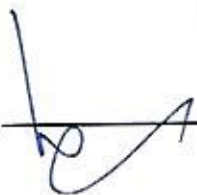


आदेश की क्रम सं० और तारीख 1	आदेश और पदाधिकारी का हस्ताक्षर 1 2	आदेश पर की गई कार्रवाई के बारे में टिप्पणी तारीख सहित 3												
15.02.2017	<p style="text-align: center;"><b><u>BOARD OF REVENUE, BIHAR, PATNA.</u></b></p> <p style="text-align: center;">Revision (Land Ceiling Surplus) Case No. – 46/2015 Dist.- Purnea</p> <p><b>PRESENT        :-        K.K. Pathak, I.A.S., Additional Member</b></p> <p>=====</p> <table><tr><td>Surendra Mandal and Others</td><td>Versus</td><td>- Petitioner/ Appellant</td></tr><tr><td>The State of Bihar &amp; Others</td><td></td><td>- Opposite party</td></tr></table> <p>=====</p> <p><b><u>Appearance:</u></b></p> <table><tr><td>For the Appellant/Revisionist</td><td>:Shri Subodh Kumar Jha</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;"><b><u>ORDER</u></b></p> <p>This is ceiling surplus case filed on 25.08.2015 against the order passed by the Learned Collector, Purnea on 25.12.1988 in Ceiling Appeal No. 205/1986-87. The case was earlier dismissed for default. However, the same was restored on 15.01.2016. The Lower Court Records also were received in time.</p> <p>The case was finally admitted for hearing on 18.01.2017 and the case was posted for final hearing on 08.02.2017. On that date, the Learned Advocate of the Petitioner was heard in great detail. The Learned Special GP was absent. Thus concluding the hearing, this order is being passed today.</p> <p>The Learned Advocate of the Petitioners, who are two in number namely Sri Surendra Mandal and Brahmdev Mandal, mentioned that they both are land</p>	Surendra Mandal and Others	Versus	- Petitioner/ Appellant	The State of Bihar & Others		- Opposite party	For the Appellant/Revisionist	:Shri Subodh Kumar Jha	For the OP	:	For the State	: Shri Nirmal Kumar, Special G.P.	
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	<p>owners. One Petitioner namely Sri Brahmdev Mandal has died.</p> <p>The Learned Advocate mentioned that he has come in Revision against the order passed by the Learned Collector on 21.12.1988 under the Bihar Land Ceiling Act, 1961 as well as the order passed by the District Land Acquisition Officer on 25.12.1985 under the Land Acquisition Act.</p> <p>This Court noted the fact that the order of the Learned Collector was passed in the year 1988 and asked the Learned Advocate of the Petitioner that what was he doing since the year 1988 till the year 2015 when this Revision was filed.</p> <p>To this, the Learned Advocate replied that against the order of the Learned Collector, he had filed a case in the Hon'ble High Court vide CWJC No. 929/1980 wherein the Hon'ble High Court, vide order dated 07.08.1991, remanded the matter back to the Board of Revenue.</p> <p>To this, the Court asked that what was the Petitioner doing since 1991 till 2015. The Learned Advocate of the Petitioner could not give a satisfactory reply except saying that the karta of the family died in 2014 and then the heirs carried the matter forward when they came to know of this case.</p> <p>Continuing with his arguments regarding the ceiling proceeding, the Learned Advocate mentioned that the total area involved in the ceiling proceeding was 82.4 acres, out of which 51.45 was allowed to be retained by him and</p>	


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	<p>remaining 30.59 acres was declared surplus. Moreover, he was not given any notice either under the Section 6 or Section 8 of the Bihar Land Ceiling Act, 1961.</p> <p>Coming to his second objection, he mentioned that he was allowed only two units in the name of Kadamlal Mandal (who was the karta of the family) and Surendra Mandal (his brother). His grievance is that he wants another unit in the name of Sri Brahmdev Mandal who was a major on the appointed date i.e. 09.09.1970.</p> <p>His third objection was related to the classification of the land. As per him, the land is Class-III category but has been shown as Class-I.</p> <p>His fourth objection was that he was not given any opportunity of filing an option. This resulted in the land closer to his homestead being declared surplus whereas far-flung lands were given to him.</p> <p>Concluding his arguments, the Learned Advocate mentioned that they are in the possession of the land and he is not sure whether Parchas have been distributed on his land to the landless persons.</p> <p>Having heard the Learned Advocate of the Petitioner and having perused the material available on the file as well as the Lower Court Records, my own findings on the issue are as under:-</p> <p>(a) At the very outset, this Court makes it clear that this Revision application is against the order passed by the Learned Collector in Bihar Land Ceiling Act, 1961. This is not revision under Bihar Land Acquisition Act,</p>	



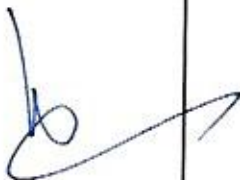


आदेश की क्रम सं० और तारीख 1	आदेश और पदाधिकारी का हस्ताक्षर 2	आदेश पर की गई कार्रवाई के बारे में टिप्पणी तारीख सहित 3
	<p>as is claimed by the Learned Advocate of the Petitioner. The original court, which passed the original order in the Ceiling Proceeding No. 2194/1973-74, was the District Land Acquisition Officer who, in the said proceeding, was not functioning as a District Land Acquisition Officer but was functioning as a 'Collector' under Bihar Land Ceiling Act, 1961. Therefore, there is no confusion on this account and there is no involvement of Bihar Land Acquisition Act in the instant proceeding.</p> <p>(b) Before coming to the merits of the case, it is essential to throw some light as to why this case has been delayed for so long by the petitioner. Clearly the order under challenge is the order passed by the Learned Collector in the year 1988. Aggrieved at this order, the Petitioner approached the Board of Revenue who, vide order dated 12.07.1989, dismissed the case for default due to continuous absence of the Petitioner. His plea for restoration was also rejected by the then Hon'ble Additional Member vide order dated 04.10.1989. Thus further aggrieved, the Petitioner approached the Hon'ble High Court in CWJC No. 929/1990 who, vide order dated 07.08.1991, set aside the order passed by the Board of Revenue and</p>	

