आदेश की क्रम सं0 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. – 34/2015
Dist. – East Champaran

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

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Madan Prasad & Others - Petitioner/ Appellant

Versus

The State of Bihar & Others - Opposite party

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Appearance:

For the Appellant/Revisionist : Shri Atif Inaam
For the OP :
For the State : Sri Nirmal Kumar, Special G.P.

ORDER

06.03.2017

This is a Revision application filed by the Petitioner on 23.07.2015 against the order passed by the Learned Collector, East Champaran on 29.03.1985 in Ceiling Appeal No. 90/1983-84. The case was admitted for hearing on 03.02.2017 and notices were issued to all the parties. The case came up for final hearing on 22.02.2017.

On that date, the Learned Advocate of the Petitioner was heard in great detail. I also heard the Learned Special GP on behalf of the State. Petitioner was given an opportunity to file any evidence regarding the date of death Smt. Rameshwari Devi. Thus concluding the hearing, this order is being passed today.

आदेश की क्रम सं0 और तारीख 1	आदेश और पदाधिकारी का हस्ताक्षर 2	आदेश पर की गई कार्रवाई के बारे में टिप्पणी तारीख सहित 3

As per the Learned Advocate of the Petitioner, this case has come back to the Board of Revenue from the Hon'ble High Court on remand. As per him, only issue to be adjudicated is whether Smt. Rameshwari Devi was dead or alive on 09.09.1970 or not. Since, as per the Petitioner, she was alive on that date and hence one unit should be allowed to her.

As per the Learned Advocate of the Petitioner, Smt. Rameshwari Devi died in the year 1978. He draws the attention of this Court to the order passed by the then Hon'ble Member, Board of Revenue on 29.03.1985.

Concluding his arguments, the Learned Advocate mentioned that the verification report of the Circle Officer says that Smt. Rameshwari Devi died in the year 1978. Moreover, this fact has never been denied by the State.

I also heard the Learned Special GP on behalf of the State. He says that the Petitioner has not filed any death certificate or any documents to prove that Smt. Rameshwari Devi died in the year 1978. In the absence of any document, it is difficult to arrive at a conclusion.

Having heard both the parties and having perused the material available on record as well as the previous records of the Board of Revenue, my own findings on the issue are as under:-

(a) I find that in the entire proceeding which originally started in the year 1982, the intention of the Petitioner has been to delay the matter and keep claiming relief on one ground or another. To

आदेश की क्रम सं0 और तारीख़ 1	3 आदेश और पदाधिकारी का हस्ताक्षर 2	आदेश पर की गई कार्रवाई के बारे में टिप्पणी तारीख़ सहित 3

substantiate this fact, I note the following unexplained delays by the Petitioner.

(b) When the Hon'ble High Court in CWJC No. 1032/1986 passed an order on 10.01.1997, it remanded the matter back to the Board of Revenue to decide two things. Firstly, the age of Petitioner No. 2 and secondly, whether Smt. Rameshwari Devi w/o Ramlakhan Sah was alive on 09.09.1970 or not.

(c) However, the Board of Revenue, on remand, passed an order on 04.07.2001 and while doing so, adjudicated only the age of Petitioner No. 2. It did not adjudicate the other issue as to whether Smt. Rameshwari Devi was dead or alive on 09.09.1970. Apparently, the Board noted emphatically that '*no other point was agitated by the Petitioner*'.

(d) It is surprising that the Petitioner did not agitate the issue of death of Smt. Rameshwari Devi. If, however, he had indeed raised the issue and the Board, by mistake, did not consider it, then he should have moved the Board again immediately.

(e) However, from the records of the Board of Revenue, it seems that the Petitioner took more than four years to file an application before the Board. Surprisingly, even in that Petition, which was filed before the Board on 22.12.2005, the issue raised was not regarding Smt. Rameshwari Devi but the issue was to request the Board to enforce its order dated

आदेश की क्रम सं0 और तारीख 1	आदेश और पदाधिकारी का हस्ताक्षर 2	आदेश पर की गई कार्रवाई के बारे में टिप्पणी तारीख सहित 3

04.07.2001 wherein Petitioner No. 2 Sri Madan Prasad was declared to be an adult as on 09.09.1970.

(f) Even the above Petition was not pursued by the Petitioner any further before the Board. Rather, it seems that the Lower Court Records were lost at the level of the Standing Counsel of the Hon'ble High Court which apparently prevented the Learned Collector to implement the order of the Board of Revenue dated 04.07.2001.

