

आदेश की क्रम सं० और तारीख 1	आदेश और पदाधिकारी का हस्ताक्षर 2	आदेश पर की गई कार्रवाई के बारे में दिप्पणी तारीख सहित 3										
27.02.2017	<p style="text-align: center;"><b><u>BOARD OF REVENUE, BIHAR, PATNA.</u></b></p> <p style="text-align: center;">Revision (Land Ceiling Surplus) Case No . – 17/2016, 18/2016 &amp; 24/2016 Dist. – Bettiah</p> <p>PRESENT        :-        K.K. Pathak, I.A.S., Additional Member</p> <p style="text-align: center;">=====</p> <table style="width: 100%; border: none;"><tr><td style="width: 50%;">Dhruveshwar Singh &amp; Others</td><td style="width: 50%; text-align: right;">- Petitioner/Appellant</td></tr><tr><td colspan="2" style="text-align: center;">Versus</td></tr><tr><td>The State of Bihar &amp; Others</td><td style="text-align: right;">- Opposite Party</td></tr></table> <p style="text-align: center;">=====</p> <p><b><u>Appearance:</u></b></p> <table style="width: 100%; border: none;"><tr><td style="width: 50%;">For the Appellant/Revisionist</td><td style="width: 50%; text-align: right;">: Jainul Abidin</td></tr><tr><td>For the State</td><td style="text-align: right;">: Shri Nirmal Kumar, Special G.P.</td></tr></table> <p style="text-align: center;"><b><u>ORDER</u></b></p> <p>This is a ceiling surplus matter in which a Revision Application has been filed on 17.03.2016 against the order passed by the Learned Collector, Bettiah on 27.02.2016 in Case No. 25/1991-92. The case was admitted for hearing on 28.12.2016. The Lower Court Records were called for and were received in time.</p> <p>There are three analogous cases concerning the same issue viz. Revision Case No. 17/2016, 18/2016 and 24/2016. At the request of the Learned Advocate of the Petitioner and the Learned Special GP, these three cases were amalgamated. Case No. 17/2016 is filed by Sri Dhruveshwar Singh, who is the son of the original</p>	Dhruveshwar Singh & Others	- Petitioner/Appellant	Versus		The State of Bihar & Others	- Opposite Party	For the Appellant/Revisionist	: Jainul Abidin	For the State	: Shri Nirmal Kumar, Special G.P.	
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	<p>landlord Late Markandeshwar Singh. Case No. 17/2018 is filed by Sri Vishwanath Singh and Jayant Singh, who are the transferees and as per the claim of the Learned Advocate of the Petitioner, they purchased the land on 29.07.1970, before the appointed date of 09.09.1970. Case No. 24/2016 is filed by the three daughters of the landlord Late Markandeshwar Singh namely Smt. Geeta Singh, Smt. Sunita Singh and Smt. Usha Singh and his son Sri Sureshwar Singh.</p> <p>The case came up for final hearing on 13.02.2017. On this date, the Learned Advocate of the Petitioner was heard in great detail. The Learned Advocate of the Parchadharis was also heard. The Learned Special GP also argued on behalf of the State. Thus concluding the hearing, this order is being passed today.</p> <p>As per the Learned Advocate of the Petitioner, the original Land Ceiling Proceeding, No. 11/1973-74, was started against Sri Markandeshwar Singh. The total land involved was 217.73 acres. Markandeshwar Singh's brother Tarkeshwar Singh was allowed one unit, however, his three daughters and one son were not allowed any unit claiming that they were minors as on 09.09.1970.</p> <p>Continuing his arguments, the Learned Advocate mentioned that in the said ceiling proceeding, vide order dated 01.07.1971, six units were allowed to the landholder. Moreover, it was held that the landholder has no surplus and accordingly the said proceeding was dropped.</p>	

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	<p>However, after coming into force of Section 32B, a fresh draft statement was published on 08.09.1982. In the said initiation of fresh proceeding, no fresh verification was carried out.</p> <p>The Learned Advocate further mentioned that after the publication of the said draft statements, he filed an objection before the Learned Collector. Firstly, he mentioned that large number of land was transferred before 22.10.1959 but the Lower Court had held these transfers to be benami. As per the Learned Advocate, under Section 5 (1) (iii), the Learned Collector can enquire transfer made after 22.10.1959 and not such transfers which were made before 22.10.1959.</p> <p>There were other objections which were raised before the Learned Collector which have been detailed in Annexure-9 of this Revision application.</p> <p>The Learned Advocate mentioned that all the objections, however, were rejected by the Learned Additional Collector, vide order dated 26.12.1986, and his units were slashed to six (earlier) units from three units in the name of Markandeshwar Singh, his brother Tarkeshwar Singh, and his son Dhudheshwar Singh.</p> <p>Aggrieved at the order of the Learned Additional Collector, he filed an appeal (total 9 appeals) before the Learned Collector who remanded the matter back to the Learned Additional Collector, vide order dated 27.12.1988, with certain directions. On</p>	



