



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 case came up for final hearing on 16.02.2017. On that date, the Learned Advocate of the Petitioner was heard in great detail. The Learned Advocate on behalf of the OP No. 4 was also heard. The Learned Special GP argued on behalf of State. Thus concluding the hearing, this order is being passed today.</p> <p>As per the Learned Advocate of the Petitioner, the father of the Petitioner is the original landlord, namely, Late Hridya Narayan Singh. They were three brothers, namely, Late Hridya Narayan Singh, Dukhmochan Singh and Modh Narayan Singh. Late Hridya Narayan Singh had three sons Sri Rajendra Singh and Siyaram Singh (who are the Petitioners). The third son Sri Vijay Singh died during the pendency of the proceeding and has been substituted.</p> <p>Continuing his arguments, the Learned Advocate mentioned that three land proceedings were initiated against these three brothers separately even though all the property was held jointly. The proceeding that were drawn against Dukhmochan Singh, Hridya Narayan Singh and Modh Narayan Singh were 800/76, 210/76 and 209/76 respectively.</p> <p>The Learned Advocate continues that presently he will be discussing only the proceeding relating to Late Hridya Narayan Singh No. 210/76 which is the subject matter of this Revisional Case.</p> <p>He mentioned that during the pendency of the Ceiling Proceeding No. 210/1976, the amendment in the Ceiling Act came in the year 1982. This necessitated fresh draft publication and the</p>	

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	<p>whole matter started de novo. The landholder filed an objection on various points on 20.01.1983 which however were not considered by the Learned Additional Collector when he passed the order dated 21.09.1983. Though the Learned Additional Collector gave one unit on behalf of the third son (Late Vijay Singh) of the landholder Late Hridya Narayan Singh, all other objections were not considered by him. The Learned Additional Collector also did not give fractional units on behalf of sons and daughters of the Petitioners viz Rajendra Singh and Siyaram Singh, quoting that the Circle Officer report does not mention the names of the children of the Petitioners.</p> <p>The Learned Advocate further mentioned that there are High Court judgments which say the report of the Circle Officer is not a statutory report. Regarding other objections, the Learned Additional Collector did not consider the land transfers made by the landlord terming it as benami transaction.</p> <p>Other objection included that the land not belonging to him (and actually belonging to brother-in-law of Dukhmochan Singh) were included in the proceeding. Whereas some land, which actually belonged to the landholder, were excluded from the proceeding.</p> <p>Concluding his arguments, the Learned Advocate mentioned that the land is in his possession and not yet been distributed. The Learned Additional Collector and the Learned Collector did not consider his objection while passing the order. The Learned Collector did not give his own findings when he rejected the appeal of the Petitioner.</p>	


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	<p>The Learned Special GP rose to present his argument on behalf of the State. He mentioned that the Learned Collector has considered all the points raised by the Petitioner. He draws the attention of this Court to Page 5 of the order passed by the Learned Additional Collector wherein the Learned Additional Collector has mentioned that no details have been given by the Petitioner to enable the Court to take a view. Moreover, the ceiling proceeding was started after the partition of the joint ownership and therefore three proceedings were initiated against the three brothers.</p> <p>I also heard the Learned Advocate of the OP No. 4, who is representing the heirs of, Sri Dukhmochan Singh who is the brother of landholder Hridya Narayan Singh. He mentioned that there was separate ceiling proceeding drawn against Sri Dukhmochan Singh namely Case No. 800/76.</p> <p>The Learned Advocate further mentioned that he is supporting the version of the State and confirms that the partition had already taken place between the three brothers in the year 1960 itself by a written arrangement. In 1970, the present Petitioner had filed a Title Suit which was dismissed in default in the year 1986. He has filed the concerned papers in his reply.</p> <p>Drawing the attention of this Court, the Learned Advocate of OP No. 4 further continued that in the instant case, the Hon'ble High Court had passed the order in the year 1989 remanding the matter back to the Learned Collector, whereas the Petitioner had filed an application before the Learned Collector in 2006 after a gap of 16 years. This delay has not been explained by the Petitioner.</p>	

