2025 INSC 255

REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(s) OF 2025
(Arising out of SLP(C)Nos.25736-25737 of 2023)

STATE OF KERALA & ORS. … APPELLANT(S)

VERSUS

MOUSHMI ANN JACOB … RESPONDENT(S)

WITH

CIVIL APPEAL NO. OF 2025
(Arising out of SLP(C)No(s)……..of 2025
@ Diary No.49911/2023)

AND

CIVIL APPEAL NO(S) OF 2025
(Arising out of SLP(C)No(s)…….. of 2025
@ Diary No.49913/2023)

J U D G M E N T

SANJAY KAROL, J.

Leave Granted.

2. The issue in these appeals is the construction of a Government Notification exempting the payment of fee upon reclamation of land originally reflected in the records of the State as '*paddy land*' in accordance with the Kerala Conservation of Paddy Land and Wetland Act, 2008[1]. The Learned Single Judge *vide* judgment and order dated 6th February 2023[2] passed in WP(C)No.23400/2022 held that the fee payable by a person would be calculable for the portion of land that is in excess of 25 cents, since that much stands exempted. Such a finding in law was confirmed by the learned Division Bench *vide* judgment and order dated 1st August 2023 in WA No.983/2023, and a review filed thereagainst in R.P. No.894/2023 was dismissed by order dated 4th October 2023. The appellant-State takes exception to such a reading of the Notification, and hence, it is before us.

[1] "The Act"
[2] In W.P (C) 23400 of 2022

3. The background in which the writ petitions, their findings and subsequent review petition impugned herein, arose, is: -

3.1 The Respondent is the owner of land measuring 14.57 acres having Survey Number 97/2 of Karikode Village in Thodupuzha Taluk. On 26th October 2019, with the intention of putting the land to alternate use, i.e., using it to secure an education loan, made an application to the competent authority under Form 6 of Section 27 of the Act. Thereafter an application was further made to remove the said land from the '*data bank*', under Form 5 of the Act.

3.2 The Revenue Officer, Idduki, by way of Notice dated 27th January 2021, informed the respondent that the property is de-notified as per the Act, thereby, she was also directed to deposit a sum of Rs. 1,74,840/-, which is 10% of the value of the property, which totals to Rs.17,40,000/-. The relevant extract thereof, is as below: -

> "As per reference no.1 you had submitted application for the change of nature of 14.57 Are property situated at survey no. 97/2, Thodupuzha Taluk, Karikod Village, Block 33. The property mentioned as field in the revenue records. As per reference no.2 the Kerala paddy and wetland (amendment act 2018) section 12(9) the nature of the unnotified land can be change by

the panchayat on payment of 10% of the property value for properties having the measurement of 20.23 Are. As per reference no.5 report, it is understood that the applicant's property comes with the panchayat limit. As per reference no.6 The Kerala Paddy and wetland (amendment act 2018) Rule (4E) (4F) the property has been removed from the data bank of the Kerala paddy. Hence, the applicant's property is not in the data bank therefore as per the Kerala paddy and wetland (amendment act 2018) the property is unnotified.

It is understood from the application that the nature of the property needs to be changed for the purpose of taking education loan. As per the Kerala paddy and wetland (amendment act 2018) rule 12(9) if the nature of property which needs to be changed is above 3000 square feet, for every square feet, a fees of Rs.100/- need to be remitted. If there no plan of constructing any building in the applicant's property, then there is no need of remitting any fees.

Under the Kerala paddy and wetland (amendment act 2018) section 27A for change of nature of the unnotified land, the value of the property will be considered as; the value of the property situated near to the applicant's property, and if there is no value is fixed for the nearby properties, then the value will be fix according to the nature of the property. Hence as per reference no.3 circular the property comprising survey no.95/1 is the nearby property to the applicant's property and as per the registered the value of that property is mentioned as 60,000/- for 1 Are. Hence the fees for the present application can be considered according to the value of the nearby property. As per reference no.7 the Karikod village officer has valued the property accordingly. Hence the amount needs to be paid for the change of nature of the property is mentioned hereunder.

