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

BOARD OF REVENUE, BIHAR, PATNA.

Revision (Land Ceiling Surplus) Case No. – 31/1995
Dist. – East Champaran

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

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Naga Singh & Others - Petitioner/ Appellant

Versus

The State of Bihar & Others - Opposite party

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Appearance:

For the Appellant/Revisionist : Shri Jaswinder Arora
For the OP :
For the State : Shri Nirmal Kumar, Special G.P.

ORDER

07.03.2017

This is a miscellaneous application filed on 01.02.2016 enclosing an order of Hon'ble Supreme Court in a Title Suit between Raghav Singh vs. Hema Devi. By the order dated 13.07.2015, the Hon'ble Apex Court has directed that the status quo be maintained by the parties as regards the ownership as well as the possession of the Suit properties.

The Petitioner has filed this application and prayed that since the matter is pending before the Apex Court, this Court may direct the Learned Collector, Motihari not to distribute the land.

The Learned Advocate was heard on this issue on 21.02.2017 and he was asked to assist this Court on the following three counts:-

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	(a) How did he get the feeling that the Learned Collector wished to distribute the land? (b) What was the outcome of the ceiling proceeding no. 171/1982-83? (c) What is the link between the ceiling proceeding and the title issue pending before the Hon'ble Supreme Court? This Court also directed the Learned Special GP to seek instructions on the above three points. The matter was accordingly posted on 06.03.2017. On that date, however, the Learned Advocate of the Petitioner wanted more time. He, of course, did not have any answer to the above three points. This Court rejected the request for another adjournment as the case has been pending since the year 1995. Learned Special GP was heard in great detail. He mentioned that the order of the Hon'ble Supreme Court is with regard to maintaining the status quo regarding the ownership of land. The title dispute is between two private parties and shall only apply to such land which is rightfully between the two private parties. The Learned Special GP further averred that a ceiling proceeding should not be kept pending because of the title dispute. He further added that it was the duty of Petitioner to bring this fact before the Hon'ble Apex Court. Both, the Petitioner and the OP, who are the parties in the	

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	dispute in the Title Suit had been allowed units by the Learned Additional Collector as admissible to them as per the Bihar Land Ceiling Act, 1961. Having heard the Learned Special GP, and having perused the material on record, my own findings on the matter are as under:- (a) A Ceiling Proceeding No. 94/1982-83 was drawn against Naga Singh and Nagina Singh. (b) The above mentioned landholders are cousin brothers. The father of Naga Singh Ramawatar Singh and father of Nagina Singh Ramanad Singh were real brothers. (c) At the time of the passing of the order in the ceiling proceeding, the Learned Additional Collector on 10.10.1983 noted that the brothers Nagina Singh and Naga Singh were having a civil dispute over their properties and the matter was pending before the Hon'ble High Court. (d) However, the Learned Additional Collector held that the property in possession of Naga Singh shall be treated to be belonging to Naga Singh and property in the possession of Nagina Singh shall be treated to be belonging to Nagina Singh and accordingly	

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	adjudicated and concluded the ceiling proceeding, declaring 40.30 acres as surplus between the two brothers. (e) It may be noted that the Learned Additional Collector also gave units to both the parties as were admissible to them under the Bihar Land Ceiling Act, 1961. 4½ units were given to Nagina Singh and $1^1/_5$ units were given to Naga Singh. Together, between these two brothers, they are allowed 5.7 units in all. All the remaining lands, measuring 40.30 acres vests with the State. (f) The Revenue Authorities then proceeded to issue notification under 11(1) of Bihar Land Ceiling Act, 1961. (g) Aggrieved at this order, Naga Singh went in appeal before the Learned Collector who, vide order dated 27.06.1995, dismissed the appeal. (h) It may be noted that Nagina Singh did not file an appeal before the Learned Collector. (i) Further aggrieved, Naga Singh came in Revision before the Board of Revenue who, vide order dated 01.07.1996, allowed the matter to be kept pending on the ground that	

