

आदेश की क्रम सं०
और तारीख

आदेश और पदाधिकारी का हस्ताक्षर

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आदेश पर की गई
कार्रवाई के बारे में
टिप्पणी तारीख सहित

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BOARD OF REVENUE, BIHAR, PATNA.

Revision (Land Ceiling Surplus) Case No.:- 25/2001

Dist.:- Gaya

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

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Goswami Krishna Chaitanya Giri

- Petitioner/ Appellant

Versus

The State of Bihar & Others

- Opposite party

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Appearance:

For the Appellant/Revisionist

: Shri M. Chatterjee

For the OP

:

For the State

:Shri Nirmal Kumar, Special G.P.

ORDER

28.12.2016

This is a Ceiling Surplus Case in which Revision Application under Section 32 of Bihar Land Ceiling Act, 1961 has been filed on 27.06.2001 against the order passed by the Learned Collector, Gaya dated 10.11.1995. The Case was finally adjudicated on 10.07.2002 by the then Hon'ble Additional Member primarily on the ground of limitation.

From the perusal of the record it appears that the Petitioner, as soon as the order of the Learned Collector, Gaya was passed in 1995, had approached the Hon'ble High Court vide CWJC No. 11164/1995. In the said matter, the Hon'ble High Court vide order dated 19.03.2001 gave the



liberty to the Petitioner to file a Revision Application before the Board of Revenue.


The Petitioner filed the Revision Petition after three months whereas the Hon'ble High Court directed the Revisionist to file the Revision Application within one month. The Hon'ble Additional Member therefore vide his order dated 10.07.2002 rightly dismissed the application on the ground of delay in filing the Revision Application.

Further aggrieved by this order, the Revisionist again went to the High Court in 2008 and filed a writ CWJC No. 8263/2008. It is surprising that the Revisionist took 6 long years to file the writ before the Hon'ble High Court against the order passed by the Additional Member Board of Revenue.

The Hon'ble High Court vide order dated 13.11.2015 set aside the order passed by the Hon'ble Additional Member, Board of Revenue and remanded the matter back to the Board of Revenue to decide the matter on merits. Hence the Revisionist again filed his Revision Application which is presently under consideration.

The case came up for hearing on 06.12.2016 where the Revisionist was absent. The Case was put up again on 19.12.2016 where again, the Revisionist sought time for his senior colleague to appear. Finally, the case was put up for final hearing on 23.12.2016 where the Learned Advocate of the Petitioner as well as the Learned Special GP was heard in great detail.

After hearing was concluded on 23.12.2016, this order is being passed today.

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	<p>During the argument, the Learned Advocate of the Petitioner mentioned that the order under challenge before this court is an order issued by the Learned Collector, Gaya vide Letter No. 159 dated 10.11.1995. He mentioned that this instant proceeding had gone to the Hon'ble High Court twice and has been remanded back to the Board of Revenue twice.</p> <p>Giving the background of the entire matter, the Learned Advocate of the Petitioner mentioned that the Land Ceiling Proceeding No. 24/73-74 was drawn against Khajwati Math, Bodhgaya. Mahant Sachidanand Giri was then the Mahant of the Math, who is now deceased. The present Revisionist is his successor of his private property and not his successor as a Mahant. Mahant now is another Chela who too is now deceased.</p> <p>He draws the attention of this Court to the order passed by the Learned Collector Gaya wherein the exemption given to this Math was withdrawn as a result of the deletion of Section 29 (2) (a) (ii) of Bihar Land Ceiling Act, 1961. Under the said deleted clause, the State Government was competent to exempt land not exceeding 15 acres of Category- I (proportional in case of other categories) to any religious institution of a public nature from the operation of Section 5 of the Act. The said deletion happened in the year 1995. Hence the Learned Collector Gaya withdrew the exemption given to the Khajwati Math.</p> <p>The Learned Advocate of the Petitioner further argued that a total of 29.94 acres of land belongs to the Math which was exempted in 1975 under the aforesaid deleted</p>	

provision. Since all these lands were private lands because the earlier Mahant Sri Sachidanand Giri purchased the land in his private capacity before he became a Mahant, it was never a part of Math land. Therefore he filed an objection in 1975 before the Learned Additional Collector who vide order dated 29.07.1976 declared that these lands are private lands and this order was never challenged and hence has achieved finality. In 1988 another notification was issued (Annexure 5 of the Revision Application) where these private lands are excluded from acquisition. These two points, as per the Learned Advocate goes in his favour to suggest that these lands were held to be private land and were not treated as Math land.


In the year 2000, the Petitioner found that the local Amin has started measuring his property and hence he came to know of the order passed by the Learned Collector Gaya in 1995 and then he moved the Hon'ble High Court (twice), who remanded the matter back to the Board of Revenue and hence this proceeding.

I also heard the Learned Special GP in detail. He argued that the issue under challenge in this Revision Application is not an order by the Learned Collector Gaya but it is merely a communication which has resulted out of an amendment in the Act.

