
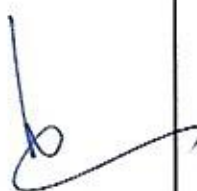


| आदेश की क्रम सं० और तारीख 1 | आदेश और पदाधिकारी का हस्ताक्षर 2 | आदेश पर की गई कार्रवाई के बारे में टिप्पणी तारीख सहित 3 |
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| 13.02.2017 | <p style="text-align: center;"><u>BOARD OF REVENUE, BIHAR, PATNA.</u></p> <p style="text-align: center;">Revision (Land Ceiling Surplus) Case No. - 15/2008 Dist. - Bhagalpur</p> <p>PRESENT :- K.K. Pathak, I.A.S., Additional Member</p> <p>=====</p> <p>Chandra Shekhar Yadav and Others - Petitioner/ Appellant Versus The State of Bihar & Ors. - Opposite party =====</p> <p><u>Appearance:</u> For the Appellant/Revisionist : Shri Dronacharya For the OP : For the State : Shri Nirmal Kumar, Special G.P.</p> <p style="text-align: center;"><u>ORDER</u></p> <p>This is a ceiling surplus case in which a Revision application was filed on 30.12.2008 against the order passed by Learned Collector, Bhagalpur on 19.07.2007 in Ceiling Case No. 38/1992-93. The case was admitted for hearing and the delay in filing the Revision application was condoned on 20.11.2014. Since then, the case remained part heard on many dates. The Lower Court Records took time to reach.</p> <p>The case finally came up for hearing on 02.02.2017. On this date, the Learned Advocate of the Petitioner was heard in great detail. The Learned Special GP was also heard on behalf of the State. Thus concluding the hearing, this order is being passed today.</p> | |

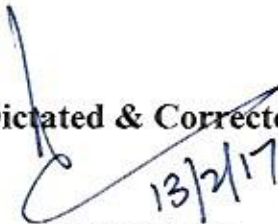

| आदेश की क्रम सं० और तारीख 1 | आदेश और पदाधिकारी का हस्ताक्षर ² 2 | आदेश पर की गई कार्रवाई के बारे में टिप्पणी तारीख सहित 3 |
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| | <p>The Learned Advocate of the Petitioner mentioned that he purchased the land from one Sri Raj Kishore Rai. The original land belonged to Sri Thani Ram Marwari who was owning 121 bighas of land. From Thani Ram Marwari, the land was purchased by Sri Gena Rai and the Petitioner purchased the land from Sri Raj Kishore Rai who is the heir of Gena Rai.</p> <p>As per the Learned Advocate, there are five Petitioners, all belonging to the same family. The total land involved in the dispute is 26 bighas. The Petitioner purchased 21 bighas from Raj Kishore Rai and 5 bighas from Jabbar Baitha.</p> <p>Continuing his arguments, the Learned Advocate further mentioned that a Land Ceiling proceeding was drawn against the heirs of Madan Mohan Rai and his above mentioned land has been wrongly included in the said ceiling proceeding.</p> <p>He agrees that he purchased the land in 1980 whereas the ceiling proceeding was started in the year 1976. He came to know of this fact in the year 1992 and moved the Hon'ble High Court in CWJC No. 4625/1992. He withdrew his writ with the liberty to seek remedy under Section 45B of Bihar Land Ceiling Act, 1961.</p> <p>He filed a Petition before the State Government which remanded the matter to the Learned Collector Bhagalpur. The Learned Collector Bhagalpur, vide his order dated 19.07.2007, dismissed his Petition. Thus aggrieved, he</p> | |

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| | <p>has come for Revision before the Board of Revenue. And hence this proceeding.</p> <p>Concluding his argument, the Learned Advocate mentioned that the report of the Circle Officer, as enclosed Annexure 3 of the Revision Petition, is in his favour. Moreover, he mentioned that in a similar matter regarding one Khajanchi Yadav who also purchased the land from the same vendor from whom he had purchased, the Learned Collector had dropped the ceiling case vide his order dated 26.05.2004. He further says that as per Annexure 5, 6 and 7 of the supplementary affidavit, he is in the possession of the land.</p> <p>The Learned Special GP appearing on behalf of the State points out that the relevant Section i.e. Section 45B of Bihar Land Ceiling Act, 1961 has since been deleted and hence all pending proceedings abate. Furthermore, the Learned Special GP draws the attention of this Court to the fact that the land was purchased in 1980 whereas the ceiling proceeding started in 1976. Therefore, the Petitioner had purchased the land which was fully covered under the ceiling proceeding. Moreover, the land has been distributed much earlier and the Parcha dharis are in peaceful possession of the land.</p> <p>Having heard the Learned Advocate of the Petitioner as well as the Learned Special GP and having perused the material available on record including the Lower Court Records, my own findings on the matter are as under:-</p> | |