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	<p>Concluding his arguments, the Learned Advocate further mentioned that he has filed some sale deeds in his reply to suggest that the Petitioner has sold various lands which proves that a formal partition did happen between the three brothers.</p> <p>As closing remarks, the Learned Advocate of the Petitioner mentioned that the onus of starting the proceeding rests with the Collector when the matter was remanded to him by the Hon'ble High Court. With regard to information supplied to the Learned Additional Collector, he mentioned that every detail was furnished to the Learned Additional Collector including the genealogical table. Lastly, he denied that a formal partition happened between the three brothers in the year 1960.</p> <p>Having heard the Learned Advocates of the Petitioner and the OP No. 4 as well as the Learned Special GP and having perused the material available on record as well as the Lower Court Records, my own findings on the matter are as under:-</p> <p>(a) I find that the State, while disposing the ceiling proceeding against the Petitioner landholder, had adopted a very reasonable approach and granted three units to all the three sons of the landholder namely Sri Rajendra Prasad Singh, Siyaram Singh and Late Vijay Kumar Singh (all Petitioners in the present Revision).</p> <p>(b) Coming to the demand of the additional unit on behalf of sons and daughters of the Petitioners, I understand that the sons and daughters of the</p>	


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	<p>Petitioners would be actually the grandsons and the granddaughter of the <u>landholder</u> against whom the Ceiling Proceeding No. 210/76 was drawn. As per Section 2ee of Bihar Land Ceiling Act, 1961, the word 'family means and includes a person, his or her spouse and minor children'. Nowhere in the definition of 'family', the word grand children is included. Hence, there is no question of granting any units on account of grand children of the landholder, regardless of the fact whether the details of grandchildren are given by the Petitioner or not. <i>I must reiterate that the landholder in the ceiling proceeding was the Petitioner's father and not the Petitioner.</i> So the family in question is the family of the Petitioner's father and not Petitioner's. The definition of family only entails inclusion of two generations of the landholder and not three. Therefore, no units can be given on account of grand children.</p> <p>(c) I also find that many lands that have been alleged to have been transferred by the landholder, continue to be in his active position as is evident from the report of the Circle Officer. And hence the Learned Additional Collector was right in not agreeing to this objection of the landholder as these transfers were done to defeat the provision of the Ceiling Act.</p>	

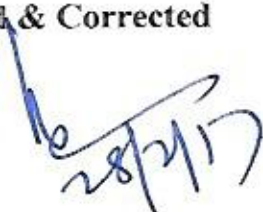

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	<p>(d) I also find that the State has been reasonable and excluded such land from the proceeding which were not belonging to the landholder or which were entered twice or thrice in the draft declaration.</p> <p>(e) The objection of the landholder to remove certain lands, which was submerged in water were also considered by the Learned Lower Court and in the absence of any detail, the claims of the landholder were rejected. In my opinion, the landholder should come out in specific detail about the lands which have been submerged. These details are missing in the Revision application also.</p> <p>(f) Thus having addressed all the objections of the landholder, the Learned Additional Collector had passed a speaking order and declared 111.84 acres to be surplus. In so far as the landholder Late Hridya Narayan Singh is concerned, I find that this order of the Learned Additional Collector was passed after due procedure and after considering all the facts available before him.</p> <p>(g) Perusing the order of the Learned Collector, it appears that the landholder approached the court of the Learned Collector in appeal wherein the case was dismissed for default by the Learned Collector vide order dated 29.06.1987. Even the Restoration</p>	

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	<p>Petition filed by the landholder was rejected by the Learned Collector dated 30.06.1988.</p> <p>(h) The aforementioned order of the Learned Collector was reaffirmed by the Board of Revenue vide its order dated 07.03.1989.</p> <p>(i) Thus aggrieved, when the Petitioner approached the Hon'ble High Court in CWJC No. 4083/1989, the Hon'ble High Court, vide order dated 05.05.1989, quashed the above orders of the Board of Revenue and the Learned Collector and remanded the matter back to the Learned Collector.</p> <p>(j) However, what is surprising is that the landholder kept silent for 16 years after the Hon'ble High Court order in 1989. He approached the Learned Collector only in the year 2006, after a gap of 16 years. This delay is largely unexplained by the Petitioner. His averments, that the onus of starting a proceeding afresh lied with the Learned Collector, is unacceptable. In my opinion, the Petitioner should have approached the Court of the Learned Collector immediately upon getting a relief from the Hon'ble High Court. If he was waiting for the Learned Collector to respond, then the question comes to mind that why he waited for 16 long years and why he did not file an application immediately after one year or two.</p>	