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	<p>remand, the Learned Additional Collector again passed an order dated 28.08.1991 without making any enquires with regard to the transfers the Petitioner had made.</p> <p>The Learned Advocate of the Petitioner mentioned that his only claim is three additional units on account of Smt. Geeta Singh, who is older to Dhudheshwar Singh (in whose name one unit has already been sanctioned), Smt. Sunita Singh who is older to Sureshwar Singh, and Sureshwar Singh himself as he was a major on 09.09.1970.</p> <p>Regarding the age of Sureshwar Singh, no enquiry was made by the Lower Court from Principle of the school concerned. The Petitioner, however, had filed a Janamkundali and an Ossification report to prove that he was a major on 09.09.1970.</p> <p>Concluding his remarks, he claims that he is still in possession of the land. He further mentioned that he was also not given the right to exercise the option under the Land Ceiling Act.</p> <p>The Learned Advocate of the Parchadharis was also heard. The Parchadharis are the Interveners in this case. As per him, the Parchadharis was given the Parchas in 1992 itself and the possession was delivered to them in November 1992. As per the Learned Advocate, altogether 254 people were given Parchas from various villages. In the instant Intervener Application, 167 people belonging to one village Salaha are the Interveners. As per the Learned Advocate of the Parchadharis, in the village Salaha, there</p>	

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	<p>is no land belonging to the landholder as per the landholder himself. Hence, their Parchas need not be disturbed.</p> <p>I also heard the Learned Special GP on behalf of the State. He draws the attention of this Court to the order passed by the Hon'ble High Court in CWJC No. 11780/2015. It appears from the said order that the matter is still pending before the Hon'ble High Court. There cannot be two parallel proceedings on a similar issue.</p> <p>Continuing his arguments further, the Learned Special GP mentioned that the land has been already distributed to the various persons. Moreover, the said transfer of land made by the Petitioners were made after 1959 and not before 1959. In fact, most of the sale deeds are dated 08.08.1970.</p> <p>Concluding his arguments, he mentioned that the Land Revenue Authorities have made an on- the- spot inspection and found that all those lands, which have been alleged to have been transferred, are still in the hands of landholder. Even the mutation is still in the name of the landholder, much after the sale deeds have been executed. These sales, therefore, were made to defeat the provisions of the Ceiling Act. Furthermore, the Petitioners have not produced any paper to support that they are in the possession of land.</p> <p>To this, the Learned Advocate of Petitioner intervened that there are sale deeds which belong to the period of 1940 and</p>	

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	<p>1943. He approached the Hon'ble High Court in 2015 when the settlees were disturbing his possession. He draws the attention of this Court to Page 93 of his Revision application which proved that the settlees are not in possession but the Petitioner himself in the possession.</p> <p>The Learned Advocate of the Parchadharis also intervened and mentioned that the landholder filed an appeal before the Learned Collector which was pending for 15 years in the Court of the Learned Collector.</p> <p>Having heard the Learned Advocate of the Petitioner, the Learned Advocate of the Parchadharis who are the Interveners, the Learned Special GP and having perused the material available on record as well as the Lower Court Records, my own findings on the issue are as under:-</p> <p>(a) I will first deal with the issue of the age of Sri Sureshwar Singh who, as per the Petitioner, was a major as on 09.09.1970. There has been no evidence filed before the Court of the Learned Additional Collector to suggest that Sri Sureshwar Singh was a major on 09.09.1970. This, in spite of the specific direction of the Learned Additional Collector to file the matriculation certificate which he did not do. The Learned Additional Collector, therefore, rightly denied a unit on behalf of Sri Sureshwar Singh vide order dated 28.08.1991.</p>	



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	<p>(b) I also note that this issue was also dealt at length by the previous Learned Additional Collector, Bettiah who, vide order dated 26.01.1987, held that even though the Petitioner has submitted a medical report and the school leaving certificate, it was asked then to submit his matriculation certificate and the Petitioner still did not submit the certificate. As per the report of the Circle Officer, it was mentioned that Sri Sureshwar Singh was studding in BA third year in the year 1976 which was, submitted on the basis of enquires the Circle Officer made with the landholder. If that be the case, then surely Sri Sureshwar Singh must have passed the matriculation. This Court fails to understand why the matriculation certificate is not being submitted. In that light of the matter, it is difficult to place reliance on the medical report or the Janamkundali or the School Leaving Certificate.</p> <p>(c) It is also a fact that the landlord is not in the peaceful possession of the land and the said land is in the possession of the Parchadharis.</p> <p>(d) Regarding the land transferred by the landholder before 22.10.1959, I find that the Learned Additional Collector had allowed 21.44 acres to be excluded on account of such transfers which he found to be valid. In addition to that, some land was excluded by the</p>	

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और तारीख  
1

आदेश और पदाधिकारी का हस्ताक्षर

2

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

earlier Additional Collector vide order dated 26.12.1986. Hence, it can be held that the landholder has already got significant relief in this account. In the two orders passed by the Learned Additional Collector dated 26.12.1986 and 28.03.1991, the landholder has got a relief of roughly 79 acres of land which was excluded from the ceiling proceeding as these were found to be transferred validly.

