

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

Revision (Land Ceiling Surplus) Case No -17/2017

Dist. - Darbhanga

PRESENT :- K.K. Pathak, I.A.S.,  
Additional Member

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Bishambhar Narayan Choudhary  
& Others

- Petitioner/ Appellant

Versus

The State of Bihar & Others

- Opposite party

=====

**Appearance:**

For the Appellant/Revisionist

:Shri Ved Prakash Srivastava

For the OP

:Shri Nirmal Kumar, Spl. G.P.

**ORDER**

22.05.2017

This is a ceiling surplus case in which a Revision application was filed by the Petitioner on 03.05.2017 against the order passed by the Learned Collector in Ceiling Appeal Case No. 10/1991.

The case was admitted and the notices were issued to the State. The Learned Advocate of the Petitioner wanted the Lower Court Records. However, this Court felt no need to call for the Lower Court Records at this stage, as this will merely delay the proceedings.

The case was finally posted for hearing on 15.05.2017. On that 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.

As per the Learned Advocate of the Petitioner, this Revision application is against the order passed by the Learned Collector, Darbhanga on 24.03.2017 vide which he has set aside the order passed by the Learned Additional Collector on 25.05.1986. As per the Learned Advocate, he is challenging that portion of the order and not the order passed by the Learned Additional Collector in 1991.

Continuing his arguments, the Learned Advocate of the Revisionist mentioned that the land originally belonged to Sri Hemkant Chaudhary, who is the original landlord. Hemkant Chaudhary had a total of six sons but in the year 1954, he had only five sons and a wife (the sixth son was born later). In 1956, a Partition Suit was filed amongst the family bearing No. 117/1956. In 1958, the Suit was compromised and the share of Sri Hemkant Chaudhary, wife and their five sons were separated and each was allotted 39.18 acres of land.

As per the Learned Advocate, after the partition, the sixth son was born. Sri Hemkant Chaudhary died in the year 1963 and his six sons inherited the entire property. Continuing his arguments further, the Learned Advocate mentioned that in 1974, a Land Ceiling Proceeding was started against the wife of Sri Hemkant Chaudhary, namely Smt. Tripura Chaudharyen. In the said Ceiling Proceeding,

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	<p>the entire land of the family was plugged together totalling an area of 291.13 acres.</p> <p>As per the Learned Advocate, an objection was filed in the said Land Ceiling Proceeding mentioning that the lands were wrongfully plugged together as the said lands have been duly partitioned between the various sons. The said objection, however, was overruled and the land belonging to the sons were clubbed and declared surplus by the Learned Additional Collector. The aggrieved Petitioner then filed an appeal before the Learned Collector who remanded the case back to the Learned Additional Collector. Upon remand, 16 acres lands were declared by the Learned Additional Collector to be surplus on 25.05.1986.</p> <p>As per the Learned Advocate, after that, no progress was made in the said Ceiling Proceeding. Till the year 1991, no notification was issued. In the year 1991, the Petitioner came to know of an order dated 06.09.1990 which was adverse and which declared many more acres of land surplus than the one declared by the Learned Additional Collector on 25.05.1986. As per the Petitioner, this order was passed without hearing the Petitioner.</p> <p>As per the Learned Advocate, aggrieved by the said order, he filed an appeal before the Learned Collector in Appeal No. 10/1991 in which the Learned Collector passed the order dated 24.03.2017 which is the order under challenge in this Revision Application. The Learned Advocate further mentioned that the order dated 25.05.1986</p>	



was never under challenge in their Appeal Petition in case no. 10/1991. Therefore, the Learned Collector erred in making observation regarding the order dated 25.05.1986. This, as per the Learned Advocate, was akin to suo moto reopening the case which is not allowed. The Learned Advocate quotes a judgement of Hon'ble Supreme Court (Civil Appeal No. 423/1979 & 2084-2090/1977) and has filed a copy of the same.

