


आदेश की क्रम सं० और तारीख 1	आदेश और पदाधिकारी का हस्ताक्षर 1 2	आदेश पर की गई कार्रवाई के बारे में दिम्पणी तारीख सहित 3
17.02.2017	<p style="text-align: center;"><u>BOARD OF REVENUE, BIHAR, PATNA.</u></p> <p style="text-align: center;">Revision (Land Ceiling Surplus) Case No. – 29/2006 Dist.- Sitamarhi</p> <p>PRESENT :- K.K. Pathak, I.A.S., Additional Member</p> <p>=====</p> <p>Bishuni Mahto and Others - Petitioner/ Appellant Versus The State of Bihar & Others - Opposite party =====</p> <p><u>Appearance:</u> For the Appellant/Revisionist : Shri Sanjay Kumar 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 ceiling surplus case in which a Revision Application was filed on 31.08.2006 against the order passed by the Learned Collector, Sitamarhi on 22.07.2002 in Ceiling Appeal No. 1/1997. The case was filed four years after the order was passed by the Learned Collector. The delay was condoned vide order dated 13.02.2007 and the case was admitted for hearing on 13.03.2007.</p> <p>Since then, the case remained part heard on many dates. In the meantime, the case was dismissed for default on 23.06.2010.</p> <p>Subsequently, a Restoration Petition was filed in 2016, six years after the case was dismissed for default. The case was finally restored on 19.01.2017.</p>	

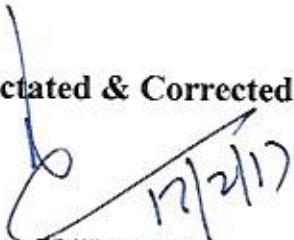

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	<p>During the pendency of the case, Petitioner No. 1 and 2 died and a substitution Petition was filed which was allowed. The matter was finally heard on 10.02.2017.</p> <p>On that date, the Learned Advocate of the Petitioner was heard in great detail. The Learned Special GP was also heard on behalf of the State. Thus concluding the hearing, this order is being passed today.</p> <p>As per the Learned Advocate of the Petitioner, he is the second purchaser of the disputed land measuring 1 bigha 4½ katha. This means that he purchased the land from the first purchaser who purchased the land from the original landlord.</p> <p>As per the Learned Advocate, the original landlord was Sri Ramsugarat Singh who sold this land to Sri Ram Padarat Mishra. Sri Ram Padarat Mishra, in turn, sold the land to the Petitioner in 1973. The Petitioner does not recall when was the land sold by the landlord to the first purchaser namely Sri Ram Padarat Mishra.</p> <p>Continuing his argument, the Learned Advocate mentioned that the ceiling proceeding was started in 1972 against Sri Ram Naresh Singh who is the son of Sri Ram Sugarat Singh. The ceiling proceeding was drawn against a total area of 722.04 acres. Objections were filed by the landlord before the Learned Additional Collector. The Learned Additional Collector while passing an order held that since the disputed land was voluntarily surrendered by the landlord, exemption cannot be allowed.</p>	

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	<p>The Learned Advocate also mentioned that a proceeding under Bihar Tenancy Act, 1885 (Case No. 2390/1968) was started and the same was allowed in the favour of the Petitioner vide order dated 13.09.1975. By the said order, the Petitioner was declared under raiyat of the plot.</p> <p>Continuing further, the Learned Advocate mentioned that another proceeding regarding consolidation was also started in the year 1972 vide Case No. 47/1972-73. By order dated 03.07.1976, it was ruled in the favour of the Petitioner's father with regard to the correction of name. Thus, the Learned Advocate says, both these cases were ruled in the favour of the Petitioner.</p> <p>However, both the lower courts did not recognize this fact and ignored an important aspect that both these orders were passed during the pendency of the ceiling proceeding.</p> <p>The matter became serious when, in 1996, the disputed land was distributed to landless persons and Parhcas were issued. The Petitioner went to the Learned Additional Collector, who vide order dated 03.09.1996, dismissed his Petition.</p> <p>Aggrieved by this order, the Petitioner went in appeal before the Learned Collector, who dismissed the appeal vide order dated 22.07.2002. Thus further aggrieved, he has filed this Revision application.</p> <p>Concluding his arguments, the Learned Advocate claims that the land is in his possession and</p>	

