

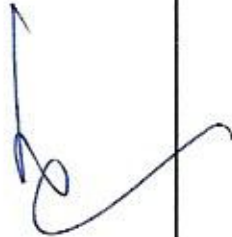
आदेश की क्रम सं० और तारीख 1	आदेश और पदाधिकारी का हस्ताक्षर 2	आदेश पर की गई कार्रवाई के बारे में टिप्पणी तारीख सहित 3
/ 17.02.2017	<p style="text-align: center;"><b><u>BOARD OF REVENUE, BIHAR, PATNA.</u></b></p> <p style="text-align: center;">Revision (Land Ceiling Surplus) Case No. – 19/2016 Dist.- East Champaran</p> <p style="text-align: center;"><b>PRESENT :- K.K. Pathak, I.A.S., Additional Member</b></p> <p>=====</p> <p>Shashi Bhushan Dubey and Others - Petitioner/ Appellant Versus The State of Bihar &amp; Others - Opposite party =====</p> <p><b><u>Appearance:</u></b></p> <p>For the Appellant/Revisionist :Shri Umakant Pandey For the OP : For the State : Shri Nirmal Kumar, Special G.P.</p> <p style="text-align: center;"><b><u>ORDER</u></b></p> <p>This is a ceiling surplus case in which a Revision application was filed on 30.03.2016 against the order passed by Learned Divisional Commissioner, Muzaffarpur on 31.08.2015 in Ceiling Appeal No. 122/2013. The case was admitted for hearing on 28.12.2016 and was posted for final hearing on 15.02.2017.</p> <p>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. Lower Court Records have been received. Thus concluding the hearing, this order is being passed today.</p> <p>As per the Learned Advocate of the Petitioner, the Petitioners are the grand children of the original</p>	

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	<p>landholder late Sri Baccha Dubey. The Petitioner is challenging the order passed by the Learned Collector, Muzaffarpur on 31.08.2015 whereby the order of the Learned Additional Collector passed on 27.12.2012 was affirmed.</p> <p>Giving a background of the issue, the Learned Advocate of the Petitioner mentioned that the Late Baccha Dubey died in the year 1990. His son Kamalkant Dubey died on 14.10.1988. The Revisionists are his grand children namely Sri Shashibhusan Dubey, Sri Chandrabhusan Dubey and Sri Manibhusan Dubey.</p> <p>Continuing his argument further, the Learned Advocate mentioned that one ceiling proceeding (No. 31/1974-75) was initiated against Sri Baccha Dubey and an order was passed on 14.09.1976 allotting two units to Late Bachha Dubey. However, his objection with regard to one more unit, selling of 11.63 acres of land prior to ceiling proceeding and voluntary surrendered land of 14.85 acres to government were not considered.</p> <p>The Petitioner filed an appeal which was rejected. He came to the Board of Revenue which, vide order dated 15.04.1978, partly allowed the Revision in the sense that it ordered the transfer of land between 1959 and 1970 be enquired under Section 5. However, on remand, no fresh enquiry was held and the said land was acquired by notification dated 06.09.1985.</p> <p>A part of that land measuring 6.6 acres were distributed to 17 landless persons. This was the land, which the Petitioner's ancestor, had already sold through sale deeds</p>	

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	<p>to various purchasers. Aggrieved, the said Purchasers went to Hon'ble High Court wherein the Hon'ble High Court in CWJC No. 4500/1990 remanded the matter back to the Learned Additional Collector who cancelled the Parchas of these 17 people and sought proposal for an equal land to be compensated by the landlord.</p> <p>Accordingly the Circle Officer, Paharpur sent a proposal from the existing land of the landholder to the Learned Additional Collector for distribution. The Learned Additional Collector, vide order dated 27.12.2012, approved the proposal of acquiring 4.07½ acres and ordered that the notification under 15(1) be issued.</p> <p>The Learned Advocate mentioned that the second proceeding was initiated after the death of landlord Sri Baccha Dubey and the notification was issued after the death of Sri Baccha Dubey. Moreover, how can a proceeding be initiated against a dead person, was the issue raised by the Learned Advocate.</p> <p>Concluding his argument, the Learned Advocate mentioned that these points were not considered by the Learned Commissioner and therefore he want that the matter be remanded back to the Learned Commissioner.</p> <p>I also heard the Learned Special GP on behalf of the State. He mentioned that the onus is on the Petitioner to substitute the dead person as per Rule 55 of Bihar Land Ceiling Rule, 1963. It should be filed within 30 days. Moreover, the proceeding was started much earlier and therefore, there was no need to make any further enquiry under Section 5 of Bihar Land Ceiling Act, 1961.</p>	

