

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												
03.02.2017	<p style="text-align: center;"><u>BOARD OF REVENUE, BIHAR, PATNA.</u></p> <p style="text-align: center;">Revision (Land Ceiling Surplus) Case No. – 40/2006 Dist. - Bhagalpur</p> <p>PRESENT :- K.K. Pathak, I.A.S., Additional Member</p> <p>=====</p> <table><tr><td>Maharaj Bhagat</td><td style="text-align: center;">Versus</td><td style="text-align: right;">- Petitioner/ Appellant</td></tr><tr><td>The State of Bihar & Others</td><td></td><td style="text-align: right;">- Opposite party</td></tr></table> <p>=====</p> <p><u>Appearance:</u></p> <table><tr><td>For the Appellant/Revisionist</td><td>: Shri Jagdish Prasad Bhagat</td></tr><tr><td>For the OP</td><td>:</td></tr><tr><td>For the State</td><td>: Shri Nirmal Kumar, Special G.P.</td></tr></table> <p style="text-align: center;"><u>ORDER</u></p> <p>In this ceiling surplus case, a Revision application was filed on 19.12.2006 against the order passed by the Learned Collector, Bhagalpur dated 15.09.2006. The case was admitted on hearing on 22.02.2007. The Lower Court Records took time to reach. Since then, the case remained part heard on many dates.</p> <p>On 31.03.2011, the then Learned Advocate Member noted with dismay that the Petitioner is not cooperating with the proceeding and the Learned Advocate was not depositing the requisites to enable the OP to be served with the notices.</p> <p>However, the Petitioners were not depositing the requisites in spite of repeated directions by the Learned Additional Member. Then Additional Member felt that the</p>	Maharaj Bhagat	Versus	- Petitioner/ Appellant	The State of Bihar & Others		- Opposite party	For the Appellant/Revisionist	: Shri Jagdish Prasad Bhagat	For the OP	:	For the State	: Shri Nirmal Kumar, Special G.P.	
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	<p>case is fit for being dismissed for default. However, he referred the matter to the Hon'ble Member who chose the transfer the case to another Additional Member.</p> <p>In the meantime, the original Petitioner Sri Mahraj Bhagat died and he was substituted by the present Petitioner Sri Mahendra Bhagat on 23.09.2014.</p> <p>During this time, notices were sent to the Opposite Parties but nobody turned up.</p> <p>The case finally came up for hearing on 17.01.2017. On that day, the Learned Advocate of the Petitioner as well as the Learned Special GP was heard on the 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 aggrieved with the order of the Learned Collector Bhagalpur dated 15.09.2006 vide which his application under Section 37 of Bihar Land Ceiling, Act, 1961 was rejected. The Learned Advocate draws the attention of this Court to the fact that the said section 37 of Bihar Land Ceiling Act, 1961 was deleted in the year 1995 by an Ordinance. The said Section 37 read as under:-</p> <p><i>'Collector to decide dispute for which no specific provision is made – If any dispute arises under this Act or the rules made there under for which no specific provision has been made in this Act, the dispute shall be decided by the Collector in the prescribed manner and the</i></p>	


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	<p><i>appropriate provisions of the Act, so far as may be, shall apply thereto</i></p> <p><i>Provided that no such decision shall be made without giving the parties a reasonable opportunity of being heard and adducing evidence.'</i></p> <p>The Learned Advocate further avers that his application under Section 37 was dismissed by the then Learned Collector on 04.12.1995 on the grounds that the said section has been deleted by the Ordinance.</p> <p>The Petitioner then was Sri Maharaj Bhagat who, aggrieved at the order of the dismissal, went to the Hon'ble High Court in CWJC No. 4789/1996 who vide order dated 23.09.1997, remanded the matter back to the Collector and directed him to dispose of the petition under Section 37 on merits. Meanwhile, it was also directed that the Petitioner shall not be dispossessed from the land declared surplus.</p> <p>Thus, the Learned Collector again heard the matter and passed the impugned order under consideration.</p> <p>The case of the Petitioner is that the ceiling proceeding was drawn in 1976 against the original landlord Sri Niranjana Bhagat but by mistake, the land belonging to Sri Maharaj Bhagat has been included in the ceiling proceeding and declared surplus. As per the genealogical table, it seems that Maharaj Bhagat is related to Niranjana Bhagat.</p>	