1	**Value for 1 are as per 2010 notification**	**Rs.60,000/-**
2	100% increase as per 2020 notification	Rs.60,000/-
3	Current value of the property	Rs.1,20,000/-
4	The area of the property	14.57 Are
5	Total value of the property 120000 x 14.57	Rs.17,48,400/-
6	**The total amount to be paid**	**Rs.1,74,840/-**

As per the recent Government notification, the nearby property in survey no.95/1 has a value of Rs.1,20,000/- per 1 Are. Therefore, the value of 14.57 area property will be 17,48,400/-. The property comes under the panchayat limit, therefore for change of nature of the property 10% of the total value i.e., Rs.1,74,840/- must paid as per the Kerala paddy and wetland (amendment ac 2018) rule 12(9). The payment receipt need be produced before this office.

It is informed that if there is any change in the fees calculated or any miscalculation happens while considering the value of the property, then the balance amount if any has to be paid by the applicant."

3.3 The appellant-State issued a Notification on 25th February 2021 granting exemption from paying reclamation fee in respect of lands up to 25 cents, stating that lands in excess of the prescribed limit shall be charged such fee at 10% of the fair value. Since it is this Notification, and its

interpretation as undertaken by the Courts below, which is the primary bone of contention, it shall be useful to reproduce the same, *in toto*, as under:-

"ANNEXURE-P/2

//*ENGLISH TRANSLATION*//

EXHIBIT-P5

Emblem

GOVERNMENT OF KERALA

Abstract

Revenue Department – Issuance of revised rate of Conversion Charges for change of nature of lands which are not notified under Section 27(A) of the Kerala Conservation of Paddy & Wet Land Act & Rules, 2008 – orders issued – reg

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Revenue (P) Department

G.O. (Rt) No.1166/2021/Rev Thiruvananthapuram, Dated 25.02.2021

Ref : Interim order of the Hon'ble High Court of Kerala Dated 08.01.2021 in WP©14312/2019 & Connected cases.

ORDER

Directions are hereby issued in consonance with the observations made by the Hon'ble High Court of Kerala. In the matter referred above and based on the needs of the public in general, the Conversion fees for change of nature of land, those lands, which are not notified under Section 27(A) of the Kerala Conservation of Paddy & Wet Land Act & Rules, 2008, the following rate of Conversion Charges are imposed and unifying the rate for change of nature of land in Panchayath, Municipality and Corporation,

1) Lands, which are having an extent up to 25 Cents can be considered for category change without any fee. Only to those lands not exceeding an extent of 25 cents as on 30th December 2017 can avail the above benefit.

2) Properties which were lying as a single unit up to 30.12.2017 and was divided into several plots having 25 cents or below that will not get the above benefit. In such cases, the entire land has to be considered as a single unit and calculate the fee.

3) Those properties having more than 25 cents in extent, shall impose the fee at the rate of 10% of the fair value, irrespective of the fact, whether it is situated in Municipality, Corporation or Panchayath.

4) Those properties having more than One Acre in extent, the rate of fee to be imposed is 20% of the fair value irrespective of the fact whether it is situated in Municipality, Corporation or Panchayath.

5) Rate of fee with respect to the construction carried out in the land wherein category change is carried out, will remain as the current rate.

The above amendments shall come into force from this day itself.

By order of the Governor
Dr. A. Jayathilak IAS
Principal Secretary"

(Emphasis supplied)

3.4 Subsequently, a clarification was also issued on 23rd July 2021, *inter alia*, making the following points –

(a) The fee waiver shall be applicable to only those applications received after the date of the Notification, submitted in place thereof;

(b) A few exemptions shall be allowed in terms of the Notification, for those properties which do not exceed the exempted amount of land, i.e., 25 cents as on 30th December 2017;

(c) Applications in the name of one person as on 30th December 2017 which may either be under the same or different survey numbers, in the same location as one entity or in separate locations, can be considered under single or separate applications. However, if the total amount of land is in excess of 25 cents, then the benefit of the exemption cannot be allowed. The applicant is also required to submit an affidavit to the effect that the land in respect of which the entry is to be altered, measures less than 25 cents.

PROCEEDINGS IN THE WRIT PETITION

4. The respondent, aggrieved by the ask of the competent authority to pay the amount of Rs.1,74,840/-, approached the High Court under Article 226 of the Constitution of India.

