree of probability that he is the owner of the land and in such circumstance, the onus to prove that he is not the owner shifted on the

defendants. It went on to observe that apart from relying on the admission made by the plaintiff's predecessor-in-interest, defendants have not been able to show any entry in the GLR to indicate that suit land is under the old grant. In our opinion, the whole approach of the High court in this regard is absolutely erroneous. Besides relying on the admission, the defendants have produced the GLR, which clearly shows that the land in dispute is covered under old grant. The classification of the land as B3 land also points towards the same conclusion. Thus, the High Court committed grave error in decreeing the plaintiff's suit.

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To put the record straight, the learned Solicitor General has raised various other points to assail the impugned judgment and decree, but as this appeal is to succeed in the light of the view, which we have taken above,

we are not inclined to either incorporate or answer the same in this judgment.

In the result, we allow this appeal, set aside the judgment and decree of the High Court and dismiss the plaintiff's suit but without any order as to cost in present appeal.

……..J.
(CHANDRAMAULI KR. PRASAD)

…….J.
(PINAKI CHANDRA GHOSE)

NEW DELHI,
MARCH 27, 2014.

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