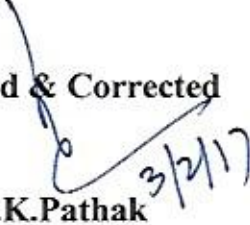

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	<p>The Learned Advocate further mentioned that Sri Niranjan Bhagat had also objected before the Revenue Authorities that out of 106 acres land, only 36 acres belongs to him and rest belongs to the others including the Petitioner. He draws the attention of this Court to order passed by the Learned Additional Collector dated 15.03.1983. He also mentioned that the khatian is also in his name and the same is annexed as Annexure 4 of the Revision application.</p> <p>Thus, a total of 18 acres of land has been wrongly included in the ceiling proceeding and has been declared surplus. He further claims that no notices were served to them in the ceiling proceeding and yet his land was declared surplus. He further claims that presently 75 percent of land is under the river and only 25 percent of land is in his possession.</p> <p>I also heard the Learned Special GP on behalf of the State. The Learned Special GP draws the attention of this Court to the Bengal Alluvial Land Settlement Act, 1858 according to which all lands submerged in the river vests with the State and any assessment is possible only after the land comes out of the river bed.</p> <p>Countering the argument of the Learned Advocate of the Petitioner, the Learned Special GP pointed out that the order of the Learned Additional Collector clearly mentioned that notices were indeed served to Maharaj Bhagat but they never appeared in spite of repeated notices. He also draws the attention of the Court to the report of the</p>	

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	<p>Krishan Bhagat. But I also note that there is no evidence to suggest that the partition has been legally affected.</p> <p>(d) I also find that in the original ceiling proceeding, the Petitioner was indeed issued notices. Hence it is not correct for the Petitioner to say that they were not issued notices in the ceiling proceeding.</p> <p>(e) From the report of the Circle Officer dated 13.05.1980, it is also clear that up to 1959 all the lands were having jamabandi in the name of the landholder Sri Niranjan Bhagat. However, in subsequent years, the jamabandi got issued in name of other relatives to hoodwink the ceiling law.</p> <p>(f) It is also established beyond doubt that all the rents were paid by the original landlord Sri Niranjan Bahagat and he was managing the entire State.</p> <p>(g) The Contention of the Petitioner that the land is not in his possession, has been disproved. The report of the Circle Officer confirms that the land is under active use and possession of the landlord.</p> <p>(h) I find that the Learned Collector while passing his order dated 15.09.2006 has gone</p>	

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	<p>through all the aspects raised by the Petitioner. In fact, the Revisionist was heard in great detail and every jamabandi has been duly scrutinized by the Learned Collector including the ones in the name of the Revisionist.</p> <p>Conclusion:-</p> <p>From the foregoing findings, it is clear that the Revisionist is part of the larger landlord family who has been popped up as a front by the landlord to save the land from the Ceiling Act.</p> <p>The filing of application under Section 37, at the very first instance, was also strategy to delay the ceiling proceeding in the year 1995. Otherwise how can one explain that the Revisionist all through avoided appearing before the court of the Learned Additional Collector in spite of numerous notices till the year 1983. And then suddenly he files an application under Section 37 before the Court of the Learned Collector.</p> <p>The said Section 37 was apparently misused as a strategy by various landlords and which ultimately prompted the State Government to delete the said Section.</p> <p>I also see that the matter has already reached the finality in the sense that the said land has already been declared surplus and distributed to 18 landless people and</p>	

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	<p>proceeding before the Court of the Learned Additional Collector have been closed.</p> <p>That be the case, I find no reason to interfere with the order of the Learned Collector passed on 15.09.2006.</p> <p>Revision Dismissed.</p> <div style="display: flex; justify-content: space-around; align-items: flex-end;"> <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>	