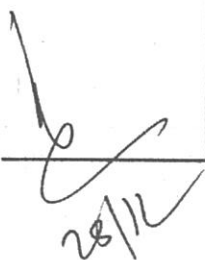


| आदेश की क्रम सं० और तारीख | <div style="text-align: center;">1 आदेश और पदाधिकारी का हस्ताक्षर</div> <div style="text-align: center;">2</div> | <div style="text-align: center;">आदेश पर की गई कार्रवाई के बारे में टिप्पणी तारीख सहित</div> <div style="text-align: center;">3</div> |
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| 28.12.2016 | <div style="text-align: center;"> <u>BOARD OF REVENUE, BIHAR, PATNA.</u> Revision (Land Ceiling Surplus) Case No.- 07/1981 Dist.- Bhojpur PRESENT :- K.K. Pathak, I.A.S., Additional Member <div style="display: flex; justify-content: space-between;"> <div> ===== Shri Ram Surat Rai The State of Bihar & Others ===== </div> <div style="text-align: center;"> Versus </div> <div> ===== - Petitioner/ Appellant - Opposite party ===== </div> </div> <u>Appearance:</u> For the Appellant/Revisionist : Shri Shiva Shankar Prasad Singh For the OP : For the State : Shri Nirmal Kumar, Special G.P. </div> <div style="text-align: center; margin-top: 20px;"> <u>ORDER</u> </div> <p>This is a Ceiling Surplus Case which a Revision Petition was filed in the year 1981 itself. The then Additional Member, Board of Revenue had passed a speaking order on 31.03.1981 rejecting the Revision Application largely on the ground of limitation. Aggrieved by this order, the Revisionist had approached the Hon'ble High Court in CWJC No. 1679/1981. The Hon'ble High Court vide its order dated 16.10.1985 set aside the order of the Hon'ble Additional Member, Board of Revenue and remanded the matter to be decided by the Board of Revenue on merits.</p> <p>It is surprising to note that while the order of the Hon'ble High Court happened in the year 1985, the Revisionist filed the Revision Application only in the year</p> | |



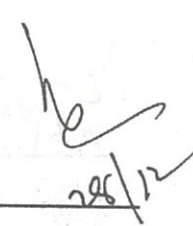
2013. Thus this Revision Application was hopelessly time barred. Even then, the Case was heard by the then Additional Member, Board of Revenue in the interest of Justice and for disposal on merits. However, the Revisionist remained absent continuously for many dates which led the then Additional Member to dismiss this case on default on 03.12.2013. Subsequently, Restoration Petition was filed and the case was restored on 09.04.2014. Since then the case remained part heard on many dates. The case came up for hearing on 14.12.2016 wherein the Learned Advocate of the Revisionist against sought a short time. The case was put up for final hearing on 23.12.2016.


I heard the Learned Advocate of the Petitioner, the Learned Advocate of Interveners (the Parcha owners) as well as the Learned Special GP on 23.12.2016. Thus concluding the hearing, this final order is being passed today.

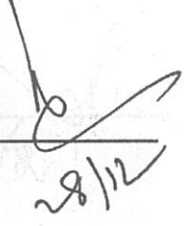
As per the Leaned Advocate of the Petitioner (Sri Ram Surat Rai), the Petitioner, who is the original land lord is now dead and has been replaced by his nephews. He mentioned that a certain amount of land was declared surplus in the Ceiling Proceeding no 36/1973. He had filed four objections before the Learned SDO who by an order dated 14.08.1976 rejected all the four objections. These objections were as under:-

- (a) A part of the land held by the land holder was transferred by him on 01.09.1970 but the Learned SDO did not consider this valid even though it was eight days before the due date of 09.09.1970.