5. The case of the respondent before the High Court, as can be understood from record, was :

> 5.1 The respondent submitted an application for permission under Section 27A of the Act on 26th October 2019, before the year 2020. The application was not rejected, nor was a fresh application submitted, so the relevant date for consideration should be the submission date, as per the Court's ruling. The appellants wrongly determined that the respondent could only submit an application after the removal of the land's entry from the data bank in 2020. The High Court has apparently, clarified, that the removal of an erroneous entry from the data bank is merely a technicality and does not affect the right to submit the application, which depends on meeting the requirements of Section 27A, not on the data bank's correction.

5.2 The respondent was also entitled to an exemption of up to 25 cents of land under the Circular reproduced *supra,* but the appellants incorrectly calculated the fees for the entire 14.57 *Acres*, which is illegal. The Court further emphasized that once an error in the data bank is corrected, the matter is treated as if it was corrected on the original date the data bank was prepared, i.e., 12th August 2008. Therefore, the date of application (26th October 2019) should be the relevant date for determining the fees.

5.3 It was submitted that the appellants' reliance on the fair value of adjacent land to calculate the fees, ought to be rejected as the property in question had a fixed fair value of Rs.57,000/- and the fair value applicable should be that of the subject property, as per the ruling in ***Ajithkumar Shenoy v. Revenue Divisional Officer***[3] and the related case law. Since the application was submitted before 20th February, 2021, the appellants' must follow the High Court's decisions and treat the application date as 26th October 2019, making their interpretation of the law incorrect.

[3] W.P.(C)No.12721/2020

6. In response, by way of a counter-affidavit, the 3rd appellant herein, the Revenue Divisional Officer[4], submitted as under :

6.1 The orders under challenge before the High Court suffered with no illegality.

6.2 An application under Form-6 is maintainable only in respect of '*unnotified land*'. The land of the respondent herein is reflected in the data bank as '*paddy land*' which was only de-notified *vide* order dated 13th January 2021. There is no illegality therefore in taking the fair value as on the said date. The respondents' application under Form-6 dated 26th January 2019 can only be termed as a premature application, defective in nature.

6.3 The judgment relied on, i.e., Writ Petition (Civil) No.12721 of 2020 is not applicable to the given case. The contention of the respondent is that the date of the application, i.e., 26th October 2019 is to be considered for the determination of fair value, is misconceived and ought to be rejected.

[4] For short 'RDO'

6.4 The further contention that the respondents' liability to pay fee is to the extent that remains of the 14.5 *Acres* after having removed the 25 cents that are exempted from the payment of fee, is also misconceived.

7. Two primary questions arose for consideration by the learned Single Judge – *one*, concerning the maintainability of an application under Form-6; and *two*, whether the fee payable shall be calculable after having deducted the 25 cents as exempted by the Notification. The learned Single Judge in judgment dated 6th February 2023 having referred to Section 27A, observed that an application under Form-6 becomes maintainable after an order has been passed by the RDO. That being the case, the respondents' application could have only been filed after 13th January 2021, when the application under Form-5, for correction of a mistake in the data bank and deemed removal of property therefrom was allowed. On the next issue, it was held that the 10% of fair value should be calculable on the portion of the total land, exceeding the 25 cents exempted by the Notification.

8. As the demand notice was set aside, the RDO was directed to make a fresh calculation of the payment of fee, as it stood immediately after January, 2021 to the extent of 4.45 *Acres* of land.

PROCEEDING IN WRIT APPEAL

9. The State of Kerala filed Writ Appeal No.983 of 2023 which was dismissed *vide* judgment dated 1st August 2023 holding that there is no reason to interfere with the judgment of the learned Single Judge as the same has been passed in terms of the statutory provisions and schedule of fee.

10. Review Petition No.894 of 2023 questioning the said findings of the Division Bench was also dismissed *vide* order dated 4th October, 2023 observing that :

> "5. A reading of the above notification leaves no room for doubt that the fee for conversion of land is payable only for lands in excess of 25 cents. Being so, the contention that, if the land exceeds 25 cents, conversion fees will have to be paid for the entire extent, including the 25 cents, can only be rejected. The learned Single Judge having taken the same view and the writ appeal having been dismissed finding the view taken to be correct, we find no reason to come to a different conclusion by exercising the power to review."