(g) Subsequently, the Petitioner, instead of approaching the Board of Revenue, went straight to the Hon'ble High Court in CWJC No. 14132/2006, on the issue of Smt. Rameshwari Devi, wherein the Hon'ble High Court, vide order dated 24.07.2008, remanded the matter back to the Board of Revenue to decide the issue of the date of death of Smt. Rameshwari Devi.

(h) Therefore, between 2001 and 2008, the Petitioner did nothing, either before the Board of Revenue or before the Hon'ble High Court, regarding the issue of Smt. Rameshwari Devi.

(i) Moreover, when the Hon'ble High Court passed an order on 24.07.2008, the Petitioner again took seven long years to file this Revision application on 23.07.2015. This delay too, is unexplained by the Petitioner and goes against him.

(j) Therefore, from the above chronology, it is clear that the Petitioner has allowed huge time gaps which are

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unexplained except that he perhaps wants to delay the matter indefinitely.

(k) The Learned Additional Collector had rightly rejected the case of Smt. Rameshwari Devi who, the Petitioner claims died in October 1978. This fact has been mentioned by the Revisionist himself in Para 8 of the Revision application. It may be noted the Petitioner never indicated the exact date of death of Smt. Rameshwari Devi.

(l) On the instance of this Court, to produce one paper or a death certificate to support his claim about the date of death of Smt. Rameshwari Devi, I find that the Petitioner has submitted a death certificate issued on 27.02.2017 issued by the Directorate of Statistic of Valuation (Competent Authority to issue birth or death certificates). As per the said death certificate, Smt. Rameshwari Kuer (apparently the same lady being referred to above as Smt. Rameshwari Devi or Kameshwari Devi) died on **06.11.1978**.

(m) Now the above death certificate goes directly against the Petitioner's own claim in the Revision Application that she died in October 1978. Whereas, as per the death certificate, he seems to have died in November 1978.

(n) Apparently the Petitioner is himself not clear whether Smt. Rameshwari Devi died in October or November of 1978.

आदेश की क्रम सं0 और तारीख 1	आदेश और पदाधिकारी का हस्ताक्षर 2	आदेश पर की गई कार्रवाई के बारे में टिप्पणी तारीख सहित 3

(o) Moreover, the death certificate issued is of recent date whereas the lady in question died in the year 1978. This gap of 40 years is unexplained. Therefore, the said death certificate cannot be relied upon.

Conclusion:-

From the aforementioned findings, it is clear that the Petitioner has left no stone unturned to delay the proceeding indefinitely. He has not explained the delay as to why he took seven years to file the instant Revision application in 2015 whereas the order passed by the Hon'ble High Court was in the year 2008.

Moreover, he also never pressed before the Board of Revenue, since the year 2001, about the issue of the date of death of Smt. Rameshwari Devi. Rather his attention was directed towards implementing the order of the Board of Revenue in the year 2001 which declared that Sri Madan Prasad was a major as on 09.09.1970. Therefore, it seems that the Petitioner was raising issues at his whims and fancies.

Coming to the present issue of deciding the date of death of Smt. Rameshwari Devi, the Petitioner has submitted a death certificate which goes on to reject his own claim in the Revision application that Smt. Rameshwari Devi died in October 1978. In a lighter vein, this Court cannot help but advice the Petitioner to first find out for himself when Smt. Rameshwari Devi actually died and then go on to produce papers in support of his arguments.

आदेश की क्रम सं0 और तारीख 1	7 आदेश और पदाधिकारी का हस्ताक्षर 2	आदेश पर की गई कार्रवाई के बारे में टिप्पणी तारीख सहित 3

The Petitioner cannot have this liberty to claim that Smt. Rameshwari Devi died in October 1978 but produce a death certificate which says that she died in November 1978. And moreover, the death certificate was not issued in the year 1978 or 1979 but was issued 40 years later, in the year 2017. This certificate therefore cannot be relied upon for obvious reasons.

The above therefore conclusively proves that the Petitioner is only trying to create papers in support of the death of Smt. Rameshwari Devi, whose date of death, the Petitioner himself perhaps is not clear.

That be the case, I find that the Petitioner has been unable to produce any conclusive proof regarding the date of death Smt. Rameshwari Devi.

Therefore, I find no reason to interfere with the order passed by the Learned Lower Courts.

Revision Rejected.

Dictated & Corrected

6/3/17

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

6/3/17

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