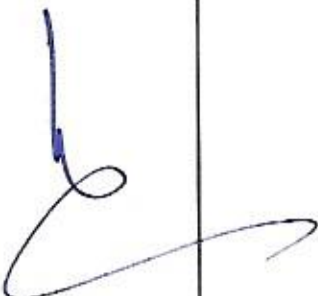
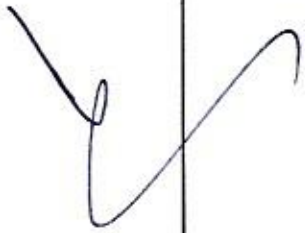
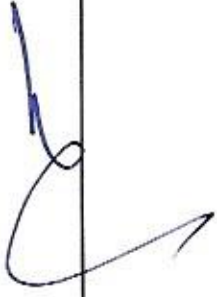


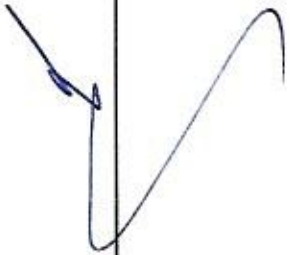
आदेश की क्रम सं० और तारीख 1	आदेश और पदाधिकारी का हस्ताक्षर 1 2	आदेश पर की गई कार्रवाई के बारे में टिप्पणी तारीख सहित 3						
17.05.2017	<p style="text-align: center;"><u>BOARD OF REVENUE, BIHAR, PATNA.</u></p> <p style="text-align: center;">Revision (Land Ceiling Surplus) Case No -11/2017 Dist. - Arwal</p> <p>PRESENT :- K.K. Pathak, I.A.S., Additional Member</p> <p>=====</p> <table style="width: 100%; border: none;"> <tr> <td style="width: 40%;">State of Bihar through Collector, Arwal</td> <td style="width: 20%; text-align: center;">Versus</td> <td style="width: 40%; text-align: right;">- Petitioner/ Appellant</td> </tr> <tr> <td>Raja Ram Sao & Others</td> <td></td> <td style="text-align: right;">- Opposite party</td> </tr> </table> <p>=====</p> <p><u>Appearance:</u> For the Appellant/Revisionist : Shri Nirmal Kumar, Spl. G.P. For the OP : Shri Rakesh Ranjan</p> <p style="text-align: center;"><u>ORDER</u></p> <p>This is a Ceiling Surplus case in which the State is the Petitioner. The State has filed this Revision application against the order passed by the Learned Additional Collector on 28.11.2014 in Ceiling Appeal Case No. 31/AC/2011 vide which the Learned Additional Collector has set aside the order passed by the Learned SDO dated 12.12.2008.</p> <p>The case was admitted and the delay was condoned on 21.03.2017.</p> <p>In the subsequent dates, it was informed to the Court that OP No. 2 Lakhpati Sao has died and may be substituted with his son Arvind Kumar. The substitution was allowed on</p>	State of Bihar through Collector, Arwal	Versus	- Petitioner/ Appellant	Raja Ram Sao & Others		- Opposite party	
State of Bihar through Collector, Arwal	Versus	- Petitioner/ Appellant						
Raja Ram Sao & Others		- Opposite party						

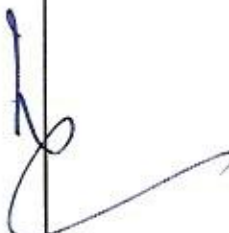
आदेश की क्रम सं० और तारीख 1	आदेश और पदाधिकारी का हस्ताक्षर 2	आदेश पर की गई कार्रवाई के बारे में दिपक्षी तारीख सहित 3
	<p>25.04.2017 and the case was posted for final hearing on 02.05.2017.</p> <p>On that date, the Learned Special GP was heard in great detail on behalf of the State. The Learned Advocate of the OP was also heard. Thus concluding the hearing, this order is being passed today.</p> <p>The Learned Special GP argues that this order is bad in law as the same has been passed ex-parte. Moreover, the Learned Additional Collector has passed this order deliberately just three days before his retirement. The Learned Additional Collector also has not given any reasons or findings of his own while setting aside the order of the Learned SDO. Continuing his arguments further, he mentioned that the OPs, during the pendency of the Land Ceiling Proceeding, never filed any objections before the Learned Lower Court under Section 10 or under Section 15 of the Bihar Land Ceiling Act, 1961.</p> <p>The Learned Advocate of the OP, however, denies the averments made by the Learned Special GP. He says that he is the genuine Purchaser of land from the landlord and land has been included by mistake in the gazette notification published on 18.09.2009.</p> <p>Continuing his arguments further, he mentioned that he had purchased the land from the original landlord through four sale deeds on 13.10.1966 are also entered in the Chakbandi survey. He further mentioned that he had filed objections before the Learned Lower Court but no enquiry</p>	