CASE BEFORE THIS COURT

11. By way of the special leave petition, the following grounds have been urged in challenging the judgment of the learned Division Bench :

(a) The intent of the Amendment exempting 25 cents of land from paying conversion fees is to support persons intending to construct residential houses or small buildings. The said amendment is introduced in furtherance of public welfare and so the Court ought to have interpreted the same as applying only to those who have land up to 25 cents. Granting exemption to the entire land and calculating the fee taking away the 25 cents as exempted would defeat the purpose thereof.

(b) Neither the Act nor the Rules provide for exemption in demand of fees to the extent of property which exceeds 25 cents. In fact, Rule 12(9) of the amended rules clearly states that the fee is payable for the land that exceeds 25 cents as on 30th December 2017, as per the Schedule of the Act.

12. We have heard the learned senior counsel and counsel appearing for the parties and also perused the respective written submissions.

The appellant-State advanced the following submissions which we presume was their pleaded case throughout :

(a) The unamended Rules required payment of fees in respect of all properties irrespective its extent based on fair value. After the Amendment, exemption of fees is permitted for land holdings up to 25 cents. The second Note of the Schedule specifically states that property up to 25 cents is exempted. It reads :

> "NOTE -2 : The above offer shall not be applicable to those land which remained as a single unit until 30th December, 2017 and changed afterwards into plots having an extent of 25 cents or less. Fees has to be calculated considering it as a whole."

This Schedule and the Note-2 were entirely overlooked by the High Court.

(b) By way of clarification, it was also stated that a person having more than 25 cents of land as on 30th December, 2017 cannot bifurcate the same for the purpose of tax exemption and is not entitled to exemption from payment of fees on that count. Only those persons having land equal to or less than 25 cents shall be exempted from paying the fees. Any other interpretation would defeat the purpose and intent of the legislation.

(c) Government Order dated 25th February, 2021 stated that paddy lands up to 25 cents are not to be levied fee upon, however, the lands exceeding the said 25 cents and up to 1 *Acre*, are liable to be levied 10% of fair value.

(d) Neither the Act nor the Rules provide for the exemption of fees of property exceeding 25 cents, however, without considering the same the error in law of the learned Single Judge was upheld by the impugned judgment.

The respondent submitted as under :

(a) The purpose of changing the nature of the land was to secure study loans for the children. The land totals 36.56 cents. It was mistakenly described as 'paddy land' even though no paddy cultivation has been carried out thereon.

(b) The Notification dated 25th February 2021 provides for a graded scale of fees to be levied in reference to the extent of land. It is submitted that the excess over the preceding entry has to be worked out to calculate the levy. In this regard, reference has been made to a

judgment of the Bombay High Court in ***Leelabai v. State of Maharashtra & Ors***.[5].

ANALYSIS

13. In issue, as is clear from the preceding paragraphs, is the interpretation of a Government Notification dated 25th February 2021, under the Act. We restrict our observations only to the interpretation thereof. A Notification issued in furtherance of an Act is a form of delegated legislation. This concept is aptly captured in the words of O. Chinappa Reddy, J. in ***The Registrar of Cooperative Societies, Trivandrum & Anr. v. K. Kunjabmu & Ors.***[6]

> "3… The desire to attain these objectives has necessarily resulted in intense legislative activity touching every aspect of the life of the citizen and the nation. Executive activity in the field of delegated or subordinate legislation has increased in direct, geometric progression. It has to be and it is as it should be. Parliament and the State Legislatures are not bodies of experts or specialists. They are skilled in the art of discovering the aspirations, the expectations and the needs, the limits to the patience and the acquiescence and the articulation of the views of the people whom they represent. They function best when they concern themselves with general principles, broad objectives and fundamental issues instead of technical and situational intricacies which are better left to better equipped full time

[5] AIR 1979 Bom 206
[6] (1980) 1 SCC 340

> expert executive bodies and specialist public servants. Parliament and the State Legislatures have neither the time nor the expertise to be involved in detail and circumstance. Nor can Parliament and the State Legislatures visualise and provide for new, strange, unforeseen and unpredictable situations arising from the complexity of modern life and the ingenuity of modern man. That is the raison d'etre for delegated legislation. That is what makes delegated legislation inevitable and indispensable. The Indian Parliament and the State Legislatures are endowed with plenary power to legislate upon any of the subjects entrusted to them by the Constitution, subject to the limitations imposed by the Constitution itself. The power to legislate carries with it the power to delegate. But excessive delegation may amount to abdication. Delegation unlimited may invite despotism uninhibited. So the theory has been evolved that the legislature cannot delegate its essential legislative function. Legislate it must by laying down policy and principle and delegate it may to fill in detail and carry out policy…"

14. Questioned herein is not the power of the competent authority to issue the Notification but the construction of the same. Yet, it may be useful to note that a piece of subordinate legislation does not carry the same level of immunity as a plenary legislation enacted by the State legislature since the former is to yield to the plenary legislation.