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	<p>years. Clearly, the Petitioner wanted to delay the proceeding and was never interested in final adjudication of the matter. This delay therefore goes heavily against the Petitioner.</p> <p>(k) However, in the interest of justice, the Learned Collector still heard the appeal of the Petitioner and by a reasoned order dated 15.11.2010 rejected the appeal. I have perused the records of the Learned Collector and I see that there has been no details filed by the Petitioner and in the absence of the said details, the Learned Collector could only reaffirm the order of the Learned Additional Collector, which he did.</p> <p>(l) I also find that the partition between the three brothers had actually taken concrete shape as is evident from the numerous sale deeds filed by the OP No. 4. Therefore, the landholder Sri Hridya Narayan Singh and his two brothers were already enjoying the partition of their property at the time of the draft publication. And hence, the State was right in initiating three separate proceedings against the three brothers.</p> <p>(m) I also find that, in his lifetime, the landholder had attempted to save his land by indulging in various benami transactions in the name of his brothers-in-law namely Saryu Rai and Money Rai.</p>	

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	<p>(n) In an interlocutory Petition filed by the Petitioner, it appears that a similarly situated case is pending before the Bihar Land Tribunal, Patna to whom the matter was remanded by the Hon'ble High Court in CWJC No. 12829/2010. The case is on behalf of Smt. Tuna Devi vs. State of Bihar. However, in this Case, no details have been given by the Petitioner so as to suggest the connection between the instant revision matter and the above mentioned case before the Tribunal. Nonetheless, it is understood that any order passed by this Court in this Revision case would be subject to such order as may be passed by the Bihar Land Tribunal.</p> <p>Conclusion:-</p> <p>From the aforementioned findings, it is clear that there is no infirmity in the order passed by the Learned Additional Collector or the Learned Collector. The primary demand of the Revisionist in the instant Revision application was to grant fractional unit on behalf of his sons and daughters. The Revisionist himself is the son of the original landholder Late Hridya Narayan Singh against whom the land ceiling proceeding started.</p> <p>Therefore in actuality, the Petitioner is demanding fractional unit on behalf of the landholder's grand children. In the definition of 'family', grand children would not be included in the word 'family'. It may be noted that the Petitioner himself has</p>	

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	<p>already got, along with his brothers, one unit each as they were major as on 09.09.1970.</p> <p>Under no stretch of imagination, three generations of landholder can be included in the definition of the word 'family' as defined under Section 2ee of Bihar Land Ceiling Act, 1961.</p> <p>On other issue regarding the land transfer, it has been abundantly proved that the landholder had tried to cheat the ceiling laws by indulging in benami transaction.</p> <p>It has also been proved that the three brothers of the landholder have seen formal partition during the life time of the landholder Late Hridya Narayan Singh. This Court also feels that there is dispute going on between the legal heirs of the three brothers which has also gone up to the stage of the Title Suit.</p> <p>Therefore, a possibility cannot be ruled out that the Petitioner is deliberately trying to show the land belonging to his relatives in the ceiling proceeding and vice versa, in order to ensure that the actual land remains with him and the lands belonging to his relatives (with whom he is having a property dispute) are mistakenly taken over by the State in the name of Ceiling Surplus of the Petitioner.</p> <p>The State cannot be a party to the internal property dispute between the legal heirs of the three landholders namely Late Hridya Narayan Singh, Dukhmochan Singh and Modh Narayan Singh.</p>	

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	<p>Having said that, I find no reason to interfere with the order passed by the Learned Collector on 15.11.2010 and the same is hereby reaffirmed.</p> <p>Revision Dismissed.</p> <p>Dictated & Corrected</p>  <p>K.K.Pathak Additional Member Board of Revenue, Bihar.</p>  <p>(K.K.Pathak) Additional Member Board of Revenue, Bihar.</p>	