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| आदेश की क्रम सं० और तारीख | <div style="text-align: center;">3 आदेश और पदाधिकारी का हस्ताक्षर</div> <div style="text-align: center;">2</div> | <div style="text-align: center;">आदेश पर की गई कार्रवाई के बारे में टिप्पणी तारीख सहित</div> <div style="text-align: center;">3</div> |
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| | <p>(b) 32 katha land was given as 'Badlain' (exchange) on 30.06.1975. This was also not considered by the Learned SDO. The Learned Advocate admitted that this land was transferred after the due date but the Learned SDO should have first held an enquiry before rejecting the objection.</p> <p>(c) A land of approx 90 decimal was also exchanged (Badlain) in the year 1985. It is an admitted fact by the Learned Advocate that this exchange was also after the due date of 09.09.1970. The Learned SDO did not consider it and rejected it without any enquiry.</p> <p>(d) On 05.06.1961, 1.98 acres was sold by the Petitioner to Sri Umakant Chaubey but the Learned SDO held this transfer illegal on the ground that the consideration amount was too low (only Rs. 500).</p> <p>Once these objections were disposed of by the Learned SDO, the Learned DCLR decided the case on 12.02.1978 and referred the matter to the Additional Collector. In the mean time, the Revisionist preferred an appeal before the Learned Collector who by his order dated 24.09.1979 rejected the appeal.</p> <p>The Learned Advocate of the Petitioner mentioned that the Collector was the same person who had earlier passed the order in his capacity as the SDO. He should not have heard the case in his capacity as Collector. Finally, the Revisionist came to the Board of Revenue where too his Revision Application was rejected on 31.03.1981.</p> |  |

| आदेश की क्रम सं० और तारीख | <div style="text-align: center;"> ⁴ आदेश और पदाधिकारी का हस्ताक्षर 2 </div> | <div style="text-align: center;"> आदेश पर की गई कार्रवाई के बारे में टिप्पणी तारीख सहित 3 </div> |
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|  | <p>Then he approached the Hon'ble High Court wherein the order of the Board of Revenue was set aside and the matter was remitted back for disposal on merits. And hence, this proceeding.</p> <p>I heard the Learned Advocate of the Interveners who are the Parcha owners. The Learned Advocate mentioned that the Parcha owners are in peaceful possession of the land since long. The land holder died in 1991 and his wife also died in 2002 issueless. The land holder never pursued the matter which is evident from the fact that when the Hon'ble High Court remanded in the 1985 the Revisionist filed the application in 2013, 28 years after the order of the Hon'ble High Court. The Revision case too was dismissed for default in 2013 and it was then the so called heirs of the land holder woke up and now are pursuing this case.</p> <p>I also heard the Learned Special GP on behalf of the State. He draws the attention of this Court to the Revision Application itself where the Revisionists are not of the same parent. He further mentioned that this means that the land holder died without any legal heirs and hence this entire Ceiling Case abates as per the provisions of CPC. He draws further attention of this Court to Annexure 7 of the Revision Application which appears to be a simple will which has not been probated.</p> <p>On this point, the Learned Advocate of the Petitioner intervened and mentioned that it is a gift deed and not a Vasiyatnama (will) and it was executed on 22.05.2002 by the wife of the land holder in favour of his nephews.</p> | |

| आदेश की क्रम सं० और तारीख | आदेश और पदाधिकारी का हस्ताक्षर 2 | आदेश पर की गई कार्रवाई के बारे में टिप्पणी तारीख सहित 3 |
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| | <p>The Learned GP further argued that the Leaned DCLR passed a reasoned order and the Collector had upheld the same and the surplus land so identified had already been distributed to landless persons and they are in possession since 1992.</p> <p>Thus the hearing was concluded. I perused all the material available on record. Based on the arguments and record, my own findings are as under:-</p> <p>(a) The averment made by the Learned Advocate of the Petitioner that the Collector was the same person who decided in appeal his own order which he passed in his capacity as the SDO, is not correct. The order in appeal before the Learned Collector was not the order which he passed as the SDO on 14.08.1976 by which he disposed of the objections of the land holder. The order under challenge in appeal was the order passed by the Learned DCLR on 12.02.1978. Thus the Learned Collector was sitting in Judgement on an order not passed by the SDO (which he himself was, many years ago) but on an order passed by the Learned DCLR, who was a different person than the Collector.</p> <p>(b) Coming to the four objections rejected by the Learned SDO, I find that these orders were passed after due consideration on material on record and it cannot be said that</p> |  |

