


In the meantime, the Lower Court Records also came. The matter remained part heard on many dates. When the matter came up for hearing on 17.01.2017, the Petitioner was absent. On the next i.e. 07.02.2017, the Petitioner himself was present but his Learned Advocate was absent. This Court then adjourned the matter for 15.02.2017 with the

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	<p>clear direction that if the Petitioner is absent on that date, the matter will be heard ex parte.</p> <p>However on 15.02.2017, the Learned Advocate of the Petitioner appeared and mentioned that he needs one more date because he wants to hire a senior lawyer. This Court however refused any further adjournments as the matter already been going for four years. The Learned Special GP was present and was heard on behalf of the State. The Learned Advocate of the Petitioner was given to the liberty to file written notes of argument which he did today.</p> <p>Thus concluding the hearing, this order is being passed today.</p> <p>From the Petition as well as the written notes of argument submitted by the Petitioner, it appears that in a Ceiling Proceeding No. 190/1973-74, the then Learned Additional Collector passed an order against the landholder namely Kamla Devi on 28.11.1985 and notification under Section 11(1) was issued on 19.02.1986. Aggrieved at the order of the Learned Additional Collector, the Petitioner filed an appeal before the Learned Collector on 07.04.1986. However the Learned Collector, Bettiah did not decide the issue till the year 2012. Finally, on 18.09.2012, the then Learned Collector dismissed the appeal for default.</p> <p>Aggrieved, the Petitioner filed a Restoration Petition before the Learned Collector. However, the Restoration Petition was also dismissed.</p>	

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	<p>Thus further aggrieved, the Petitioner has filed this Revision application and making a prayer that the matter be remanded back to the Learned Collector as the matter has not been decided on merit.</p> <p>He further claims that the final order in the land ceiling proceeding was passed on 09.04.1985 under Section 10 (3) of the Act against the landholder Smt. Kamla Devi. The point of merit being raised by the Petitioner here is that the order was passed against a dead person because Smt. Kamla Devi died on 27.03.1985 itself.</p> <p>I also heard the Learned Special GP who mentioned that the Learned Collector was right in dismissing the case for default as a Petitioner was absent continuously for more two and half years.</p> <p>After having heard the Learned Special GP and having perused the written notes of arguments as well as the material available on records, as well as Lower Court Records, my own findings on the issue are as under:-</p> <p>(a) Before coming to the merits of the case, I would first like to dwell upon the issue of dismissal of appeal by the Learned Collector for default. The appeal was filed on 07.04.1986. The Petitioner was continuously absent from 12.04.2010 to 18.09.2012 wherein 28 dates were given in this period of 2½ years. In none of the 28 dates, the Petitioner appeared once. Therefore the Learned Collector rightly dismissed the case for default.</p>	



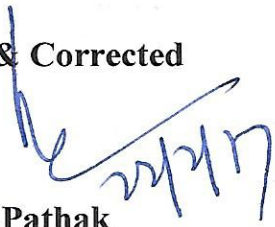

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	<p>(b) Even the Restoration Petition was filed by the Petitioner after three months which too was hopelessly time barred and therefore the Learned Collector was right in not entertaining the Restoration Petition.</p> <p>(c) Coming to the merits of the case, I see that the Petitioner has raised various points before the Learned Collector which included his objection regarding the classification of the land, land for the deities of Ramjanki and Shiv Shankar Parwati, land transferred to other persons and inclusion of certain lands belonging to other person which do not belong to him.</p> <p>(d) Nowhere in the appeal Petition before the Learned Collector which was filed on 07.04.1986, he raised this point that the order against Smt. Kamla Devi was passed on 09.04.1985 whereas she died on 27.03.1985. Therefore, the Petitioner should have raised this issue before the Learned Collector but his appeal Petition is silent on this point.</p> <p>(e) Therefore, in the Revision Petition, his plea that the order passed by the Learned Additional Collector has been passed against a dead person is entirely a new issue he has raised before this Court which he did not raise before the Learned Collector.</p> <p>(f) I have perused the original land ceiling record since the year 1973. Pursuant to the disposal of</p>	