I also heard the Learned Special GP on behalf of the State. He draws the attention of this Court to the operating part of the order passed by the Learned Collector on 24.03.2017. He says that the Learned Collector has not finally adjudicated the matter and has only remanded the matter back to the Additional Collector for re-examining some of the issues brought forth by the Learned Collector. As such, the matter is still subjudice.

The Learned Special GP further mentioned the Learned Collector has quashed the order on the ground that the lands in dispute were sold after 09.09.1970 without the approval of the competent authority. Moreover, as per the order, it appears that Letter No. 411 dated 13.03.1980, written by the Circle Officer to Additional Collector, vide which 7 bigha land was distributed to landless person. However, the said letter is not available on the records. Moreover, on 09.09.1970, 15 bigha land was sold by the landholder without permission of the Competent Authority. Furthermore, 18 bigha 15 katha lands were excluded from the said Ceiling Proceeding by the Learned Lower Court

without any basis. Due to above reasons, the Learned Collector found infirmities in the orders passed by the previous Learned Additional Collector and hence quashed the same and remanded the matter back to the Learned Additional Collector.

Concluding his arguments, the Learned Special GP mentioned that the Learned Collector had only remanded the matter and not passed any final order hence the Supreme Court judgement will not apply in this case.

Having heard the Learned Advocate of the Revisionist as well as the Learned Special GP and having perused the orders passed by the Learned Collector as well as Learned Additional Collector, my own findings on the matter are as under:-

- a. It is clear that in the original Land Ceiling Proceeding before the Learned Additional Collector, various sets of orders have been passed.
- b. The first order was passed by the Learned Additional Collector on 25.05.1986 vide which 153 acres land was left for the landlord and 16.22 acres only were declared surplus. This order, therefore, was in the favour of the landlord.
- c. A second order was passed by the Learned Additional Collector on 06.09.1990 wherein

the order dated 25.05.1986 was ignored. Subsequently, another order was passed by the Learned Additional Collector on 27.02.1991. While the order dated 25.05.1986 was for publication of draft notification under Section 10(2) of Bihar Land Ceiling Act, the said publication happened by the said order dated 06.09.1990 and 27.02.1991.


d. Thus, it can be said that all the above three orders were in continuation of the same proceeding before the Learned Additional Collector.

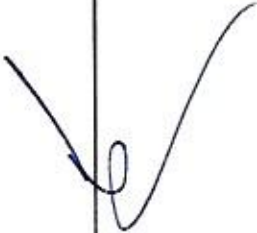
e. While the order dated 25.05.1986 was in the favour of the Revisionist (as it found only 16.22 acres land to be surplus), the order dated 06.09.1990 and 27.02.1991 was not in the favour of the Revisionist as it held that 108.47 acres were wrongfully allowed to the landlord.

f. Therefore, the appeal before the Learned Collector was only against the order passed by the Learned Additional Collector in Ceiling Appeal Case No. 192/1974-75 on 06.09.1990 and 27.02.1991.

g. Therefore, as per the Petitioner, he went to the Learned Collector for the limited relief



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	<p>against the order passed by the Learned Additional Collector on 06.09.1990 and 27.02.1991. The order dated 25.05.1986 was never challenged by the Revisionist, as that order was in favour of the Revisionist.</p> <p>h. I find that all the three orders passed by the Learned Additional Collector were in continuation to the same proceeding and therefore the Learned Collector was right in looking at all the three orders holistically.</p> <p>i. The Learned Collector rightly gave the relief to the Revisionist by quashing the order dated 06.09.1990 and 27.02.1991 which, as per the Learned Collector, were in actuality a review of the order of the Learned Additional Collector by the Learned Additional Collector himself. The Learned Collector rightly held that the Learned Additional Collector cannot review his own order and the State should have gone in appeal before the higher fora against the order of the Learned Additional Collector dated 25.05.1986.</p> <p>j. Hence, in my opinion, the Learned Collector was right in quashing the order passed by the Learned Additional Collector on 06.09.1990 and 27.02.1991. To that end, I also find that</p>	