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>under Section 5 was done. Therefore, the order passed by the Learned Additional Collector is correct.</p> <p>He also mentioned that the case is time barred and hence should not have been entertained. The Learned Special GP, while concluding his arguments, drew the attention of this Court at Para-6 of the Counter Affidavit where he says that the OPs have mentioned that the mutation has been done but no paper has been annexed.</p> <p>Having heard the Learned Special GP and the Learned Advocate and having perused the material available on records as well as the Lower Court Records, my own findings on the matter are as under:-</p> <p>a. It has been argued by the Learned Advocate of the OP that the case has time barred. However, the Learned Special GP has mentioned that the internal approvals took time for the district Administration to file the Revision application. I also note that the Learned Collector had taken up this matter in the year 2015 itself with the State Government and sought instruction. He also quotes a Judgment by the Hon'ble Supreme Court wherein a delay of 1373 days has been condoned by the Hon'ble Supreme Court in the interest of justice (Civil Appeal No. 8577/2014).</p>	

आदेश की क्रम सं० और तारीख 1	आदेश और पदाधिकारी ⁴ का हस्ताक्षर 2	आदेश पर की गई कार्रवाई के बारे में टिप्पणी तारीख सहित 3
	<p>b. I also find that before the Court of the Learned Additional Collector, the Appellants (the OP is in the present Revision application) had filed their Appeal Petition approximately one year after the order of the Learned SDO was passed and was time barred but, even then, the Learned Additional Collector had entertained the appeal in the interest of justice. Therefore, I see no reason why law of limitation be invoked in this case. And hence the matter is best decided on merits.</p> <p>c. I find that though the order has been passed ex-parte by the Learned Additional Collector but it appears from the case sheet of the Court of the Learned Additional Collector that State has been continuously served notices but for some reason, the State chose to ignore the notices and never appeared before the Learned Additional Collector. This fact has been adequately mentioned in the impugned order. That be so, I find no reason set aside the order just because it has been passed ex-parte. The Learned Additional Collector issued numerous notices to the State to appear. However, in the absence of the response from the State,</p>	

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>the Learned Additional Collector had no option but to pass the order ex-parte.</p> <p>d. Coming to the other point raised by the Learned Special GP that the Learned Additional Collector passed this order just three days before his retirement, this issue is best taken up administratively by the State Government.</p> <p>e. Coming to the merits of the case, I find that no papers have been included by the OP in the Counter Affidavit filed before this Court.</p> <p>f. However, I had the benefit of perusing the documents of the Court of the Learned Additional Collector. The OPs have annexed certain rent receipts and mutation orders. There is an order of Chakbandi Court also.</p> <p>g. I note that the Chakbandi Officer has based his order on the basis of the mutation done by the Circle Officer. Coming to the mutation order, which is of the period of 1982-83, it is clearly mentioned that the land is covered under the Ceiling Proceeding. Mutation, however, was done only in the interest of revenue and considering that the land is in the possession of the OPs.</p>	

