

परीक्षा सं०  
प्राप्ति

1  
आदेश और पदाधिकारी का हस्ताक्षर

2

आदेश पर की गई  
कार्रवाई के बारे में  
दिनांकी तारीख सहित

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

Revision (Land Ceiling Surplus) Case No.- 09/2016

Dist.- East Champaran

PRESENT :- K.K. Pathak, I.A.S.,  
ADDITIONAL MEMBER

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Fulena Ram & Ors.

- Petitioner/ Appellant

Versus

The State of Bihar & Others-

- Opposite party

## **Appearance:**

For the Appellant/Revisionist : Sri Yugal Kishore

For the OP :

For the State : Sri Nirmal Kumar, Special G.P.

## **ORDER**

06.12.2016

The Learned Special G.P. is present. The Learned Advocate of Revisionist is also present. From the perusal of the note sheets, it appears that the case was to be heard on the point of admission. In the meantime hearing could not take place as the then Hon'ble Additional Member was on leave.

The case was heard today and prima facie the Revision was found to be on a valid point of the order of the Collector dated 13.12.1993 wherein the Learned Collector had ordered that the status quo will be maintained in the instant case. Further, heard the Learned Advocate on the merits of the case.

As per the Learned Advocate, it appears that on same piece of land, two different sets of PurchaDharis were given Purchas by the Collectors in two different time periods viz. once in 1982 and then in 1991. The Learned Advocate is representing the first set of Purcha Owners namely, Sri Fulena Ram and 16 others. The case of the Revisionist is that these Purcha Owners got the Purcha on 11.01.1982, got the possession of the land and the Jamabandi was created on their

names. However in the year 1982, on a complaint by the local political groups, the Collector cancelled the Purchas on 11.01.1982 without waiting for any verification report and without mentioning any ground for the same. The Revisionist went to the Commissioner against the order of the Collector who remanded the matter back to the Collector.

Accordingly, a Miscellaneous Case No. 7/86 was filed in the court of the Collector wherein the Collector passed the order of maintaining status quo on 13.12.1993. It may be noted that, in the year 1991, the District Administration complicated the matter by distributing the same land to another set of Purcha Owner and this has resulted in bad bloods between two groups. As per the experience of the Revisionist, the local peace of the area is disturbed at the time of harvesting of crops. Even 15 days ago, bloodshed between two parties happened over the issue of harvesting. The Learned Advocate further mentioned that whenever harvesting seasons comes, the two groups fight each other. Thus fed up, he wants finality to this problem.

The Learned Special G.P. was heard in detail. He mentions that the Revision petition is not maintainable because the Revisionist should have made the other group also as party. They are aware that who the second group is and hence they should have been made necessary parties.

Perused the order of the Learned Collector and the order passed by the Hon'ble Commissioner, Muzaffarpur dated 03.11.2015. It appears to be clear case where a plot of land acquired through the original landlord Sri Raghupati Singhania was distributed to different sets of Purcha Owners in two different times.

वी.सं. सं० संख्या	3 आदेश और पदाधिकारी का हस्ताक्षर 2	आदेश पर की गई कार्रवाई के बारे में दिवाणी तारीख सहित 3
	<p>A total of 18.14 acres was declared Surplus and of which 13.5 acres of land distributed in 1982 between 19 people viz. 7 SC, 7 OBC, 1 Military and 4 Upper caste people. Subsequently the SDO, Motihari confirmed this distribution on 10.12.1981. However, subsequent inquiries found that this land was settled with outsiders and hence the Collector on 11.4.1982 cancelled the Purcha of all these 19 peoples and ordered that the land be distributed to the landless needy people.</p> <p>Thereafter, the Circle Officer Harshidhi, in the year 1992, again submitted the proposal of settling the land to 30 other families. Against this second distribution, the first group approached the Hon'ble High Court who in CWJC No. 4875/1992 ordered that the Petitioner should not be disturbed till the pendency of Miscellaneous Case no. 7/86 in the Court of the Learned Collector.</p> <p>It is pertinent to note that as per the directions of Hon'ble Commissioner, the Learned Collector himself conducted a physical inspection of the disputed land. He found that the first set of Purcha Dhari's (who were given Purchas in 1982 and whose Purchas were subsequently cancelled) were in the possession of the land. But at the same time, it was also confirmed that certain Purcha Owners belong to other villages and some were already owning land but yet they were able to get themselves more land allotted. It was also confirmed during the Collector's inspection that the second set of Purcha Owners are not in the possession of this land.</p> <p>This has resulted in a peculiar situation where those who have the Purchas do not possess the land whereas</p>	



the ones who possess the land do not have any valid Purcha with them anymore.

The Collector chose the convenient way out in order to avoid any law and order situation. He decided to maintain the status quo. The same order of the Learned Collector was upheld by the Hon'ble Commissioner in his order dated 03.11.2015. Thus the Revisionist did not get any relief from the Commissioner also and their request for restoring their Purchas (cancelled in 1982) was not entertained. Now the Revisionist has come before this Court for restoration of his Purchas.

While the order of the Learned Collector seemed relevant and practical in the year 1983 as the then Collector chose to keep the peace at the expense of law. However, a temporary status quo cannot be allowed to continue for 23 long years and the Collector should decide for order once and for all.

Evidently, the State has erred by distributing a Purchas again in 1991 without taking back the possession from the 1982 settlees. It has so happened now that many of the ineligible 1982 settlees have been enjoying the possession of the land for the last 33 years. However, any claim of adverse possession in the favour of these settlees would not hold ground as the they were never under a peaceful possession and their possession was under challenge right from the year 1982 itself.

Accordingly, the matter is remanded back to the Learned Collector who should visit the site again and decide the matter in light of the law. While deciding the matter, the

<p>को सजा सं० प्रीतिपुर</p>	<p>5 आदेश और पदाधिकारी का हस्ताक्षर 2</p>	<p>आदेश पर की गई कार्रवाई के बारे में दिवाणी तारीख सहित 3</p>
	<p>Learned Collector should inter alia, give due consideration to the following aspects :-</p> <p>A. Whether the original Purcha Owners (settled in 1982) should get the precedence over the Purcha Owners settled in 1991?</p> <p>B. Whether those Original Purcha Owners who fulfil the eligibility of land settlement and are in possession of the land should have a right for restoration of their original Purchas?</p> <p>C. Whether those amongst the 1982 settlees, who do not qualify as per the guidelines of land settlement, their Purchas may continue to remain cancelled?</p> <p>D. The Learned Collector may also consider whether belonging to a different village, in itself makes a person in eligible for land settlement.</p> <p>With the above observations, I remand the matter back to the Learned Collector who shall pass a reasoned order within three months Learned Advocate and give finality to the Miscellaneous Case No 7/86 pending in his Court.</p> <div style="display: flex; justify-content: space-between; margin-top: 20px;"> <div data-bbox="411 1460 815 1711"> <p><b>Dictated &amp; Corrected</b> <i>6/12/2016</i> <b>K.K.Pathak</b> Additional Member Board of Revenue, Bihar.</p> </div> <div data-bbox="868 1527 1272 1664"> <p><i>6/12/2016</i> <b>(K.K.Pathak)</b> Additional Member Board of Revenue, Bihar.</p> </div> </div>	