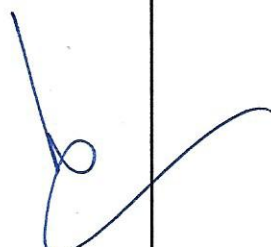


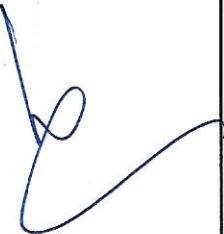
The Learned Advocate on behalf of the Petitioner (total 4 in number) was present and he was representing the red card holder. The Learned Advocate of

आदेश की क्रम सं० और तारीख 1	आदेश और पदाधिकारी का ² हस्ताक्षर 2	आदेश पर की गई कार्रवाई के बारे में टिप्पणी तारीख सहित 3
	<p>the OP is also present. OP No. 5 to 9 are the persons who are the purchasers of the land allegedly involved in a ceiling proceeding. Thus concluding the hearing, the order is being passed today.</p> <p>As per the Learned Advocate of the Petitioner, Petitioners are the red card holders who got the land way back in 1991 as a result of the ceiling proceeding. However, on a Petition filed by the OP No. 5 to 9, the then Learned Additional Collector vide order dated 25.03.1995 held that the land which was distributed to the Parchadharis should not have been included in the ceiling proceeding. Based on the above order of the Learned Additional Collector, the OP No. 5 to 9 approached the Court of the Learned DCLR who, vide order dated 22.05.1996, cancelled the Parchas of the Petitioners. And hence, the present dispute.</p> <p>The Learned Advocate of the Petitioners further claims that the Parchadharis are in the possession of the land and they are paying the rent receipts.</p> <p>I also heard the Learned Advocate of the OP No. 5 to 9. The Learned Advocate mentioned that they are the purchaser of land from Smt. Rasowati Devi, wife of late Saryu Mandal and they purchased the disputed land measuring an area of 5.9 acres on 05.02.1984. He further avers that, by mistake, the land of Smt. Rasowati Devi was wrongly included in the ceiling proceeding (Case No. 3/1973-74) started against the Smt. Rameshwari Devi. The said land was acquired in 1991 and Parcha was distributed to</p>	

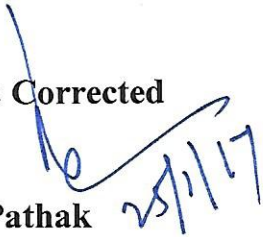

आदेश की क्रम सं० और तारीख 1	आदेश और पदाधिकारी का हस्ताक्षर 2	आदेश पर की गई कार्रवाई के बारे में टिप्पणी तारीख सहित 3
	<p>the Petitioner in 1992. When the OP came to know of this, they filed an application before the Learned Collector who remanded the matter to the Learned Additional Collector who ordered the case in his favour. As a result of this order of the Learned Additional Collector, the Learned DCLR cancelled the Parchas.</p> <p>The Learned Advocate further mentioned that the Parcha of the Petitioner as on date, stands cancelled and the OPs are in the possession of the land.</p> <p>The Learned AGP Smt. Arpana Kumari was also heard on behalf o the State. She mentioned that this is essentially a dispute between two private parties.</p> <p>Having heard all the parties and having perused of material available on record as well as the Lower Court Records, my own findings on the matter are as under:-</p> <p>(a) To elucidate the matter, it may be said that the dispute essentially arose when the land belonging to Smt. Rasowati Devi, (who is a private tenant having her name in the khatian) was wrongly included in the Ceiling Case No. 3/1973-74 started against Smt. Rameshwari Devi, the land lord. The OPs had purchased the land from Smt. Rasowati Devi on 05.02.1984. The land of Smt Rasowati devi was acquired and distributed to the Petitioners who are the red card holders.</p>	

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
	<p>(b) The OP (OP No. 5 to 9) came to know of it and filed an application before the Learned Collector. The Learned Collector remanded the matter to the Learned Additional Collector who vide order dated 25.03.1995 allowed the application and excluded the land of Smt. Rasowati Devi. This means that the Learned Additional Collector made the order in favour of the OPs.</p> <p>(c) Armed with the order of the Learned Additional Collector, the OPs filed a case before the Learned DCLR for cancellation of Parcha issued to the petitioner. The Learned DCLR vide order dated 22.05.1996 cancelled the Parcha of the Petitioners.</p> <p>(d) Aggrieved at this order, the Petitioners went in appeal before the Learned Collector who, by order dated 06.04.1999, allowed the appeal and set aside the order of the Learned DCLR dated 22.03.1996.</p> <p>(e) Aggrieved at the order of the Learned Collector, the OP went to the Hon'ble High Court in CWJC No. 4200/1999. The Hon'ble High Court vide order dated 10.05.1999, remanded the matter to the Divisional Commissioner who was the appropriate the Revisional Authority. However, as per this Court, the Revisional Authority was the Board of Revenue and not the Divisional Commissioner.</p> <p>(f) Notwithstanding above, the matter was heard by the Learned Divisional Commissioner and vide</p>	

