

की क्रम सं०
परीक्षणीय

1
आदेश और पदाधिकारी का हस्ताक्षर

2

आदेश पर की गई
कार्रवाई के बारे में
दिवाणी तारीख सहित
3

BOARD OF REVENUE, BIHAR, PATNA.

Revision (Land Ceiling Surplus) Case No.- 15/2016.

Dist.- Darbhanga

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

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Md. Manzar Alam and Others

- Petitioner/ Appellant

Versus

The State of Bihar & Others-

- Opposite party

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Appearance:

For the Appellant/Revisionist : Sri Bhuwaneshwar Prasad

For the OP :

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

ORDER

06.12.2016

The Learned Advocate of the Revisionist is present. The Learned Special G.P. is also present. Heard the Learned Advocate of the Revisionist on merits of Revision. The Revisionist has come in appeal against the order of the Collector dated 05.04.2005 wherein the Learned Collector, having found the Appellant absent on three consecutive dates had dismissed the Appeal. The Appeal was against the order of the Learned Additional Collector dated 7.7.95 wherein his entire land equivalent to 55 acres was declared as Ceiling Surplus.

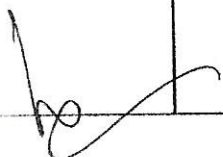
The main contention of the Revisionist is that they are three brothers namely, Md. Sheikh Suleman, Md. Sheikh Abdul Hafiz and Md. Sheikh Abdul Zaleel. Between the three brothers, they have held land equivalent to 58 bighas which when converted, comes to 51.12 acres. He says that the Circle Officer, Benipur while sending the verification report of the three brothers did not send the genealogical table and hence the Additional Collector, on

11.7.95 declared the entire chunk of land as Ceiling Surplus and sent the list for publication in the district Gazette. Aggrieved at the orders of the Collector, the Petitioner filed a writ before the Hon'ble High Court CWJC No. 18617/2001 wherein the Court observed on 19.05.2015 that the Petitioner should approach the appropriate forum and hence this Revision Petition. In between, with the wrong legal advice, the petitioner had approached the Divisional Commissioner who on 05.11.2007 rightly rejected the Revision and advised the Petitioner to approach the Board of Revenue.

The Learned Advocate of the Revisionist further mentioned that the lower court records are not available and LCR may be called for. This Court wanted to know for what reason the Learned Advocate is insisting on calling for the original records of the lower courts, when the certified copies of the note sheets of the Learned Additional Collector's Court, the order of the Learned Collector and the order of the Hon'ble Commissioner is already available on the record. The Learned Advocate could not give any convincing reason and as such this Court is not inclined to insist on asking for original records of the lower courts and thereby wasting time. Thus, the matter was heard on merits.

Heard the Learned Special G.P. at great length who questions the intention of the Revisionist and draws the attention of the Court as to why the Revisionist had preferred a miscellaneous appeal before the Learned Collector. He further mentions that the Revisionist wants to delay the matter under section 45B. The Learned Advocate of the

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	<p>Revisionist claims that 45A or 45B does not apply in his case and he wants the matter to be decided on merits.</p> <p>From the perusal of the record as well as revision application, it is clear that certain procedural error has been committed by the Learned Additional Collector who decided to allöcate no units to the Revisionist in the absence of any genealogical table. The reason for not giving any units, as mentioned in the Additional Collectors order dated 7.7.95 is that since there is no certified genealogical table received from the Circle Officer, Benipur, the entire chunk of land is declared Surplus. This, in the opinion of this Court, cannot be supported and hence I find it difficult to agree with the Additional Collector's order who left no piece of land with the land holders. There cannot be a situation where a land holder is given zero units unless and until there exists an adequate justification which must be clearly brought out in the order as to why a particular land holder is not entitled for any units what so ever.</p> <p>In that view of the matter, I remand the case back to Learned Collector, Darbhanga who shall look into the matter afresh and pass a speaking order within three months. While considering the case afresh the Collector shall, inter alia, look into the following aspects:-</p> <ol style="list-style-type: none"> 1. What is the total land holding between the three brothers viz. Md. Sheikh Suleman, Md. Sheikh Abdul Hafiz and Md. Sheikh Abdul Zaleel? 2. What is the number of units allotted to them? If no units are allowed then adequate justification should be given. 	

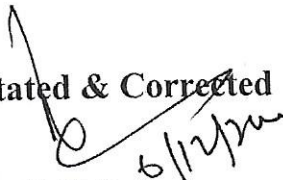


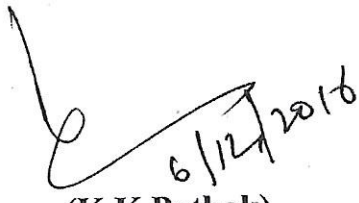
3. Whether the total area at hand is 55 acres or 51.20 acres?

4. What were the pressing reasons of non publication of district Gazette till 11.03.2015 even though the request for the publication was sent on 23.11.1995. (Reference is drawn to RTI reply by the Additional Collector vide let no. 716 dated 11.03.2015).

5. What was the reason for non publication of district Gazette till 23.03.2015 even though the request for the publication was sent on 17.03.2006? (Reference is drawn to RTI reply by the Additional Collector vide let no. 916 dated 23.03.2015).

To the extent above, the Revision is allowed and matter stands remanded to the Learned Collector, Darbhanga who shall pass a speaking order within three months.

Dictated & Corrected

K.K.Pathak
Additional Member
Board of Revenue, Bihar.


(K.K.Pathak)
Additional Member
Board of Revenue, Bihar.