

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
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## **BOARD OF REVENUE, BIHAR, PATNA.**

Revision (Land Ceiling Surplus) Case No. - 03/2008

Dist. - Purnea

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

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Bindeshwari Rishi and Others	- Petitioner/ Appellant
Versus	
Nathan Paswan & The State of Bihar	-Opposite party

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**Appearance:**

For the Appellant/Revisionist	:Shri Murli Manohar Singh
For the OP	:
For the State	: Shri Nirmal Kumar, Special GP

## **ORDER**

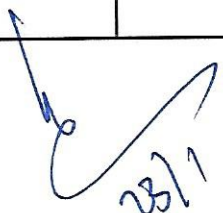
23.01.2017

This is a Revision Petition filed on 18.02.2008 against the order passed by Learned Collector, Purnea on 17.01.2008 in Ceiling Appeal No. 18/2003. The case was dismissed for default on 03.03.2009. Subsequently, a Restoration Petition was filed. The case was restored and admitted for hearing on 20.05.2009. Subsequently, the case was again dismissed for default on 02.11.2010 because of non appearance of parties and again a second restoration was filed.

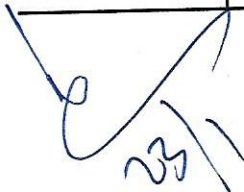
The second restoration was allowed on 22.08.2014. Since then, the case remained part heard on many dates. Finally, the case came up for hearing on 19.01.2017. The Learned Advocate of the Petitioner and

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	<p>Learned Advocate of the OP were heard in great detail. The Learned Special GP was also present and heard.</p> <p>Thus concluding the hearing this order is being passed today.</p> <p>As per the Learned Advocate of the Petitioner, the order under challenge is the order of the Learned Collector, Purnea dated 17.01.2008. The petitioners (two persons), are the Parcha holders. The Learned Advocate mentioned that in 1973, a land ceiling proceeding was started against the original land holder Sri Fani Lal Mehta. On 15.09.1987, a notification under section 15 was issued in which 37.47 acres of land was declared surplus and acquired.</p> <p>Aggrieved at this order the land holder approached the Hon'ble High Court on the issue of option. The Hon'ble High Court allowed the land holder the right to exercise his option vide its order dated 15.11.1990.</p> <p>As a result of this development, the aforementioned notification was again amended and a revised notification was issued on 15.01.1993 in which 21.59 acres of land was declared surplus. This land too was acquired and distributed.</p> <p>Thus, as per the Learned Advocate of the Petitioner, in 1987 and 1993, all the land was acquired and Parcha was distributed and possession was given. The Parcha holders are in possession and they are paying rent as well.</p>	



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	<p>The situation, as per the Learned Advocate of the Petitioner, took a curious turn when the OP filed a Petition after 10 years, on 18.04.2002, under Section 22 (1) of the Bihar Land Ceiling Act, 1961 before the Learned Collector.</p> <p>OP, by the said Petition, claimed that he is a Bataidar. However, he never challenged the Land Ceiling Proceeding between the years 1987 to 1993. He filed a Petition before the Learned DCLR in Case No. 01/2002-03. The Learned DCLR vide order dated 14.04.2003 did not entertain his application.</p> <p>Aggrieved at this order, the OP filed an appeal before the Learned Collector Purnea, who vide order dated 17.01.2008 allowed the appeal and directed that the Parcha issued to the Petitioners be cancelled. Thus aggrieved, the Petitioners have filed this Revision application and hence this proceeding.</p> <p>As per the Learned Advocate of the OP, after the land was declared surplus in 1987, which was the first time, 22 decimals was allotted to the Petitioner No. 1 and 1 acre was allotted to Petitioner No. 2. After the second notification, 1.22 decimals given to the OP from Plot No. 1415 and not to the Petitioners.</p> <p>The Learned Advocate of the OP further claims that after the second notification, the Petitioners did not get any land. To this, the Learned Advocate of the Petitioner intervenes and said that they got the land after the second</p>	





