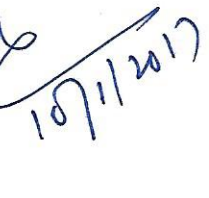



आदेश की क्रम सं० और तारीख	आदेश और पदाधिकारी का हस्ताक्षर 1 2	आदेश पर की गई कार्रवाई के बारे में टिप्पणी तारीख सहित 3															
/ 10.01.2017 	<div data-bbox="580 353 1246 403"> <p><u>BOARD OF REVENUE, BIHAR, PATNA.</u></p> </div> <div data-bbox="587 436 1227 510"> <p>Revision (Land Ceiling Pre-emption) Case No.- 3A/2006 Dist.- Begusarai</p> </div> <div data-bbox="518 548 1064 620"> <p>PRESENT : - K.K. Pathak, I.A.S., Additional Member</p> </div> <div data-bbox="518 667 1244 797"> <table> <tr> <td>=====</td><td></td><td></td></tr> <tr> <td>Mahendra Ram</td><td></td><td>- Petitioner/ Appellant</td></tr> <tr> <td></td><td>Versus</td><td></td></tr> <tr> <td>Mahesh Mahto & Others</td><td></td><td>- Opposite party</td></tr> <tr> <td>=====</td><td></td><td></td></tr> </table> </div> <div data-bbox="518 844 1217 943"> <p><u>Appearance:</u> For the Appellant/Revisionist : Shri Murari Narain Choudhary For the OP :</p> </div> <div data-bbox="783 1081 940 1128"> <p><u>ORDER</u></p> </div> <div data-bbox="416 1211 1302 1744"> <p>This is a Pre-emption Revision Petition filed against the order of the Learned Additional Collector, Begusarai dated 17.01.2016. The case was admitted for hearing on 08.11.2006. Since then, the case remained part heard on many dates. The Lower Court Records took time to reach. Finally, the case came up for hearing in 15.12.2016 where the Learned Advocate of the Revisionist was present. The Learned Advocate of OP was absent continuously and he was absent on this date also.</p> </div> <div data-bbox="416 1765 1297 2000"> <p>However, again the matter was adjourned on 06.01.2017 under the condition that both the parties should be present on that date otherwise the matter shall be decided ex-parte. However, on 06.01.2017, both the parties were</p> </div>	=====			Mahendra Ram		- Petitioner/ Appellant		Versus		Mahesh Mahto & Others		- Opposite party	=====			
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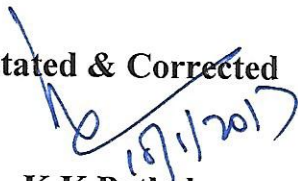

आदेश की क्रम सं० और तारीख	आदेश और पदाधिकारी का हस्ताक्षर 2	आदेश पर की गई कार्रवाई के बारे में टिप्पणी तारीख सहित 3
	<p>again absent. This court feels that no further adjournment may be given as the case has already been going on for the last 11 years.</p> <p>I have perused the material available on the record as well as the Lower Court Records.</p> <p>The case is a very old matter in which this issue had previously come to the Board of Revenue once. The then Additional Member, Board of Revenue vide his order dated 02.04.2003 had filed the matter with the liberty being given to the Petitioner to raise all the points and objections thereon before the Learned Additional Collector.</p> <p>Accordingly, the Petitioner Sri Mahindra Ram (the Revisionist) filed an appeal before the Learned Additional Collector. The Learned Additional Collector vide his order dated 17.01.2016 upheld the order of the Learned DCLR Manjhaul dated 11.05.2002.</p> <p>It is interesting to note the order passed by the Learned DCLR on 11.05.2002. The order was as under:-</p> <p>‘This Pre-emption case is conditionally admitted. The condition is that the Petitioner has to file certified copy of sale deed within a week. Put up on 22.05.2002.’</p> <p>Against the above conditional admittance of the case, the purchaser Revisionist had gone to the higher court in appeal rather than waiting for the disposal of the matter on merits by the Learned DCLR. From the perusal of the record of the Learned DCLR, it does not appear that there has been a final order so far in this case of Pre-emption.</p>	