(e) All other transfers made were in the form of gifts to the minor daughters. The landholder has failed to prove that the daughters who he gifted the land were major as on 09.09.1970.

(f) I also find that there are sufficient reports of the Circle Officer ranging from the year 1990 which suggest that much of the land alleged to have been transferred are very much in the possession of the landholder indicating that the said transfers have been made to escape the ceiling law. I specifically note that even where a jamabandi has been created in the name of some other persons, the jamabandi appears in the name of C/o Markandeshwar Singh which illustrates that even the land, that has been transferred and the jamabandi has been created, still the name of the landholder (Markandeshwar Singh) appears in the mutation register in some form or the other.



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	<p>(g) Coming to the issue of granting three units on behalf of Smt. Geeta Singh, Sunita Singh and Sureshwar Singh, no evidence has been produced by the landholder to suggest that they were major as on 09.09.1970. The janamkundali or an affidavit is not a reliable evidence to suggest that the said wards of the landholder were major as on 09.09.1970. There is a medical report with respect to Sri Sureshwar Singh which is signed by an Medical Officer of Bagha PHC. It says that as on the year 1984, Sri Sureshwar Singh is aged 33 to 34. Para 7 of the medical report signed on 20.02.1984 mentioned this point. This certificate cannot be relied upon as it has not been submitted by a duly constituted Medical Board. A Medical Officer is not competent to issue such a certificate. Moreover, no medical report can suitable pin point the age of a person. It can only given a range within which a person can belong. In the instant case, the fact that he is a major or not, is at best a border line case.</p> <p><b>Conclusion:-</b></p> <p>Therefore from the aforementioned findings, it is clear that the landholder has not provided any proof which would help this Court in giving any relief with regard to the number of units or the land transfers being made by the landholder.</p>	

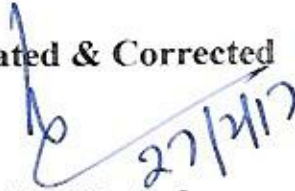

Regarding the medical certificate given in support of the age of Sri Sureshwar Singh, I have already given my findings that why the said certificate cannot be accepted.

There are enough indication available in the Lower Court Records and report of the Anchal Adhikari suggesting that the so called transfers made by the landholder in favour of other persons are benami. Most of the lands mentioned in the transfer are very much in the control of the landholder. Even the mutation records have the name of the landholder of such lands which have been allegedly sold by him to other persons. Therefore, it has been adequately established that these transfers were made with a view to defeat the ceiling law.

On the other hand, the state has adopted a reasonable approach on the issue of transfer of land. Where ever the landholder is able to convince the State about the validity of the transfers, such transfers have been excluded from the said proceeding. In the entire ceiling proceeding, such relief to the landlord is in excess of 70 acres.

Regarding the issue of non exercise of option by the landholder, I see that the proceeding before the Learned Additional Collector went on for 20 years wherein the Learned Additional Collector passed numerous orders at each stage. Throughout the history of this case, the matter has fluctuated widely from no surplus land to surplus land of more than 200 acres. The landholder was given numerous opportunities to file objections which he did.



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	<p>Nothing stopped the landholder to submit his option at the relevant stage. Moreover, every stage was duly considered by the Learned Additional Collector.</p> <p>Therefore, it can be held that the instant ceiling proceedings dragged on for more than 44 years and have seen various interventions by the Learned Additional Collector or Learned Collector and the Hon'ble High Court. It has also come before the Board of Revenue previously. Thus, the landholder has keenly fought the case at each stage and at every forum.</p> <p>Not one piece of evidence was given by the landholder to enable this Court to intervene in the order of the Learned Lower Court. That be the case, I uphold the order passed by the Learned Collector dated 27.02.2016.</p> <p>Revision Dismissed.</p> <div style="display: flex; justify-content: space-around; margin-top: 20px;"> <div style="text-align: center;"> <p><b>Dictated &amp; Corrected</b></p>  <p><b>K.K.Pathak</b> Additional Member Board of Revenue, Bihar.</p> </div> <div style="text-align: center;">  <p><b>(K.K.Pathak)</b> Additional Member Board of Revenue, Bihar.</p> </div> </div>	