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	<p>notification as well and they are still in the possession of said land.</p> <p>This court asked the Learned Advocate of the OP as to why they took 10 long years to file a Bataidari Application. To this, he mentioned that he was enjoying the peaceful possession of his land. However, in the year 1988, he came in dispute with the land holder who was threatening him since 1988. It was then he filed a Bataidari Application under Section 48E of Bihar Tenancy Act, 1885, before the Learned DCLR which was allowed in his favour.</p> <p>The Learned Special GP was also heard. He mentioned that the State of Bihar is not a party and this is essentially a dispute between two parties.</p> <p>Thus, after having heard the Learned Advocates of both the sides 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) From the perusal of the order passed by the Hon'ble High Court dated 15.11.1990 in CWJC No. 4389/1990, it appears that the proceeding that started in the year 1987 and the notification issued thereon under Section 15 of Bihar Land Ceiling Act, 1961 has been quashed. This also means that any subsequent action taken thereof, and as a result of the said notification dated 15.09.1987, also stands null and void. This, in turn, means that the land settled with the Petitioners and the red cards</p>	





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	<p>issued to them too should have been cancelled and their case be considered in the light of the new notification.</p> <p>(b) It is also clear that no new red card were issued to the Petitioners as a result of the new notification issued on 15.01.1993 by which the earlier notification of the year 1987 was amended.</p> <p>(c) The disputed land covers two villages namely Damgara and Halalpur. In Damgara the area involved in 1.22 acres and Halalpur, the area involved in 1.45 acres.</p> <p>(d) On the above land, with above area, there was a Bataidari claim duly endorsed by the Learned DCLR Purnea under Section 48E of the Bihar Tenancy Act, 1885 vide his order dated 23.03.1991.</p> <p>(e) Of the above land, as the mentioned in Para C above, the entire area of 1.22 acres in Damgara village and 1.40 acres (instead of 1.45 acres) in Halalpur village were declared surplus under the new notification issued under the Bihar Land Ceiling Act, 1961 in the year 1993.</p> <p>(f) Under Section 22 (1) of the Bihar Land Ceiling Act, 1961, the right to grant occupancy rights to an under raiyat rests with the Collector. In that capacity, the Learned DCLR is well within his rights to decide the occupancy rights of an under</p>	



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	<p>raiya. Therefore, the contention of the Learned DCLR in his order dated 14.04.2013 that he is not a Competent Authority to recognize or give occupancy right to an under raiya on a land acquired under Ceiling Act is not correct. In fact Section 22(1) was inserted precisely to protect the right of the under raiya on the land acquired or to be acquired under the Bihar Land Ceiling Act, 1961. Otherwise this provision, i.e. Section 22, would have been included in the Bihar Tenancy Act, instead of the Bihar Land Ceiling Act, 1961.</p> <p>(g)I have also perused of the report of the Circle Officer which established the fact that the OP has been declared as an under raiya under Section 48E of the Bihar Tenancy Act, 1885. It is also established on the report that the OP is in the possession of the land.</p> <p><b>Conclusion:-</b></p> <p>From the foregoing findings, it is clear that the Parchas given to the Petitioners was a result of the notification issued in the year 1987 which was quashed by the Hon'ble High Court. Thus, the Parcha itself stands cancelled.</p> <p>There is no evidence to suggest that the Petitioner was issued another set of Parchas as a result of the amended</p>	





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	<p>notification under Section 15(1) of the Bihar Land Ceiling Act, issued in the year 1993.</p> <p>Thus, it is clear that the Parchas issued to the Petitioners were rightly cancelled by the Learned Collector Purnea as it was a natural corollary to the quashing of the notification by the Hon'ble High Court. That be the case, I find no reason to interfere with the order passed by the Learned Collector Purnea dated 17.01.2008 and the same is upheld.</p> <p>Revision Dismissed.</p> <div style="display: flex; justify-content: space-around; align-items: flex-end;"> <div style="text-align: center;">   <b>Dictated &amp; Corrected</b>  <b>K.K.Pathak</b>  <b>Additional Member</b>  <b>Board of Revenue, Bihar.</b> </div> <div style="text-align: center;">   <b>(K.K.Pathak)</b>  <b>Additional Member</b>  <b>Board of Revenue, Bihar.</b> </div> </div>	