To this, the Learned Advocate of the Revisionist argued that the impugned letter of the Learned Collector Gaya is not merely a communication but an order.

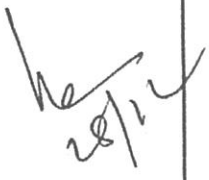
Having heard the Learned Advocate of the Petitioner as well as the Leaned Special GP and having

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	<p>perused the material available on record, my own findings on the matter are as under:-</p> <p>(a) I agree with the contention of the Revisionist that the letter dated 10.11.1995 of the Learned Collector Gaya is an order and not merely a communication. This is because by the said order the Learned Collector Gaya has withdrawn the exemption of 29.94 acres given to Khajwati Math in Ceiling Proceeding No .24/73-74 as a result of the deletion of Section 29 (2) (a) (ii) of the Bihar Land Ceiling Act, 1961.</p> <p>(b) Coming to the averment made by the Learned Advocate of the Petitioner that this 29.94 acres was a private land purchased by the earlier Mahant in his private capacity and the same land was purchased much before he actually become a Mahant, I find no evidence has been submitted by the Petitioner about the said purchase made by the erstwhile Mahant. In the absence of any evidence of any sale purchase or any evidence that from whom Sri Sachidanand Giri had purchased the land, I am not inclined to agree to this averment.</p> <p>(c) Coming to the order passed by the Learned Additional Collector dated 29.07.1976 in Ceiling Case No. 24/73-74, I find that in the said Ceiling Proceeding, in all 27 objections</p>	

were filed. From the said order, it is also clear that after the original Mahant Sri Sachidanand Giri, the name of successor was included, as mentioned in letter no 4756 dated 24.05.1976 of Bihar State Religious Trust Board. The successor was Mahant Sri Jagdishanand Giri. The Revisionist is not a successor Mahant, a point already conceded by the Revisionist himself. Nowhere in the order dated 29.07.1976, the Learned Additional Collector has held that these lands claimed to be acquired by Mahant Sri Sachidanand Giri should be excluded under Section 5 of the Bihar Land Ceiling Act. Rather, the contention in the objection Petition was that this 29.94 acres land is to be exempted under Section 29 as this belongs to the math and the remaining land (over and above these 29.94 acres) is said to be the land acquired by the Mahant Sri Sachidanand Giri in his individual capacity. Thus, I do not agree with the assertion of the Learned Advocate of the Petitioner that this land measuring 29.94 acres was exempted because it was Mahant's private property. Rather it clearly established that 29.94 acres land is exempted under the relevant Provision of Section 29 (2) (a) (ii) of the Bihar Land Ceiling Act.

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	<p>(d) The Learned Advocate of the Petitioner also mentioned the fact that in the notification issued in the year 1988 (Annexure 5 of the Revisions application) his private lands were exempted from acquisition under Section 11(1) of the Land Ceiling Act. This as per him is also a point in his favour. However, I would tend to disagree with the Learned Advocate of the Petitioner. This is because the said notification was issued under Section 11 for the land that was held to be surplus under Section 5. This notification was not meant to deal with any land which was already exempted under section 29 (2)(a)(ii). Since, these 29.24 acres of lands were exempted under Section 29 (2)(a)(ii) in the year 1976 itself, these lands rightly did not find mention in the notification issued in 1988. This in fact proves that the exemption of these 29.24 acres were under Section 29 (2)(a)(ii) and were treated as a Math land and not private lands to be released under Section 5 of the Act.</p> <p>(e) Moreover the Revisionist has not submitted any evidence to suggest that he is the successor of the 'private property' of Mahant Sri Sachidanand. It appears that there is an indication of some dispute between the Revisionist and Mahant</p>	

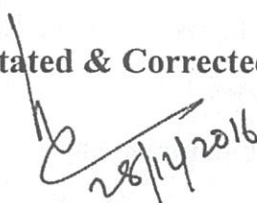
Jagdishanand who is the OP No. 5 in the proceeding and who as per the Revisionist is now deceased. Thus, I am unable to hold that the Revisionist is the successor of the 'Private Properties' of Mahant Sachidanand Giri.

From the above findings, it is clear that the exemption of 29.94 acres given to Khajwati Math was not due to the fact that those lands were 'private land' of Mahant Sachidanand Giri. The exemption was given under Section 29 (2) (a) (ii) of Bihar Land Ceiling Act, 1961 which was duly repealed in 1995. Moreover, the Revisionist has not produced any paper to suggest that he is the rightful successor of the 'private land' of Mahant Sachidanand Giri.

That be the case, I find no merit in the Revision Application and the same is hereby dismissed. A copy of the order may be sent to the Learned Collector, Gaya to initiate further action under Section 15 (1) of Bihar Land Ceiling Act, 1961 in the light of his order 159 dated 10.11.1995 if the same has already not been initiated.

Revision Dismissed.

Dictated & Corrected


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


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