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

BOARD OF REVENUE, BIHAR, PATNA.

Revision (Land Ceiling Surplus) Case No. – 09/2011
Dist. - Madhubani

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

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The State of Bihar & Others - Petitioner/ Appellant

Versus

Mahadev Yadav - Opposite party

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Appearance:

For the Appellant/Revisionist :Shri Rana Ishwar Chandra
For the OP :
For the State : Shri Nirmal Kumar, Special G.P.

ORDER

03.02.2017

In this ceiling surplus case, the State is the Petitioner. The Learned Collector, Madhubani vide his Letter No. 2731 dated 08.12.2011 has forwarded a Ceiling Surplus Case No. 29/1973-74 (State vs. Mahadev Yadav son of Late Subran Yadav) for confirmation.

The matter was referred to the Board of Revenue under Section 38 (1) (iv) of Bihar Land Ceiling Act, 1961. This Section read with Section 32 (ii) requires the Board of Revenue to confirm, modify or set aside the order passed by the Collector under Section 38.

As soon as the original case records were received by the Board of Revenue, notices were issued to the Opposite Party who is the landlord. The case remained part heard on many

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	dates. In the meantime, an Intervention Petition was filed by the daughters and sister of the landlord. The case came up finally for hearing on 19.01.2017. On that day, the Learned Special GP was heard in detail on behalf of the State. The Learned Advocate of the OP as well as the Learned Advocate of the Interveners was also heard in detail. Thus concluding the hearing, this order is being passed today. Initiating the argument, the Learned Special GP mentioned that the instant proceeding started under Section 38 of the Bihar Land Ceiling Act, 1961 when a private person filed a complaint with the State Government. The State Government, in turn, sent the complaint to the Learned Collector for enquiry. The Learned Collector remanded the case to Additional Collector for further action. The Learned Additional Collector issued notices to all concerned and heard all the parties and passed an order on 10.09.2011. The Learned Additional Collector passed an order holding that the said landlord Late Sri Subrin Mahto (now replaced by his son Mahadev Mahto) held land in excess of the ceiling limit. He arrived at his findings on the basis of the detail inquiry conducted by the Circle Officer. He further argues that the order passed by the Learned Additional Collector is as per law and the Board of Revenue should therefore confirm the same so that the land so declared surplus be acquired and distributed as per laws. The Learned Advocate of the OP, now represented by his son Sri Mahadev Yadav, was also heard in great detail. He mentioned that the original landholder Sri Subrin Yadav died in	

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	August 1974. A land ceiling case (No. 29/1973) was initiated against Subrin Yadav. In the said ceiling caseout of 30.22 acres of land, only 0.22 acres was declared surplus which was distributed to one Sri Gonu Paswan. The remaining 30 acres was allowed to be kept by Sri Subrin Yadav vide order of the Learned Additional Collector dated 01.03.1976. Continuing his argument further, the Learned Advocate of the OP mentioned that on 15.03.2000, after a gap of 24 years, one private person Sri Heeth Narayan Chaudhary, who is complete stranger and having no locus standi on the matter, filed an application before the authorities that the OP is holding more than 60 acres of land and hence he has concealed the actual area of the land held with him. Subsequently, the Government order an enquiry into the matter. However, as per the Learned Advocate, the enquiry was conducted without the compliance of the provision of Section 8 of Bihar Land Ceiling Act, 1961 and recommendation was made by the Additional Collector vide his order dated 10.09.2011 declaring 66.35 acres to be the total land available. After allowing about 30 acres for one unit, 31.71 acres was declared surplus and hence it was found that 31.49 acres was hidden by the landlord. The Learned Advocate further mentioned that the Learned Additional Collector did not hear the landlord. Notice was given to the landlord only for filing option under Section 9 of the Act. The landlord, however, did not file any option but rather filed an objection on the ground that he should be allowed two units of land – one for himself and one for his late father. The Learned Additional Collector did not consider his objection.	