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	<p>the Revisionist did get a substantial relief from the Learned Collector in so far as the two orders, which were unfavourable to him, were quashed by the Learned Collector.</p> <p>k. Coming to the point whether the Learned Collector could have passed an observation on the order of the Learned Additional Collector on 25.05.1986 , I find that there is no procedural irregularity in the sense that the Learned Collector, being a superior court, could always peruse and review any part of the proceedings or the orders passed by the subordinate court of the Learned Additional Collector. Since the order of the Learned Additional Collector dated 25.05.1986 was also part of the same proceeding, the Learned Collector was right in going through the said order and finding it full of infirmities, quashed the same as well.</p> <p>l. Thus, in fact, the Learned Collector has quashed all the three orders passed by the Learned Additional Collector in 1986, 1990 and 1991. The grievance of the Revisionist is that he wanted the quashing of 1990 and 1991 orders. By quashing the order of 1986, which was favourable to the Revisionist, the Learned Collector has gone beyond the scope of the Appeal application.</p>	



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	<p>m. This argument, in my opinion, would not hold much ground because, as observed earlier, all the three orders were a part from the same proceeding. No Appellate Authority or Revisional Authority, for that matter, can be confined to operate in a water tight compartmentalised arrangement. If, on perusal of a proceeding, a Superior Court finds that a certain aspect needs to be revisited, then the said Superior Court is well within its right to direct the Subordinate Court to look into that particular aspect.</p> <p><b>Conclusion:-</b></p> <p>In view of the aforementioned observation, it is clear that the Learned Collector has only asked the Learned Additional Collector to re-enquire certain issues with regard to the order passed by the then Learned Additional Collector on 25.05.1986. The Learned Collector found certain infirmities in order dated 1986 and therefore was well within his right to order a fresh inquiry and a fresh order.</p> <p>As such, I do not find that justice has been obstructed in ordering for a proper inquiry in the instant matter.</p> <p>Over all, I find that the Revisionist has got a substantial relief from the Court of the Learned Collector</p>	

because two adverse orders of the year 1990 and 1991 were set aside by the Learned Collector.

With regard to the order of 1986, the Learned Collector has quashed the same on the ground of certain infirmities and has remanded the matter back to the Learned Additional Collector to relook the issue again in light of the four observations made by the Learned Collector.

That be so, it cannot be said that a final order has been passed in the proceeding. The matter is very much subjudice and an active inquiry within the ambit of Bihar Land Ceiling Act, 1961 has been order. Moreover, the issues raised by the Learned Collector in his order a substantive and specific. These issues relate to in-congruency in Plot No, area of land as well as the persons occupying the same. These are vital statistics in any land ceiling proceeding and therefore these must tally with the realities on ground. Hence, a proper relook into the whole issue will serve the interest of justice better.

Therefore, it can be rightly said that the matter is still subjudice and no harm is done if the Learned Additional Collector relooks and re-enquires into certain land deals of the landholder. I would therefore urge the Revisionist to cooperate with the inquiry to be undertaken by the Learned Additional Collector and obviate the concerns with the Learned Collector, as raised in the impugned order.

That being the case, I find that the matter is still subjudice within the ambit of Bihar Land Ceiling Act, and

आदेश की क्रम सं०  
और तारीख

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आदेश और पदाधिकारी का हस्ताक्षर

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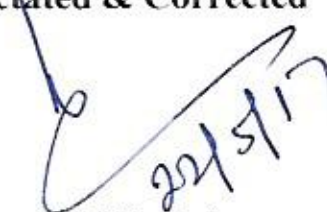
आदेश पर की गई  
कार्रवाई के बारे में  
टिप्पणी तारीख सहित


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hence requires no interference at this stage. Accordingly, I uphold the order passed by the Learned Collector, Darbhanga on 24.03.2017 and the Revisionist is advised to appear before the Court of the Learned Additional Collector.

Revision Dismissed.

Dictated & Corrected

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

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