

**BOARD OF REVENUE, BIHAR, PATNA.**

Revision (Land Ceiling Surplus) Case No – 08/2017  
Dist. – Arwal

PRESENT :- K.K. Pathak, I.A.S.,  
Additional Member

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State of Bihar through  
Collector, Arwal

- Petitioner/ Appellant

Versus

Moti Bhagat & Others

- Opposite party

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**Appearance:**

For the Appellant/Revisionist

: Shri Nirmal Kumar, Spl. G.P.

For the OP

: Shri Rakesh Ranjan

**ORDER**

16.05.2017

This is Revision application filed by the State against the order passed by the Learned Additional Collector, Arwal on 28.11.2014 in Ceiling Appeal Case No. 30/AC/2011. The case was admitted for hearing and the delay was condoned on 21.03.2017. The Lower Court Records was called and the same was received in time.

On the subsequent dates, it was informed to the Court that OP No. 8, 12, 19, 20, 26, 43 and 47 have died. The OP has filed the due Petition for substitution and the same was allowed on 25.04.2017.

Matter was posted for final hearing on 02.05.2017 on which date the Learned Special GP was heard in great detail.

The Learned Advocate of the OP was also heard. Thus concluding the hearing, this order is being passed today.

As per the Learned Special GP, the Appellate Authority has passed an ex-parte order against dead person and the same, therefore, is bad in law. Moreover, the Learned Additional Collector has not given any reasons before setting aside the order passed by the Learned SDO dated 12.12.2008. As per the Learned Special GP, the OPs claim to be Purchasers of the land, however, they have not filed any documents regarding mutation. The OP has also never filed any objections under Section 10 or Section 15 of Bihar Land Ceiling Act, 1961.

I also heard the Learned Advocate of the OP, who claims that they are the original Purchasers from the landlord. In this case, there are some bataidars also whose interests have been affected. The Learned Advocate further pleads that his land has been included in the said ceiling proceeding by mistake and he has filed all the papers in support of his arguments. His land was included in the ceiling proceeding by mistake and without any inquiry and therefore the order of the Learned Additional Collector was correct in excluding his land.

Concluding his arguments, the Learned Advocate of the OP says that the lands are in his possession.

Intervening during the arguments, the Learned Special GP drew the attention of this Court to Para-10 of his Counter Affidavit in which he has quoted the orders of the Hon'ble

High Court but has not attached the copies of the Hon'ble High Court order. Similarly, no order has been attached by the OP in support of the arguments at Para-8 of his Counter Affidavit regarding the Chakbandi Proceeding.

To this, Court advised to the Learned Advocate to file copies of all the judgements before 15.05.2017. the Learned Advocate has filed the copy of the judgement pass by the Hon'ble High Court.


Having heard the Learned Special GP and Learned Advocate of the OPs and having perused the documents available on file as well as Lower Court Records, my own findings on the matter are as under:-

- a. I will first address the issue raised by the Learned Special GP that the order passed by the Learned Additional Collector was ex-parte. I have perused the case sheet of the Learned Additional Collector. I find that numerous notices were sent to the State but the State chose to ignore the same and never appeared before the Learned Additional Collector. In such circumstances, the Learned Additional Collector was left with no option but to pass the order of the ex-parte. Therefore, I see no reason to declare this order bad in law just because this order has been passed ex-parte.

- b. Coming to the merits of the case, I find that the OPs, while filing their Counter Affidavit, have not annexed any paper or documents in support of their averments. Therefore, this Court is unable to observe anything on the arguments made by the OP.
- c. Finding no documents in support of the OP, this Court scrutinised the records of the Learned Additional Collector and found that certain documents have been filed in that Court. These include some rent receipts as well as some sale deeds. In the arguments made before the Lower Court, the OP has mentioned that the OPs are in peaceful cultivating position of this land and have got absolute title and continuous possession of their land by settlement of ex-landlord by hukumnana/patta/registered sale deed in their favour executed by the said landlord Sri Raj Rajeshwari Prasad Ojha.
- d. In their Appeal Petition before the Learned Additional Collector Court, they have mentioned the sale deeds in Schedule I of the Petition, most of which are dated after 09.09.1970. Some sale deeds are of a period as late as 1993. Therefore, I am of the opinion that sale deeds which are executed after the due date of 09.09.1970 cannot be

accepted as these are made without the valid permission of the Learned Collector.

- e. However, the said Schedule contains some sale deeds of the period of 1962 and 1964. I perused some of the sale deeds of the period of 1962. Surprisingly, these sale deeds are neatly typed and invite suspicion as to how could the sale deeds be so neatly typed in the year 1962, that too in a rural Registry of Jehanabad.
- f. These sale deeds have striking similarity with the sale deeds that have been discussed by this Court in the order dated 16.05.2017 in Revision Case No. 10/2017. Therefore, avoiding the risk of repetition, I hold that the genuineness of these sale deeds needs to be verified by the Learned Collector, Arwal.
- g. Here also interesting fact remains that the typist and the sale deed writer in these sale deeds are the same as in the sale deeds discussed in Revision Case No. 10/2017.
- h. I also note very interestingly that the Schedule I annexed in the Appeal Petition filed in 2009 is radically different than the Schedule I filed with the written notes of arguments in 2014, *just few days before final order was being passed by the Learned*