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आदेश की क्रम सं० और तारीख	आदेश और पदाधिकारी का हस्ताक्षर 2	आदेश पर की गई कार्रवाई के बारे में टिप्पणी तारीख सहित 3
	<p>What happened was that against the interim order of Learned DCLR, the purchaser went in appeal to the Learned Additional Collector who vide order dated 17.01.2006 upheld the interim order of the Learned DCLR on 11.05.2002 as well as the interim order dated 24.09.2002 regarding admitting the case of Pre-emption. The Learned DCLR had not passed any final order regarding whether the Pre-emption is to be allowed or not. In both these dates viz. 11.05.2002 and 24.09.2002, Learned DCLR only allowed admittance of the Pre-emption matter.</p> <p>While in the earlier date, the admission was conditional, in the latter date i.e. 24.09.2002, he has passed a speaking order after hearing both the sides and held that the Pre-emption case the admitted. He further gave further date of 30.09.2002 for the Pre-emptor to bring his evidence and witnesses. It also seems that he has recorded evidence of three witnesses on behalf of the Pre-emptor.</p> <p>However, sometime in 2003, further movement in the court of Learned DCLR stopped as the Learned Additional Collector had called for the records as the Lower Court as the Revisionist had filed an appeal in the court of the Additional Collector.</p> <p>The Learned Additional Collector, vide order 17.01.2006 upheld the order of the Learned DCLR dated 24.09.2002 basically holding that the Pre-emption case may continue at the Court of the Learned DCLR.</p> <p>However, the purchaser (Revisionist) Sri Mahendra Ram filed a Revision application before the Board</p>	

आदेश की क्रम सं० और तारीख	आदेश और पदाधिकारी का हस्ताक्षर 2	आदेश पर की गई कार्रवाई के बारे में टिप्पणी तारीख सहित 3
	<p>of Revenue against the order of the Learned Additional Collector dated 17.01.2006 and hence this proceeding.</p> <p>In his Revision Application, the Revisionist has mentioned that he has purchased a piece of land measuring 5 katha 15 dhur from the vendor. However, the Pre-emptor Sri Satya Narayan Singh alias Satya Narayan Mahto (OP in this case) who is adjacent raiyat has filed a Pre-emption Petition on the ground that he is an adjacent raiyat.</p> <p>During the pendency of the case, the said Sri Satya Narayan Mahto died leaving behind three sons namely Mahesh Mahto, Saligram Mahto and Tejnarayan Mahto. The said substitution was allowed by this court.</p> <p>Therefore, from the above it is clear that there is no final order passed by the Learned DCLR on which this court can pass a judgement under Section 32 of Bihar Land Ceiling Act, 1961. Neither the Learned DCLR has allowed nor rejected the Pre-emption case.</p> <p>From the perusal of the records, it appears that the Pre-emptor claims to be a boundary raiyat whereas the purchaser Revisionist claims to be a Parchadhari belonging to Schedule Caste category.</p> <p>The problem with the entire proceeding is that the Revisionist has been rushing to the higher courts even against interim orders where the Lower Court has merely admitted a Pre-emption case for hearing. This has happened twice before this Board of Revenue.</p> <p>Accordingly, the Revisionist is advised to wait for a final order, if any, by the court of the Learned DCLR and then approach the appropriate forum for any relief. To</p>	

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आदेश की क्रम सं० और तारीख	आदेश और पदाधिकारी का हस्ताक्षर 5 2	आदेश पर की गई कार्रवाई के बारे में टिप्पणी तारीख सहित 3
	<p>that end, this court is unable to pass any order because there are no final orders passed by any Lower Court below upon which this court can exercise its Revisional Authority.</p> <p>Revision Dismissed.</p> <p>Let a copy of this order be sent to the Learned DCLR Manjhaul who may continue with the proceeding in his court (Case No 2/2002-03) and take it to its logical conclusion. The Learned DCLR should preferably finalise this case within the period of three months. Without waiting for any party to approach the Learned DCLR, he is advised to issue notices to both the parties and take a final view on the Pre-emption application.</p> <p>The Petitioner is abstained from approaching any Revenue Authority, whether Additional Collector or this court against any interim order/observation passed by the Learned DCLR and wait for final order being passed in the Pre-emption proceeding and then approach the appropriate appeal forum, if aggrieved.</p> <div style="display: flex; justify-content: space-around; margin-top: 20px;"> <div data-bbox="416 1480 815 1771"> <p>Dictated & Corrected</p>  <p>K.K.Pathak Additional Member Board of Revenue, Bihar.</p> </div> <div data-bbox="868 1447 1267 1778">  <p>(K.K.Pathak) Additional Member Board of Revenue, Bihar.</p> </div> </div>	