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|  | <p>(a) I find that the Section 45B was deleted in the year 2016 whereas the Learned Collector had disposed of this Petition under Section 45B in the year 2007 itself. The instant proceeding before the Board of Revenue is not a proceeding under Section 45B but it is a proceeding pending under Section 32 of Bihar Land Ceiling Act, 1961. Hence this proceeding is not, in any way, affected by the deletion of Section 45B.</p> <p>(b) A Ceiling Proceeding No. 387/1976 was started in the year 1976 against the land holder Smt. Siyawati Devi, Devendra Nath Rai and Devakar Rai. The original land holder was Sri Madan Mohan Rai against whom the ceiling proceeding was initiated. However, he died during the proceeding and hence legal heirs were drawn in to the proceeding. It is admitted fact that the land was purchased by the Petitioner in the year 1980 where as the ceiling proceeding was started in 1976. The land was distributed subsequently. However, the Petitioner remained silent for so many years which delay has not been adequately explained by the Petitioner.</p> <p>(c) The contention that the disputed land is different from the ceiling land so declared surplus in the Ceiling Proceeding No. 387/1976 is not borne out from the order of the Learned Additional Collector dated 25.03.1988. In fact, no such list was</p> | |

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|  | <p>submitted by the landholder Smt. Siyawati Devi in the ceiling proceeding.</p> <p>(d) From the perusal of the record of Anchal Adhikari Beldaur, vide Letter No. 367 dated 22.03.1981, it is clear that the vendor of Petitioner's vendor Sri Thani Ram Marwari never appeared as a jamabandi raiyat.</p> <p>(e) Coming to the contention of the Petitioner that Annexure 5, 6 and 7 of the supplementary affidavit that he is in possession, I have perused the three Annexures in question. Contrary to the argument, these Annexures only prove that the land is not in the possession of the Petitioner. In fact, Annexure 7 only indicates that the land is in the possession of Parcha dharis and the Circle Officer has directed, vide Annexure 7, the Parcha dharis to vacate the land in the light of High Court order.</p> <p>(f) I also note that the said Parcha dharis are in the peaceful possession of the land settled with them and as such this matter has achieved finality in so far as the ceiling case is concerned.</p> <p>(g) Regarding the contention of the Petitioner that the disputed land does not belong to the land holder, the Petitioner has not enclosed a single document to suggest that he owns the land by virtue of the sale deed. In fact, the Petitioner has not even enclosed the copy of the sale deed vide which he</p> | |

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| | <p>has reportedly purchased the land in 1980 from the heirs of Gena Rai. Therefore, he has not been able to prove his case beyond doubt. Coupled with this, it is also noted that the land was purchased by him much after the ceiling proceeding started in 1976.</p> <p>Conclusion:-</p> <p>From the aforementioned findings, it is clear that the Petitioner has not been able to give any cogent argument in his support to suggest that the land under dispute is different than the one in which the ceiling proceeding has been drawn. Moreover, it is an admitted fact by the Petitioner himself that he purchased the land in 1980 which is much after the initiation of the ceiling proceeding in 1976.</p> <p>It is difficult to believe that he was not aware that the land, he was about a purchase, was involved in a ceiling proceeding. It is natural and obvious for any purchaser to approach the Anchal Office or the Revenue Authorities and find out the status of land including the ownership before purchasing any property. This Court finds it unbelievable that the Petitioner would purchase a huge chunk of land measuring 26 bighas without bothering to find out the ownership of the land.</p> <p>Had the Petitioner been careful enough, he would have certainly come to know that the land he is planning to purchase is involved under the ceiling proceeding. Therefore, what can be safely concluded is that</p> | |

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| | <p>the Petitioner is merely a front for the land holder to salvage a certain area of land from the ceiling proceeding in the background of the argument that this land does not belong to the land holder.</p> <p>Therefore, I find that the order passed by the Learned Collector on 19.07.2007 is perfectly in accordance with law and as such I don't see any reason to interfere in the said order. That be the case, the said order is here by upheld.</p> <p>Revision Dismissed.</p> <div style="display: flex; justify-content: space-around; margin-top: 20px;"> <div style="text-align: center;">  Dictated & Corrected K.K.Pathak Additional Member Board of Revenue, Bihar. </div> <div style="text-align: center;">  (K.K.Pathak) Additional Member Board of Revenue, Bihar. </div> </div> | |