आदेश की क्रम सं० और तारीख 1	आदेश और पदाधिकारी ⁶ का हस्ताक्षर 2	आदेश पर की गई कार्रवाई के बारे में टिप्पणी तारीख सहित 3
	<p>h. From the above mutation order, it is clear that the land is originally listed in the name of the landlord Sri Raj Rajeshwari Prasad Ojha. It is also confirmed that the land is involved in the Ceiling Proceeding. Mutation order, as rightly noted by the Circle Officer, is just an acknowledgement of the fact is the land under the occupation of the OP. And this mutation is done purely in the interest of revenue.</p> <p>i. It is an established arrangement that mutation is only an indication of who tills the land. It is no confirmation of the Title of the land. Whether or not the OPs were holding the land on their own behalf or on behalf of the landlord is not clear in the mutation proceeding.</p> <p>j. Moreover, no sale deeds are available on the record. Interestingly, I find a report registered with the Police Station by the OP that his sale deed documents have been lost. This information is dated 12.07.1983. However, this is not the original non FIR but a true copy of non FIR.</p> <p>k. Furthermore, it clearly says that the sale deeds that have been reportedly lost are of the year 1971. This, as it is, is much after the</p>	

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>appointed date of 09.09.1970. Hence, such transfer, in my opinion, will not be valid unless the transfer is duly approved by the Learned Collector.</p> <p>1. Moreover, nothing stopped the OPs to obtain a fresh copy of the stolen sale deeds from the Registry Office. This has not been done by the OPs and this is rather strange. As losing valuable papers of a valuable property should have concerned the OP more than anything else. If he had indeed lost the ownership documents of his property, he should have moved heaven and earth to get a duplicate copy from the local Registry Office. No such efforts has been made by the OP and this Court finds this behaviour of the OP rather suspicious.</p> <p>m. I also note that while in the Court of the Learned Additional Collector, the OP has taken stand that he got 1.58 acres of land from land holder vide a settlement dated 15.06.1957, he got rest of the land measuring .46 acres through registered sale deeds dated 30.12.1971. However, in his Revision application, he says that he got these lands through registered sale deeds of 1957, 1966 and 1971.</p>	

- n. At the risk of repetition, I reiterate that no papers were either provided to the Revisional Court or to the Appellate Court of the Learned Additional Collector regarding either the settlement of land from the landlord or the purchase of land from the landlord.
- o. Therefore, I am dismayed as to how the Learned Additional Collector could arrive at a conclusion that these papers are valid, without even having the benefit of looking at the papers, for the simple reason that there are papers available on record.
- p. I also had the privilege to peruse the case records of the Learned Original Court of SDO of Land Ceiling Proceeding No. 28/1973-74. In the said Proceeding, by a speaking order dated 04.05.1996, the Learned SDO had dealt with the case of the OPs at Para-17 of his order. In the said Para, the three OPs appeared at Serial No. 23, 24 and 25 wherein they have claimed to have purchased the land through registered sale deeds dated 29.12.1971. The Learned SDO had rightly held that since these deeds were registered after the due date of 09.09.1970 and without the permission of the Learned

Collector, no judicial cognizance needs to be taken of such illegal transfers.

q. I find that the observations of the SDO are correct as per Law.

Conclusion:-

From the above findings, it is clear that the OPs have not submitted any papers or documents either before the Learned Additional Collector or before this Court to merit any intervention. No sale deeds/settlement deeds were provided to the Learned Additional Collector and therefore it is surprising as to how he came to the conclusion that the land belonged to the OP and same has been wrongly included in the gazetted notification dated 18.09.2009.

I have already discussed in detail the others papers like mutation order and Chakbandi order and I have also explained why these cannot be relied upon in the absence of registered documents. Moreover, these papers only show that the land was in the name of the original landlord Sri Raj Rajeshwari Prasad Ojha and are being held by the OPs.

Accordingly, there is strongly possibility that the OPs are merely a front for the landlord and the whole process has been started to avoid the Ceiling Law.

That be the case, I find it difficult to support the order passed by the Learned Additional Collector dated 28.11.2014 and the same is hereby the set aside. I, accordingly, uphold that order passed by the Learned SDO

dated 12.12.2008 and also restore the gazetted notification dated 18.09.2009.

The Learned Collector, Arwal is directed to proceed further in the matter.

Revision Allowed.

Dictated & Corrected


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


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