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आदेश की क्रम सं0 और तारीख 1	4 आदेश और पदाधिकारी का हस्ताक्षर 2	आदेश पर की गई कार्रवाई के बारे में टिप्पणी तारीख सहित 3
	Moreover, the Learned Additional Collector has also included other lands which do not belong to him but belong to other members of his family. At this stage, the Learned Advocate of the Interveners was heard. There are total three interveners in number. One is the deceased sister of Sri Mahadev Yadav and other two are his daughters. The Learned Advocate of the Interveners mentioned that their land has been wrongly included in the land of the land holder. He further mentioned that the total area involved with the Intervener is 6 acres which he came to own by different sale deeds dated 26.03.1960 and 21.09.1970. He further argues that no notices were issued to them by the Learned Additional Collector and they were not heard. He drew the attention of this Court to Page 19 of the show cause filed by the Respondents which is the report of Circle Officer, Benepatti and says that in the said report, the name of the Interveners are mentioned. He also draws the attention of this Court to the order passed by the Learned Additional Collector dated 25.01.2001 against which he had gone to the High Court. The Hon'ble High Court then remanded the matter back to the Learned Collector Madhubani vide its order dated 17.08.2007. Having finished the argument of the OP and the Intervener, the Court asked the Learned Special GP if he has any concluding arguments. The Learned Special GP mentioned that Section 8 is not applicable to this proceeding. Due notices were sent to the land holder within the meaning of the word 'family' as defined under Section 2ee of Bihar Land Ceiling Act, 1961. The Intervener, therefore, would not come under the definition of	

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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
	'family'. He further argues that the right of option was given to the landholder as required under the Act. Having thus concluded the hearing of all the parties and having perused the material available on record as well as the Lower Court Records, my own findings on the matter are as under:- (a) I find that the ceiling case was closed by the then Additional Collector earlier by holding that only 0.22 acres land was surplus with the landholder. This was in the year 1976. (b) A compliant was received in the Government in the year 1998 and based on which the ceiling proceeding was again started. (c) A report of Anchal Adhikari Benepatti was called for and the Report No. 871 dated 12.12.1996 was received. However, the Learned Additional Collector found that there are certain discrepancies in the plot numbers mentioned in the Circle Officer report and hence he sought more clarification from the officer. (d) The Circle Officer submitted a revised detail report on 11.11.1998 clearly mentioning all the new plots therein. Another report from the Circle Officer, Benepatti was also called for which was received vide Letter No. 2 dated 11.01.1999. Therefore, in all, three reports were received from the Circle Officer.	

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	(e) I also find a report by the Learned DCLR Benepatti dated 01.07.1997 confirming prima facie that certain land is still held in the name of Sri Mahadev Yadav son of Sri Subran Yadav. (f) Based on the above reports, the Learned Additional Collector after hearing the land holder, passed an order dated 25.01.2001 holding that the land holder has hidden 31.49 acres and therefore the matter may be taken further as per Section 38. He also recommended action against the then Circle Officer and the Circle Inspector who had submitted wrong reports. Against this order, the land holder had gone in appeal before the Learned Collector who vide his order dated 02.01.2003 rejected the appeal and directed the land holder to file his option before the Learned Additional Collector, which the landholder did not do. (g) He instead chose to move the Hon'ble High Court in CWJC No. 11522 and CWJC No. 11724 of 2002 wherein the Hon'ble High Court vide its order dated 17.08.2007 asked the Petitioner to appear before the Court of the Collector. (h) Thereafter, again the Additional Collector heard the matter and passed the final order dated 10.09.2011. He also held that the demand for two units cannot be entertained under Section 38 as it is time barred. Therefore, he declared	

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आदेश की क्रम सं0 और तारीख 1	7 आदेश और पदाधिकारी का हस्ताक्षर 2	आदेश पर की गई कार्रवाई के बारे में टिप्पणी तारीख सहित 3
	31.47 acres to be hidden land and referred the matter to the Board of Revenue. (i) From the above, it is clear that the landholder Sri Mahadev Yadav took every step to hide his land. Once he finally discovered that the Revenue Authorities have detected the additional 31.47 acres of land, he suddenly drew an additional demand for one extra unit on behalf of his late father. (j) I find that the Learned Additional Collector rejected the demand for additional unit for the landholder on the ground of limitation. I feel that this would not be correct approach as the Learned Additional Collector vide his order dated 10.09.2011 should have passed a speaking order on why the landlord should not given two units – one for himself and one for his father Late Sri Subran Yadav. (k) This Court therefore would like to analyse this point as to whether the landholder was entitled for only one unit (which was granted to him) or two units - one for himself and one for his late father. Their contention is that both of them were adults as on 09.09.1970. (l) I also find a letter issued from the Sub Divisional Education Officer claiming that Sri Mahadev Yadav was 26 years old as on 09.09.1970. This, prima facie makes a strong case that the landlord should have been given	