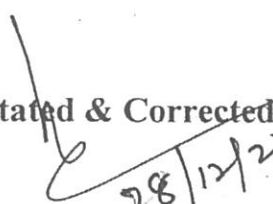

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| | <p>the SDO did not undertake an enquiry before rejecting these objections. The action of the land holders were so blatantly illegal that there was no need to conduct any field enquiry or physical inspection to arrive at a conclusion. The correct position with regard to these four objections are as under :-</p> <ol style="list-style-type: none"> i. With regard to first objection, the land was transferred on 11.09.1970 and not 01.09.1970 as mentioned by the Learned Advocate of the Petitioner. Since this transfer was made after the due date of 09.09.1970, it was rightly held to be illegal by the Learned SDO. ii. The second objection was regarding a 'Badlain' land. In order to defeat the Ceiling Laws, the land holder transferred 32 katha of land to another person and in exchange, received only 8 decimals of land in return. This kind of exchange is devoid of all logic and apparently done to defeat the Ceiling Laws. The SDO | |

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| आदेश की क्रम सं० और तारीख | आदेश और पदाधिकारी का हस्ताक्षर 7 2 | आदेश पर की गई कार्रवाई के बारे में टिप्पणी तारीख सहित 3 |
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| | <p>rightly did not consider this exchange is valid.</p> <p>iii. The third objection was also relating to 'Badlain' wherein the land given was much larger in area than the land received in return. This too was done to defeat the Ceiling Laws and hence the Learned SDO rightly held this exchange illegal.</p> <p>iv. The fourth objection was also rejected by the Learned SDO who found that the area of about 2 acres was sold by the land holder to ridiculously low price of Rs. 500. This was also done with the ostensible reason to defeat the Ceiling Laws.</p> <p>(c) I find that the order passed by the Learned Collector on 24.11.1979, while disposing appeal filed by the Revisionist against the order of Learned DCLR dated 12.02.1978, was passed on merit after hearing the Appellant in detail and the Learned Collector had dealt all the objections raised by the Appellant in the Appeal Case.</p> <p>(d) I also note the point that the so called gift deed which was executed by the wife of the Late Landlord to the nephews (the</p> | |

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| आदेश की क्रम सं० और तारीख | आदेश और पदाधिकारी का हस्ताक्षर 2 | आदेश पर की गई कार्रवाई के बारे में टिप्पणी तारीख सहित 3 |
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| | <p>Revisionists) is also not registered and hence no legal basis can be attached to it.</p> <p>(e) I also note with utter dismay that the land lord has been habitual in his irresponsible behaviour. As early as 1981, when the Hon'ble Additional Member had finalised the order 31.03.1981, the Learned Advocate of the land holder had seen the order sheets but did not put his signature. His other actions were also not very co-operative during the proceedings before the Board of Revenue. This prompted the Additional Member to record this strange and uncooperative attitude by an Officer in the Court vide his detailed order on 28.05.1981.</p> <p>(f) I also note with concern that the Revisionist or the original landlord had left no stone unturned to delay the proceeding for as long as they could. When the matter was remanded by the Hon'ble High Court in 1985, the Revisionist took 28 years to file a Revision Application before this Court in the year 2013. Then also, they remained absent in many dates resulting in the Case being dismissed for default and then subsequently restored.</p> <p>Conclusion:-</p> <p>From the foregoing findings, I find that the averments made by the Learned Advocate of the Revisionist</p> | |

| आदेश की क्रम सं० और तारीख | <div>9</div> आदेश और पदाधिकारी का हस्ताक्षर <div>2</div> | आदेश पर की गई कार्रवाई के बारे में टिप्पणी तारीख सहित <div>3</div> |
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| | <p>are not strong enough to warrant any interference in the order of the Learned Collector or the Learned DCLR. The objections disposed by the Leaned SDO were on valid grounds. The order passed by the Learned Collector was based on merit and the Learned Collector was not sitting on Judgement of his own order (when he was posted as SDO earlier) but was passing his Judgement on the order passed by the Learned DCLR.</p> <p>That be the case, I uphold the order passed by the Learned Collector, Bhojpur.</p> <p>Revision Dismissed.</p> <div style="display: flex; justify-content: space-around; margin-top: 20px;"> <div style="text-align: center;">  Dictated & Corrected K.K.Pathak Additional Member Board of Revenue, Bihar. </div> <div style="text-align: center;">  (K.K.Pathak) Additional Member Board of Revenue, Bihar. </div> </div> | |