(See: ***Indian Express Newspapers (Bombay) (P) Ltd. v. Union of India***[7]; and ***Swami Vivekanand College of Education & Ors. v. Union of India & Ors.***[8])

15. The instant dispute pertains to a Notification granting exemption from payment of fees. The law is that a person, who claims the exemption or concession, must establish that he is so entitled. Such a Notification, it is also settled, is to be interpreted strictly. The Constitution Bench in ***C.C.E. v. Hari Chand Shri Gopal***[9] observed as under :

> **"29.** The law is well settled that a person who claims exemption or concession has to establish that he is entitled to that exemption or concession. A provision providing for an exemption, concession or exception, as the case may be, has to be construed strictly with certain exceptions depending upon the settings on which the provision has been placed in the statute and the object and purpose to be achieved. If exemption is available on complying with certain conditions, the conditions have to be complied with. The mandatory requirements of those conditions must be obeyed or fulfilled exactly, though at times, some latitude can be shown, if there is a failure to comply with some requirements which are directory in nature, the non-compliance of which would not affect the essence or substance of the notification granting exemption."
>
> (Emphasis supplied)

[7] (1985) 1 SCC 641
[8] (2012) 1 SCC 642
[9] (2011) 1 SCC 236

16. In ***Commissioner of Customs (Import), Mumbai v. Dilip Kumar & Co. & Ors.***[10], a Constitution Bench, *albeit* while dealing with a question concerning tax law, spoke of the literal Rule of Interpretation in the following terms :

> "**23.** In applying rule of plain meaning any hardship and inconvenience cannot be the basis to alter the meaning to the language employed by the legislation. This is especially so in fiscal statutes and penal statutes. Nevertheless, if the plain language results in absurdity, the court is entitled to determine the meaning of the word in the context in which it is used keeping in view the legislative purpose. [*Commr.* v. *Mathapathi Basavannewwa*, (1995) 6 SCC 355] Not only that, if the plain construction leads to anomaly and absurdity, the court having regard to the hardship and consequences that flow from such a provision can even explain the true intention of the legislation. Having observed general principles applicable to statutory interpretation, it is now time to consider rules of interpretation with respect to taxation.
>
> …
>
> **27.** As contended by Ms Pinky Anand, learned Additional Solicitor General, the principle of literal interpretation and the principle of strict interpretation are sometimes used interchangeably. This principle, however, may not be sustainable in all contexts and situations. There is certainly scope to sustain an argument that all cases of literal interpretation would involve strict rule of interpretation, but strict rule may not necessarily involve the former, especially in the area of taxation.

[10] (2018) 9 SCC 1

28. The decision of this Court in *Punjab Land Development and Reclamation Corpn. Ltd.* v. *Labour Court* [*Punjab Land Development and Reclamation Corpn. Ltd.* v. *Labour Court*, (1990) 3 SCC 682 : 1991 SCC (L&S) 71] , made the said distinction, and explained the literal rule: (SCC p. 715, para 67)

> "*67*. The literal rules of construction require the wording of the Act to be construed according to its literal and grammatical meaning, whatever the result may be. Unless otherwise provided, the same word must normally be construed throughout the Act in the same sense, and in the case of old statutes regard must be had to its contemporary meaning if there has been no change with the passage of time."

That strict interpretation does not encompass strict literalism into its fold. It may be relevant to note that simply juxtaposing "strict interpretation" with "literal rule" would result in ignoring an important aspect that is "apparent legislative intent". We are alive to the fact that there may be overlapping in some cases between the aforesaid two rules. With certainty, we can observe that, "strict interpretation" does not encompass such literalism, which lead to absurdity and go against the legislative intent. As noted above, if literalism is at the far end of the spectrum, wherein it accepts no implications or inferences, then "strict interpretation" can be implied to accept some form of essential inferences which literal rule may not accept.