आदेश की क्रम सं० और तारीख 1	8 आदेश और पदाधिकारी का हस्ताक्षर 2	आदेश पर की गई कार्रवाई के बारे में टिप्पणी तारीख सहित 3
	two units. However, there are several grounds on which this contention of the landlord can be rejected. (m) It may be noted that even on ground of merits and procedure, both Late Subran Yadav and his son Mahadev Yadav cannot be given one unit each for the following reasons :- i. That the ceiling proceeding, No. 29 of 1973 was started against Sri Subran Yadav but Sri Subran Yadav died in 1974 itself, meaning thereby that when the land was finally declared surplus, it was declared surplus on account of the definition of family as prevailing on 09.09.1970. ii. This means that the landlord Sri Mahadev Yadav (and not his father) fought an defended in Ceiling Proceeding 29/1973-74 as his father was already dead by then. In the said ceiling proceeding, the landlord never objected and demanded two units. This is clear from the order sheets of the old case record and the observation of the Additional Collector during that time. No objections were filed till as late as	

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	01.03.1976 wherein the landholder did not demand any additional unit on behalf of his late father. iii. It is a established principle that ceiling proceeding cannot be initiated or concluded against a dead person. Therefore, a provision of substitution was duly incorporated in Bihar Land Ceiling Act, 1961 (Section 45C). The said Section was inserted to ensure that the landholder is duly represented through a legal representative. It is the understanding of this Court that during the said ceiling proceeding, Sri Mahadev Yadav was representing his family and was the karta of the household. iv. Moreover, I must also deal here the question of the Interveners. If Mahadev Yadav was 26 years old in 1970, then I should also presume that his two daughters, (who are the Interveners) were old enough to own good number of land as it is mentioned by them that they owned certain land on 21.09.1970. So to understand the	

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	matter simply, the father (the landlord who was 24 years then) held no land in 1970 whereas his two daughters owned land in 1970. This is difficult to believe. Here, another point that comes to the mind is that the said transfer was made after the due date of 09.09.1970 and without the permission of the Collector, hence it appears to be a sham transaction with the intention to save the family land. v. Coming to the next Intervener (the sister of Sri Mahadev Yadav) it is said that she got her land on 26.03.1960. If that be the case, then she must also be a teen ager or even lesser, when she came to own such a property. Therefore, it raises reasonable suspicion in the mind that these sale deeds are executed to escape the ceiling laws. vi. Therefore, the karta himself was allowed one unit within the meaning of the word 'family'. And the same was given to him.	

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	(n) Thus it is clear that even on points of merits, two units were not admissible in the instant case. Here, this Court is not discussing the mala fide with which the landholder is successful in hiding his 31.4 acres of land, which of course is now a matter of inquiry as to what went wrong in the year 1976. The matter being very old, no officer of the year 1976 would be available for any action. However, what can be now ensured is to correct the error which was committed in the year 1976.	

Conclusion:-

From the aforementioned discussion, it is clear that the landholder has been very successful in hiding 31.4 acres of land from the authorities for more than 40 years now. In the process, he has enjoyed the fruits of the land and has defeated the primary objective of the Land Ceiling Act. Had it not been for an unintended public complaint, the matter would not have come to the light and the Revenue Authorities would have continued to sleep blissfully over a fraud committed on them.

Together with the Interveners, who are now his late sister and two daughters, he has moved the appeal Courts back and forth many times and has been able to delay the matter.

I find that after the complaint of the private person, the Revenue Authorities did wakeup and followed due process of law and initiated action under Section 38 of the Act. The said order passed by the Learned Additional Collector on 10.09.2011 is therefore completely in order and was passed after due

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	procedures. I, therefore, accordingly confirm the order passed by the Learned Additional Collector dated 10.09.2011. At the same time, for the reasons mentioned above, I also reject the claim of another unit for the land holder as well as the transfers made to the Interveners. Let the original case record be returned to the Learned Collector Madhubani for further action in response to his Letter No. 2731 dated 08.12.2011. **Dictated & Corrected** 3/2 **K.K.Pathak** **Additional Member** **Board of Revenue, Bihar.** 3/2 **(K.K.Pathak)** **Additional Member** **Board of Revenue, Bihar.**	