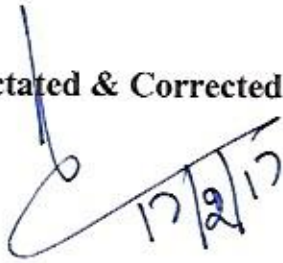



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	<p>To this argument, the Learned Advocate of the Petitioner mentioned that he did not get the time of 30 days to file substitution because the order for acquiring the land was passed within 7 days.</p> <p>Having heard the Learned Advocate of the Petitioner as well as the Learned Special GP and having perused the material available on record as well as Lower Court Records, my own findings on the issue are as under:-</p> <p>(a) Essentially, the dispute is regarding the land sold by the Petitioner to the vendees which fact was not known to the Revenue Authorities and the land measuring 6.6 acres were acquired and settled with 17 landless persons. The vendees went to the Hon'ble High Court who remanded the matter back to the Learned Additional Collector. The Learned Additional Collector, vide order dated 20.07.2007, excluded the said land and cancelled the Parcha of these 17 landless persons. The Learned Additional Collector, however, also added that the landholder may be asked to compensate for equivalent amount of land and for that purpose, the Anchal Adhikari, Paharpur should initiate a proceeding.</p> <p>(b) The Circle Officer, Paharpur started a proceeding 1/2007-08 vide which he initiated a proposal for acquiring 4.07 ½ acres of the land from landholder.</p> <p>(c) I note that the said proceeding was initiated against the legal heirs of Sri Baccha Dubey and not against Sri Baccha Dubey. Even a notice was issued to Sri Sashibhusan Pandey (Revisionist No. 1) and which</p>	

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	<p>was received by him on 06.12.2007 but he chose not to appear.</p> <p>(d) Thus, the Circle Officer referred the matter to the Learned Additional Collector on 13.12.2007. The Learned Additional Collector finally issued a gazette notification on 21.05.2012, five years after the notices were sent to the Revisionist. Thus, the averment made by the Learned Advocate that he was given only one week is not correct. The Revisionist got the notices in the year 2007 and the final notification under 15(1) was issued in the year 2012. Thus, the Revisionist was virtually having 5 years to file any objection at any stage either before the Learned Additional Collector or before the Learned SDO.</p> <p>(e) It is also not correct to say that the proceeding was initiated against a dead person. In fact, when the notice was received by the Revisionist, he should have raised these points either before the Learned Additional Collector or before the Circle Officer for substitution. Moreover, since the instant notification was an amendment notification in the original ceiling proceeding, hence, this was rightly issued against the Original landholder Sri Baccha Dubey. The said notification under section 15(1) was rightly issued in the name of Sri Baccha Dubey as the said land was acquired in continuation to the initial ceiling proceeding which was started against Sri Baccha Dubey.</p>	

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	<p>(f) In his Revision application, the Petitioner has not given any reason which would enable this court to interfere positively in his favour. He has not indicated that the land which was sold by his ancestor Sri Baccha Dubey was either a valid sale or not. If it was sold after 09.09.1970 or after the ceiling proceeding was initiated, then, whether or not the permission of Learned Collector was taken. Therefore on the merits of the case, the Revision Petition is largely silent.</p> <p><b>Conclusion:-</b></p> <p>From the aforementioned findings, it is clear that there is no merit in the Revision application. The Learned Divisional Commissioner has rightly concluded that since the cause of action which initiated the fresh identification of 4.07 ½ acres of land was the non disclosure of the fact by the landholder that he had sold the land to other persons, hence he cannot claim to be the aggrieved party.</p> <p>On this crucial issue, the Revisionist is silent as to whether he agrees or not, that the land sold by him was against the provision of the ceiling Act. And in that case, he is liable to compensate for such loss of land.</p> <p>It is also clear that Revisionist cannot claim that order for acquisition of 4.07½ acres of land was passed in 7 days. Rather, the Revenue Authorities took full 5 years -from the date of service of the notice to the Revisionist i.e.</p>	



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	<p>06.12.2007 to the publication of the notification under 15(1) which was on 21.05.2012. This also shows that the Revisionist had indeed received the notice as can be seen from the Lower Court Records in which the Revisionist No. 1 has himself signed the acknowledgment of the notice. Thus, failure to appear before the Authorities in spite of having received the notice is clearly a deliberate act on part of the Revisionist.</p> <p>Having said that I find that there are no other points raised in the Revision application. In that light, therefore, I find no reason to interfere with the order of the Learned Divisional Commissioner dated 21.08.2015.</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>	