आदेश की क्रम सं० और तारीख 1	आदेश और पदाधिकारी का हस्ताक्षर 2	आदेश पर की गई कार्रवाई के बारे में टिप्पणी तारीख सहित 3
	<p><i>Additional Collector.</i> In the earlier Schedule of 2009, no sale deed of the period of 1962 was mentioned. However, in the Schedule submitted in the year 2014, there are many sale deeds of the period 1962. This raises enough suspicion to reject both the schedules- lock, stock and barrel.</p> <p>i. To quote one such case of Smt. Baitarni Devi, in the Schedule of 2009, she has three sale deeds, one of which is of the year 1991 and other two are undated. In the schedule of 2014, she has only two sale deeds of the year 1962 and 1971. Therefore, there are numerous such infirmities in the two Schedules to warrant any reliance.</p> <p>j. The fact that in many entries, the date of sale deed is also not mentioned in the Schedule, itself shows that these documents are either too unreliable or informal to place any importance.</p> <p>k. I also perused the original order of the Learned SDO dated 04.05.1996. Para-19 of the said order of the Learned SDO has already discussed the case of most of the OPs in this Revision application and the Learned SDO had rightly rejected these sale deeds mentioning that these sale deeds have</p> 	

been executed much after the due date of 09.09.1970 and as such no judicial cognizance needs to be taken of such illegal transfer.

l. Coming to the other averment made by the OP that the Hon'ble High Court have passed a judgment in their favour in CWJC No. 12929, 12961, 12962 of 1992 and 1799/1993, copy of which order the Learned Advocate has filed in this Court, I see that by the said judgement, the Hon'ble High Court has only remanded the matter back to the Learned Collector with an observation to have a fresh look with regard to the claims of various parties who have said to have purchased/settled the land from the ex-landlord between 22.10.1959 and 09.09.1970.

m. I also note that subsequent to this remand, the matter was again taken afresh by the Revenue Authorities and the detailed enquiry was conducted on all such transfers and subsequently, the Learned SDO passed a very speaking order dated 04.05.1996 rejecting the claim of the OPs.

n. In the Court of the Learned Additional Collector, I find certain orders of the

Chakbandi Officer passed in the case of some of the OPs. Most of the orders of the Chakbandi Officer are of the period of 1983-84. The Chakbandi Officer has based his order on the fact that the OP has got the land mutated from the Office of the Circle Officer. I would not base too much reliance on the orders of the Chakbandi Officer whose only finding is that since the mutation order is in favour of the OPs, therefore, Chakbandi should be entered in their name.

- o. Coming to the mutation order, I find that most of the mutation orders are of a period of 1980-81, whereas the concerned OPs have purchased the land in either 1971 or before. It raises sufficient suspicion in the mind of this Court as to what the OPs were doing for ten long years. Moreover, a mutation is only a endorsement that the land is presently occupied by the OP. Whether, the OP was holding the land on their own behalf or the landlord, is a subject matter of enquiry. This enquiry was conducted by the Learned SDO after the entire matter was remanded to the Learned Collector by Hon'ble High Court.

- p. The very fact that in the mutation proceeding it has come out clearly that these lands actually belonged to the original landlord Sri

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	<p>Raj Rajeshwari Prasad Ojha clearly establishes that the lands were either deliberately sold out or settled in the name of OPs (acting as a front for the Jamindar) in order to defeat the objectives of the Ceiling Laws.</p> <p><b>Conclusion:-</b></p> <p>From the above findings, it is clear that the OPs have not provided any papers to this Court regarding their purchase/settlement of land. However, from the perusal of the case record of the Learned Additional Collector, it seems that certain typed sale deeds of the period 1962 and 1971 have been filed by the OP.</p> <p>The Learned Additional Collector should have enquired the genuineness of these documents which he did not do. Nor did the Learned Additional Collector go deep into the claims of the OPs while allowing the appeal and setting aside the order of the Learned SDO. Therefore, it is clear that the Learned Additional Collector did not apply his mind. Nor did he give any reason or finding of his own in setting aside the order of the Learned SDO.</p> <p>He only held that the Learned SDO did not do any enquiry regarding the said/transfer of the land and hence he quashed the order of the Learned SDO.</p> <p>In my opinion, the Learned Additional Collector should have looked into these so called sale deeds which</p>	

were neatly typed by the same typist and deed writer carrying same mistakes, grammatical and otherwise, from a period 1962 through to the year 1971. These documents, prima facia, appear unreliable. Least to say, some are registered after the due date of 09.09.1970.

Thus not much reliance can be place on any quashi judicial order involving the lands covered under Ceiling Proceeding based on the sale deeds executed after 09.09.1970.

Of the very few sale deeds that are existing before 09.09.1970, it was the duty of the Learned Additional Collector to enquire into the validity of such documents which did not exist in the year 1996 when the Learned SDO passed a comprehensive order on 04.05.1996. But, these documents, of the year 1962, find sudden appearance after the order dated 12.12.2008 when the gazette notification was ordered to be published by the Learned SDO.

As such, I find it difficult to support the order passed by the Learned Additional Collector dated 28.11.2014. I, accordingly, uphold the order passed by the Learned SDO dated 12.12.2008 and also restore the Gazette publication dated 18.09.2009.


The Learned Collector, Arwal is directed to proceed further with the Ceiling Proceeding.

The Learned Collector is also directed to check the genuineness of the sale deeds submitted in the Court of the

Learned Additional Collector dating the period 1962 to 1971.

Revision Allowed.

Dictated & Corrected

  
K.K.Pathak  
Additional Member  
Board of Revenue, Bihar.

  
(K.K.Pathak)  
Additional Member  
Board of Revenue, Bihar.