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	<p>objection on 09.04.1985, the Learned Additional Collector was aware of the fact that the land lady Smt. Kamla Devi has died on 27.03.1985. By the time she died, not only action under Section 10(3) was taken but action under Section 11(1) was also complete. From the report of the Circle Officer, it seems that she died issueless and she had adopted Sri Pramod Vyas (the present Revisionist) who is the son of her brother.</p> <p>(g) In fact, I also note that Sri Pramod Vyas has filed a substitution Petition in the land ceiling proceeding and vide order dated 05.01.1985, the Learned Additional Collector had allowed the substitution. <u>The Learned Additional Collector had also noted that his earlier order dated 09.04.1985 therefore also abates because the land lady Smt. Kamla Devi has died.</u></p> <p>(h) Then the Learned Additional Collector issued notice to Sri Pramod Vyas afresh wherein the ceiling proceeding was initiated with the same number but the order was passed wherein the ceiling proceeding had two parties viz. <b><i>Government of Bihar vs. Sri Pramod Vyas.</i></b></p> <p>(i) The Learned Additional Collector then passed a detailed speaking order on 28.11.1985 and while disposing all the objections filed by Sri Pramod</p>	

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	<p>Vyas, finally allowed one unit (30 acres) and declared the rest of the land as surplus.</p> <p>(j) Fresh exercise was undertaken against Sri Pramod Vyas under Section 11(1) even though a similar action under Section 11(1) (regarding publication of draft statement) was taken against Smt. Kamla Devi earlier before her death.</p> <p>(k) Subsequent to her death, action under Section 11(1) was again taken against Sri Pramod Vyas after substituting his name in place of Smt. Kamla Devi.</p> <p>(l) Therefore, it cannot be said that the land ceiling proceeding was drawn against a dead person namely Smt. Kamla Devi. The land ceiling proceeding was concluded with due process against Sri Pramod Vyas who is very much alive.</p> <p>(m) Finally, a notification under Section 15(1) was issued on 29.09.2012.</p> <p>(n) Another point that has come to the notice of this court is that the landholder, after the order of the Learned Additional Collector on 28.11.1985, had continuously remained absent before the Learned Additional Collector and have consistently refused to accept the notification under Section 15(1).</p>	



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	<p>(o) I also note that the said land so declared surplus has already been distributed to the landless persons.</p> <p><b>Conclusion:-</b></p> <p>From the aforementioned findings, it is clear that the Petitioner has tried to mislead this Court by saying that in the land ceiling proceeding, order was passed on 09.04.1985 against a dead person. He conveniently forgot to mention that he was duly substituted by the Learned Additional Collector and who passed many reasoned and speaking orders regarding the Section 11 and Section 15 of Bihar Land Ceiling Act, 1961.</p> <p>I also see that the Petitioner has also tried to mislead this Court by claiming that the original land ceiling case record was called for by the Divisional Commissioner, Thirhut Division whereas no such evidence is available from the perusal of the record of the Learned Additional Collector as well as the Learned Collector.</p> <p>Moreover, I also see that when the Petitioner filed an appeal before the Learned Collector, he was constantly absenting himself for more than two and half years, forcing the Learned Collector to dismiss the case for default.</p> <p>He was also continuously absenting himself from the proceeding of the Learned Additional Collector and steadfastly refused to receive the notification under Section</p>	

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	<p>15(1) for many dates. He even refused to accept the gazette notification as is evident from the record of the Learned Additional Collector.</p> <p>Having perused the Lower Court Records, there seems no merit in the contention of Petitioner. Nor is he entitled for any further relief on account of his Petition being dismissed by the Learned Collector.</p> <p>Therefore in the light of the above, I do not see reason for interfering in the order of the Learned Collector. I also find that there is no case on the merits of the Petitioner. It is evidently proved in the ceiling proceeding, the Petitioner had already been substituted and due procedure was followed and the land so identified was declared surplus.</p> <p>From the record, it also appears that the land so declared surplus has been distributed. The Learned Collector is directed to ensure the same if it is already not been done yet.</p> <p>Revision Dismissed.</p> <div style="display: flex; justify-content: space-around; margin-top: 20px;"> <div style="text-align: center;"> <p>Dictated &amp; Corrected</p>  <p><b>K.K.Pathak</b> Additional Member Board of Revenue, Bihar.</p> </div> <div style="text-align: center;">  <p><b>(K.K.Pathak)</b> Additional Member Board of Revenue, Bihar.</p> </div> </div>	