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	the Title dispute is pending before the Hon'ble High Court. (j) The matter lay still for 20 years and was reactivated when the Petitioner again filed a Petition in February 2016 before the Board of Revenue asking for further stay of the ceiling proceeding by annexing an order passed by the Hon'ble Supreme Court on 13.07.2015 asking both the parties to maintain the status quo. (k) The Petitioner also said that the Learned Collector wants to distribute the surplus land and therefore wants the Board of Revenue to direct the Collector not to go ahead with the distribution. (l) From the above development, it is clear that the Petitioner is more keen on dragging the ceiling proceeding in the garb of the title dispute with his cousin brother. This is apparent from the following facts:- i. He last came to the Board of Revenue and got a relief on 01.07.1996 that a First Appeal No. 165/1976 was pending before the Hon'ble High Court, where upon the Board of Revenue kept this instant	

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	dispute pending for more than 20 years. ii. However, it was duty of the Petitioner to again approach the Board of Revenue when the First Appeal was disposed of by the Hon'ble High Court on 16.12.2014 and should have prayed for early adjudication of the Revision application. iii. He did nothing of the sort and went on to file an SLP before the Supreme Court in SLP No. 17703/2015 where upon on 13.07.2015, the Hon'ble Apex Court ordered the status quo to be maintained by the two private parties. iv. He again waited for six months (since the passing of the order by the Hon'ble Apex Court) to file this Revision application in February 2016 and gave no reason for the delay. (m) Thus from the above, it is clear that the Petitioner is more interested in delaying the proceeding under the Ceiling Act in the garb	

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	of the title dispute pending before the Hon'ble Apex Court. (n) It may be noted that the title dispute is pending between the two private parties well before 1976. Whereas the ceiling proceeding was started in the year 1982. Therefore the title dispute is continuing since much before between the ancestors of the Petitioners. (o) In my opinion, the ceiling proceeding cannot be linked with any title dispute, more so, with regard to the matter in the Supreme Court for the following reasons:- i. The State is not a party to the dispute pending before the Hon'ble Apex Court. ii. The State was not party in the First Appeal No. 165/1976 which was adjudicated by the Hon'ble High Court. iii. The State, therefore, had no benefit of information of any developments before the Hon'ble Apex Court or the Hon'ble High Court. iv. We also do not know what arguments and averments were	

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	made by the Petitioner before the Hon'ble Apex Court. v. We also do not know whether the Petitioner has informed the Apex Court that a ceiling proceeding has already been initiated and finalised against the property claiming to be under the Suit. vi. Furthermore, in my opinion, Tile Suit shall apply to such property as left between the two cousin brothers <u>after</u> the acquisition of the surplus land from the two brothers. vii. There is no link between the ceiling proceeding and title dispute. Title dispute will apply only such property which would belong to these two brothers after the State has taken away the surplus land. viii. Between the two brothers, who will hold how much land, would lie in the domain of the title dispute pending before the Hon'ble Apex Court, but	

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	together they can hold only such lands, as allowed as per the units already allocated to them under the Ceiling Act. (p) As a point of law, it is clarified that the lands, under which the ceiling proceeding had already been completed and notification issued under the Act, already stand vested with the State from the date of such notification. Therefore, Title dispute can lie only with respect to lands that are allowed to be retained between the two brothers on the whole. For that purpose, between the two brothers they will hold land equivalent to 5.7 units only. (q) All the other lands stand vested with the State. (r) The Title dispute is to decide, which of the two brothers shall hold how much of land, within these 5.7 units. (s) Therefore, I don't see any reason to link the title dispute with the present ceiling proceeding. (t) Coming to the merits of the ceiling case and the objections filed by the Petitioner, I find	