…

29. We are not suggesting that literal rule *dehors* the strict interpretation nor one should ignore to ascertain the interplay between "strict interpretation" and "literal interpretation". We may reiterate at the cost of repetition that strict interpretation of a statute certainly involves literal or plain meaning test. The other tools of interpretation,

namely, contextual or purposive interpretation cannot be applied nor any resort be made to look to other supporting material, especially in taxation statutes. Indeed, it is well settled that in a taxation statute, there is no room for any intendment; that regard must be had to the clear meaning of the words and that the matter should be governed wholly by the language of the notification. Equity has no place in interpretation of a tax statute. Strictly one has to look to the language used; there is no room for searching intendment nor drawing any presumption. Furthermore, nothing has to be read into nor should anything be implied other than essential inferences while considering a taxation statute..."

(Emphasis supplied)

16.1 In ***Balram Kumawat*** v. ***Union of Indian & Ors.***[11], a Three Judge Bench, while dealing with a question of a ban on ivory trade, referred to the literal rule of construction in the following terms :

"**20.** Contextual reading is a well-known proposition of interpretation of statute. The clauses of a statute should be construed with reference to the context vis-à-vis the other provisions so as to make a consistent enactment of the whole statute relating to the subject matter. The rule of "*ex visceribus actus"* should be resorted to in a situation of this nature.

21. In *State of W.B.* v. *Union of India* [AIR 1963 SC 1241] (AIR at p.1265, para 68), the learned Chief Justice stated that the law thus:

[11] (2003) 7 SCC 628

> "The Court must ascertain the intention of the Legislature by directing its attention not merely to the clauses to be construed but to the entire statute; it must compare the clause with the other parts of the law, and the setting in which the clause to be interpreted occurs."

17. Keeping in view the aforesaid, i.e., strict interpretation of exemption clauses, and the principles of literal rule of interpretation, let us now move to the interpretation of the Notification. In order to understand whether the Courts below were correct in granting exemption up to 25 cents to the respondent herein, we are primarily concerned with Clauses 1 and 3 of the Notification. Although, the Notification stands extracted *in toto* (supra), the two clauses are once again reproduced for ready reference :

> "1) Lands, which are having an extent upto 25 Cents can be considered for category change without any fee. Only to those lands not exceeding an extent of 25 cents as on 30th December 2017 can avail the above benefit.
>
> … …
>
> 3) Those properties having more than 25 cents in extent shall impose the fee at the rate of 10% of fair value, irrespective of the fact, whether it is situated in Municipality, Corporation or Panchayath."

18. What follows from a plain reading of the above two clauses is that, ***(a)*** lands up to 25 cents as on 30th December 2017 can seek

a change of category without having to pay any fee; ***(b)*** when a category change is sought in respect of land(s) that exceeds the limit of 25 cents, such a change shall be permissible upon having paid 10% of the fair value of such land. Clause 4 also specifies the situation when the person seeking a change of category has lands exceeding 1 *Acre*. In such a situation, 20% of the fair value is to be paid.

The interpretation of the High Court is that such calculation of 10% fair value of total land, which exceeds 25 cents, shall be computable after having reduced the 25 cents, as exempted from the total. We are unable to accept such a view.

19. To us it appears plain that by way of the Notification, the appellant has sought to create two separate classes, ***one*** of people having land 25 cents or less; and the ***second***, where people have land in excess of 25 cents. It has been submitted that the object of the exemption of fee for the people belonging to the former class is to enable them to have ease in constructing either housing of small buildings, etc., without being burdened with having to pay a fee for conversion of the land. The respondent has not brought anything on record nor has advanced any submissions to put forward a position holding that the State did not have the necessary competence to do

so. When that is the case, we are unable to understand as to how the two distinct categories were fused into one by the High Court. Further, due care has been taken by the competent authority to specify the different categories of fees to be paid proportionate to the land. This signifies the intent to form different classes and categories. One does not flow into the next.