आदेश की क्रम सं० और तारीख 1	5 आदेश और पदाधिकारी का हस्ताक्षर 2	आदेश पर की गई कार्रवाई के बारे में टिप्पणी तारीख सहित 3
	<p>order dated 21.01.2000, the Learned Divisional Commissioner remanded the matter back to the Collector.</p> <p>(g) The Learned Collector then heard the matter a fresh and vide order dated 01.08.2007, upheld the order of the Learned DCLR passed on 22.05.1996. This in turn means that the Petitioner's red cards remained cancelled.</p> <p>(h) Thus aggrieved from the order of the Learned Collector, the Petitioner has filed the Revision application. However, I note that the Learned Collector has upheld the order of the Learned DCLR on the ground that the Learned DCLR has passed the order based on the order of the Learned Additional Collector dated 25.03.1995 and since, the Court of the Collector is not competent to adjudicate the order passed by the Learned Additional Collector, he cannot interfere with order of the Learned DCLR.</p> <p>(i) In my view, the reasoning stated by the Learned Collector that he cannot adjudicate an order passed by the Learned Additional Collector is not correct. Under Section 30 of Bihar Land Ceiling Act, 1961, the Collector is fully empowered to adjudicate an appeal against an order passed by any officer other than the Collector. That be the case, the Learned Collector should have gone into the merits of the</p>	

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	<p>order passed by the Learned Additional Collector dated 25.03.1995.</p> <p>(j) Now, I come to the order passed by the Learned Additional Collector dated 25.03.1995, which is the original and substantive order on which the entire dispute started. It appears that the disputed land measuring 5.9 acres is evidently belonging to Smt. Rasowati Devi and the same has been confirmed by the report of the Circle Officer dated 21.01.1993.</p> <p>(k) It also appears that the said Smt Rasowati Devi is the original khatiani raiyat of the said land.</p> <p>(l) I also notice that the Parcha owners, the Petitioner in this case, were not issued notice by the Learned Additional Collector. However, this error was corrected by the Learned Collector, who reheard the matter when it was remanded by the Divisional Commissioner with the direction that the red card holders should also be heard.</p> <p>(m) Notwithstanding above, it is a fact that the land belonged to Smt. Rasowati Devi and should not have been included in the ceiling proceeding in the first place. Therefore, presence of the Petitioners in the ceiling case before the Learned Additional Collector is not going to materially alter the situation on ground.</p>	

आदेश की क्रम सं० और तारीख 1	7 आदेश और पदाधिकारी का हस्ताक्षर 2	आदेश पर की गई कार्रवाई के बारे में टिप्पणी तारीख सहित 3
	<p>(n) In the Revision application, the Petitioners have not given any evidence to suggest that the land did not belong to Rasowati Devi but it belongs to the land holder Smt Rajeshwari Devi.</p> <p>(o) The Petitioner's other argument that the land was purchased by the OP on 05.02.1984 without the permission of the Collector, is not relevant in the case as land in dispute was wrongly involved in the ceiling proceeding. Permission of the Collector to purchase the land is required only when the land is to be covered under a ceiling proceeding. In the instant case, it was a mess-up by the Revenue Authorities who wrongly included a raiyat's land into the landlord's land. There is no transaction or any relation between the raiyat, namely Smt Rasowati Devi and the landlord Smt Rameshwari Devi.</p> <p>Conclusion:-</p> <p>Based on the above finding, it is clear that it is the case of genuine mistake of fact. Error has been committed by the lower level Revenue Authorities who included an ordinary raiyat's land into the ceiling land of the land lord.</p> <p>The error was detected and now needs to be corrected. Because of this error, the Petitioners, who were the Parchadharis, tend to lose the land which was settled to them. Additionally, it caused harassment to OP No 5 to 9.</p>	

आदेश की क्रम सं० और तारीख 1	8 आदेश और पदाधिकारी का हस्ताक्षर 2	आदेश पर की गई कार्रवाई के बारे में टिप्पणी तारीख सहित 3
	<p>That be the case, I find that the Learned Additional Collector was right in excluding the land purchased by the OP from the ceiling proceeding. This also means that the land lord has to compensate this additional 5.9 acres of land from her share.</p> <p>Therefore, I confirm the order passed by the Learned Collector dated 01.08.2007 as well as the Learned Additional Collector dated 25.03.1995 with the direction to the Learned Collector, Araria to make good the loss of 5.9 acres of land which was wrongly included in the share of the landlord and settle the said land with the Petitioners.</p> <div style="display: flex; justify-content: space-around; align-items: flex-end; margin-top: 20px;"> <div style="text-align: center;"> <p>Dictated & Corrected</p>  <p>K.K.Pathak Additional Member Board of Revenue, Bihar.</p> </div> <div style="text-align: center;">  <p>(K.K.Pathak) Additional Member Board of Revenue, Bihar.</p> </div> </div>	