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	that these objections are mainly on account of the following:- i. That the numbers of units were not given to the Petitioner as per the requirement. He wanted three units for Naga Singh, Ragho Singh and Madhav Singh and one fractional unit for children. ii. The classification of land has been wrongly done. (u) With regard to the number of units allowed to both the cousin brothers, I find that the Learned Additional Collector has considered the genealogical table submitted by the Petitioner and rightly allowed them units as per their members who existed as on 09.09.1970. (v) With regard to the number of units allowed to the Petitioner Sri Naga Singh, no evidence has been filed to substantiate his claim for additional unit on account of Ragho Singh and Madav Singh. As per the Anchal Record, it is clear that both the sons of Naga Singh namely Ragho Singh and Madav Singh were minor as on 09.09.1970. Hence, the Learned Additional Collector	

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	rightly rejected their claim. The Petitioner has not produced any fresh documents before this Court to suggest that his sons were major as on 09.09.1970. (w) The Learned Collector has also dealt with the appeal and found that there is no reason to interfere with the number of units so granted to them. (x) The Petitioner have objected to the classification of land but, however, they have not given any details in the original Revisional application regarding which land is wrongly classified. Therefore, it is not possible to agree to the averment made by the Petitioner that the lands are wrongly classified as Class-II by the Revenue Authorities. (y) I find that their objection on account of number of units and classification are therefore devoid of any merits. **Conclusion:-** From the aforementioned findings, it is clear that the State is not the party to dispute pending before the Hon'ble Apex Court. Nor the Petitioner has ever tried to make the State a party.	

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	The State was also never a party before the Hon'ble High Court or a District Court in the title dispute. It is apparent that the Petitioner has not informed the Hon'ble Apex Court about the pendency of the ceiling proceeding. It is also clear from the above, that the Petitioner is merely trying to delay the ceiling proceeding in the grab of Title dispute which is continuing for the last more than 45 years. The legal position is clear that the land, as declared surplus in the ceiling proceeding, stands vested with the State. The Petitioner and his cousin brother have been allowed 5.7 units of land between themselves. Which brother will own how much of land, within these 5.7 units, is the subject matter pending before the Hon'ble Supreme Court. With regard to other objections regarding the number of units and the classification of the land, my findings are clear that in the absence of any document, it will not be possible for this Court to interfere with the orders of the Learned Lower Courts. In light of the above, I see no reason to interfere with the order passed by the Learned Collector. I, accordingly, uphold the order passed by the Learned Collector on 27.06.1995 and by the Learned Additional Collector dated 10.10.1983. With regard to the title dispute pending before the Hon'ble Supreme Court, this is not the subject matter of	

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	this dispute nor are the two issues linked. If however the Petitioner wants a stay in this Ceiling Proceeding, he should file an application before the Hon'ble Supreme Court and inform the Hon'ble Supreme Court about the development in the ceiling case and seek a stay on the ceiling proceeding going on at the Court of Learned Collector. It would not be possible for this Court to stay the ceiling proceeding any further which has already dragged for more than 20 years before the Board of Revenue itself. I also note that the original ceiling proceeding has been continuing since 1982 and therefore the Petitioner has largely been successful in his objective of saving his land from the ceiling proceeding by deflecting the attention of the Revenue Courts towards the title dispute. Were the Revenue Courts to wait for or allow themselves to be dragged in a title dispute between the landlords, then no Revenue Court would ever be able to finalise any ceiling proceeding and the whole Ceiling Act, will ultimately become useless. Moreover, all the landlords would start generating artificial title disputes between themselves in order to avoid the State from taking over their land under the Ceiling Act. Therefore, ceiling proceedings are rightly not linked with the title disputes between the landholders. The Learned Additional Collector, therefore, was right in passing an order under the Ceiling Act while the title dispute was still pending before the Hon'ble High Court.	

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I, accordingly, confirm the order passed by the Learned Collector and the Learned Additional Collector and also recall the order passed by the Board of Revenue on 01.07.1996.

I also direct the Learned Collector to proceed further in the matter of ceiling proceeding. However, if he is planning to distribute the surplus land, he should do it after one month from the date of passing of this order, by which time, the Petitioner is advised to approach the Hon'ble Supreme Court and seek a specific stay on the ceiling proceeding pending before the Learned Collector.

Revision Dismissed.

Dictated & Corrected

7/3/17

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

7/3/17

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