20. The law is well-settled. The State is permitted reasonable classification. A long line of precedents right from ***Charanjit Lal Chowdhury*** v. ***Union of India***[12]; ***Kewal Singh*** v. ***Lajwanti***[13]; ***Harbans Lal*** v. ***State of H.P.***[14]; and ***Chhattisgarh Rural Agriculture Extension Officers Assn.*** v. ***State of M.P.***[15], all the way up to ***Khalsa University v. State of Punjab***[16] speak to this point. The solitary, but all-important principle in this regard is that such classification should have a reasonable nexus to the object sought to be achieved. Since the Notification has been issued by a State, reference to ***Natural Resources Allocation, In re, Special Reference No. 1 of 2012*** **[*Natural Resources Allocation, In re, Special Reference No. 1 of 2012*[17]]**, would be on point. The

[12] 1950 SCC 833
[13] (1980) 1 SCC 290
[14] (1989) 4 SCC 459
[15] (2004) 4 SCC 646
[16] 2024 SCC OnLine SC 2697
[17] (2012) 10 SCC 1

discussion therein pertains to the State following the principles of Article 14 when it engages in contracts, however, such principles are to guide all actions of the State, including administrative, such as the issuance of Rules or Notifications.[18] The relevant extract thereof is as under :

> "*183*. The parameters laid down by this Court on the scope of applicability of Article 14 of the Constitution of India, in matters where the State, its instrumentalities, and their functionaries, are engaged in contractual obligations (as they emerge from the judgments extracted in paras 159 to 182, above) are being briefly paraphrased. For an action to be able to withstand the test of Article 14 of the Constitution of India, it has already been expressed in the main opinion that it has to be fair, reasonable, non-discriminatory, transparent, non-capricious, unbiased, without favouritism or nepotism, in pursuit of promotion of healthy competition and equitable treatment. The judgments referred to, endorse all those requirements where the State, its instrumentalities, and their functionaries, are engaged in contractual transactions… Article 14 of the Constitution of India permits a reasonable classification having a rational nexus to the object sought to be achieved, it does not permit the power of pick and choose arbitrarily out of several persons falling in the same category. Therefore, criteria or procedure have to be adopted so that the choice among those falling in the same category is based on reason, fair play and non-arbitrariness…"

[18] See: Maneka Gandhi v. UOI (1978) 1 SCC 248

21. No fault, therefore, can be found on that count, on the action of the appellant-State.

22. The subsequent clarification dated 23rd July 2021 also reiterated this position. The relevant extract of the clarification reads as under : -

> "Applications received as in the name of the same person as on 30.12.2017 for the properties which are either in the same survey number without he same survey number lying as a single unit covered by different documents can be considered as single application or separate applications. But, if the total extent exceeds 25 cents, the exempted benefit cannot be allowed. An affidavit has to be submitted along with the application submitted by the applicant swearing that the property which is sought to be changed by its category is less than 25 cents in its extent.
>
> As per the conditions currently stipulated in rules, the applications received for category change the extent of property which comes up to 50 cents applications can be received in Form 6 and property which exceeds 50 cents can be received in Form 7 which is appended to the rules."

As can be seen from the above extract, the competent authority has found it fit to provide that as on the cut-off date properties, with or without the same survey number, lying as a single unit but covered by different documents can be considered. However, it is again clarified that if the total exceeds 25 cents then the benefit of the exemption cannot be allowed. It is clear from

this that the exemption is only intended for lands up to 25 cents because, had it not been so, the second part of the clarification, as aforesaid, would be rendered *otiose*.

23. In assailing the High Court judgment, the appellant-State has also placed reliance on Rule 12 Clause 9 of the Kerala Conservation of Paddy Land and Wetland Rules, 2008, which reads as, ***"Fees to be remitted for sanction of change of nature of unnotified land***", therein it is clarified that when the extent is up to 25 cents no fee is to be remitted. The second column thereof categorically states that when the land is above 25 cents up to 1 *Acre* or less 10% of the fair value, is to be paid as a fee.

24. This, in our view, further clarifies that the learned Single Judge as also the Division Bench fell in error in holding that land up to 25 cents is exempted from payment of fees in all cases.

25. Consequent to the above discussion the appeals are allowed. The judgment of the learned Single Judge as confirmed by the Division Bench is overruled on this count as not having laid down the correct interpretation of the law. The respondent must, therefore, pay a conversion fee as calculable on the total extent of land in their ownership.

Pending application(s) if any shall stand disposed of.

……..J.
(SANJAY KAROL)

……..J.
(MANMOHAN)

New Delhi;
20th February, 2025.