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	<p>therefore the land should be excluded from the ceiling proceeding.</p> <p>I also heard the Learned Special GP on behalf of the State. As per him, the Petitioner had purchased the land during the pendency of the ceiling proceeding and he never obtained any permission from the Learned Collector. Furthermore, the Petitioner is also not aware when the first purchaser, namely, Sri Ram Padarat Mishra purchased the land from the original landlord. The land has been distributed and Parchas have been issued.</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, my own findings on the matter are as under:-</p> <p>(a) It is an admitted position that the Petitioner purchased the land in 1973 whereas the ceiling proceeding started in 1972. Thus, it can be concluded that the land in dispute was purchased during the pendency of the ceiling proceeding.</p> <p>(b) It is surprising that Petitioner does not know in which year Sri Ram Padarat Mishra, who is the first purchaser, purchased the land from the original landlord. This, to my mind, cannot be believed as any purchaser would naturally confirm the ownership and the title of the land that he is going to purchase.</p> <p>(c) I also note that the Petitioner has not enclosed any documents in support of his argument in the Revision application. Not even a copy of the sale</p>	

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	<p>deed, of the year 1973, has been enclosed vide which the Petitioner has claimed to have purchased the disputed land. However, it seems that photocopies of two sale deeds were filed before the Learned Collector. One sale deed was dated 21.11.1967 and another sale deed was dated 19.03.1962. This further confuses the matter as the Petitioner claims to have purchased the land in 1973. No sale deed of the year 1973 was filed before the Court of the Learned Collector. This fact has been mentioned by the Learned Collector in the impugned order.</p> <p>(d) Coming to the two proceedings under the Bihar Tenancy Act and Chakbandi Act wherein, as per the Petitioner, orders were passed in favour of the Petitioner. Here again the copies of these orders have not been enclosed in the Revision application. However, it seems that the certified copies were submitted before the Court of the Learned Collector.</p> <p>(e) In the above two proceedings, I note that the State was not made a party and therefore there was no question of filing an appeal before any fora.</p> <p>(f) I also note that these orders were passed in the year 1975 and 1976 during the pendency of the ceiling case and the land was distributed in the year 1977, whereas the Petitioner started the instant dispute in the year 1996, when he approached the Learned</p>	

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	<p>Additional Collector. This gap of 20 years is largely unexplained.</p> <p>(g) In so far as the claim of the Petitioner is concerned, the land was again distributed in the year 1996 which perhaps gave him a cause of action to approach the Learned Additional Collector, I find that the land was settled in the year 1977 itself with the settlees. There is no action reported by the Petitioner from 1977 onwards on this issue.</p> <p>(h) The said settlees have also paid the land rent from 1977 to 1993.</p> <p>Conclusion:-</p> <p>Thus from the aforementioned findings, it is clear that Petitioner has a long gap of 20 years from the ceiling proceeding from the period his land was distributed to the period when he finally raised the issue before the Learned Additional Collector. This period is approximately 20 years.</p> <p>The Learned Collector therefore rightly found that the Petitioner's appeal is hopelessly time barred and therefore rightly dismissed the appeal.</p> <p>Coming to the issue of merits, the Petitioner has not produced the sale deed of the year 1973 before this Revisional Court vide which he claims to have purchased the disputed land. He did not produce the sale deed even before the Learned Collector as is evident from the order of the Learned Collector.</p>	

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	<p>Therefore, possibility cannot be ruled out that this could have been a <i>farzi</i> transaction by the landlord to overcome the ceiling law.</p> <p>Even if it is assumed that the said sale deed is genuine, that the said land has been purchased after the initiation of the ceiling proceeding and much after the due date. Thus this purchase is hit by Section 5 of Bihar Land Ceiling Act, 1961.</p> <p>Having said that, I find that there is no merit in the averments made by the Petitioner. Therefore, I see no reason to interfere with the order passed by the Learned Collector on 27.07.2002.</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>	