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	<p>remanded the matter back to the Board for passing orders on merit.</p> <p>(c) However, from the year 1991, till the year 2015, when this revision application was filed, the Petitioner has not been able to explain the delay of 24 years. I am appalled at the explanation that the Petitioner is trying to give in Para 8 of his Revision application and pointing the blame for this delay on the Board of Revenue saying that '<i>after the order of the Hon'ble High Court, no notices was given to the Petitioner</i>'. It is weird for the Petitioner to expect that the Board of Revenue shall issue a notice to him. Instead, he should have approached the Board of Revenue with an application including the copy of the High Court order, immediately in the year 1991 itself, which he finally he did in the year 2015. This point, I am afraid, goes seriously against the interest of the Petitioner.</p> <p>(d) Coming to the merits of the case, I find that the ceiling appeal filed by the karta of the family, Sri Kadamlal Mandal before the Learned Collector, Purnea. His first grievance is regarding additional unit on behalf of Brahmdev Mandal. From the perusal of the Lower Court Records, it is clear that the Petitioner has not attached any</p>	

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	<p>documents in support of the fact that Sri Brahmdev Mandal was a major as on 09.09.1970.. In the absence of any evidence or documentary proof, it was not possible for the Court of Learned Collector to allow any extra unit in the name of Sri Brahmdev Mandal.</p> <p>(e) Before this Court, however the Petitioner have filed only a death certificate of Sri Brahmdev Mandal mentioning that he died on 04.02.2016. This does not indicate whether Sri Brahmdev Mandal was a major or not as on 09.09.1970. Hence, in the absence of any document regarding the date of birth of Sri Brahmdev Mandal, it is not possible for this Court to grant any extra unit on account of Sri Brahmdev Mandal.</p> <p>(f) Coming to the other objection regarding classification of the land, it is difficult to believe that the Petitioner was not present when his land was surveyed in the Ceiling Proceeding No. 2194/1973-74. Therefore, this court has no reason to disbelieve the said survey. The claim of the Petitioner that his lands are actually Class-III lands capable of only one crop in a year cannot be believed unless he comes out with cogent reasons showing that the lands are of poor quality. In the absence of such reasoning, the Revenue</p>	





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	<p>Authorities would obviously go for the general nature of the land and their own entries in the Revenue records. Therefore, I find no reason to challenge the findings of the Revenue Authorities on the classification of land.</p> <p>(g) Now coming to the third objection that the Petitioner was not given a right for exercising of the option, I agree with the findings of the Learned Collector that there is a procedure and a stage for every step. The Petitioner should have filed his option before the District Land Acquisition Officer who was functioning as a Collector under the Bihar Land Ceiling Act. The Petitioner certainly was aware of the proceeding that was going on before the District Land Acquisition Officer since the year 1976. Hence, it is difficult to believe that he was not given the right to exercise the option by the District Land Acquisition Officer.</p> <p>(h) Moreover, since the actual Petitioner before the Appellate Court and before the original court (District Land Acquisition Officer) was Sri Kadamlal Mandal, who is now no more, his heirs would legally and practically will not be in any position to say that whether their ancestor, Sri Kadamlal Mandal, was aware of the Ceiling</p>	

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	<p>proceeding or not. Furthermore, the present Petitioners would also not in a position to say whether any notices were received by their ancestor Sri Kadamlal Mandal.</p> <p>(i) From the perusal of the record of the Learned Collector, it appears that Sri Kadamlal Mandal never raised this point that he was not aware of the ceiling proceeding or that he was not issued any notices. In fact, he only raised the issue of allotment of additional unit and the classification of the land before the Appellate Court of the Learned Collector. Therefore, this argument of his heirs cannot be believed that their ancestor (who was the karta) was not aware of the ceiling proceeding.</p> <p><b>Conclusion:-</b></p> <p>From the aforementioned findings, it is clear that Petitioner has not attached a single piece of document of his own in his Revision Application in support of his objections.</p> <p>I have also perused the Lower Court Records of the Learned Collector. There also, the Petitioner attached not a single document in support of his objections which could enable the Learned Collector to give a ruling in his favour.</p> <p>All the Petitioner has filed is a death certificate of Sri Brahmdev Mandal which says that he died on 04.02.2016. A death certificate of a person does not indicate his death of birth. Moreover, it certainly does not hel this</p>	



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	<p>Court to conclude that Sri Brahmdev Mandal was a major as on 09.09.1970. Therefore, this Court is unable to give any extra unit on account of Sri Brahmdev Mandal.</p> <p>Merely saying that no notices were served in the Land Ceiling Proceeding No. 2194/1973-74 will not help the Petitioner in any way. It is difficult to believe that the Petitioner (or his ancestor who was the karta) was not aware of such a proceeding when his entire land was being surveyed with each plot being marked clearly by the Revenue Authorities.</p> <p>Moreover, the contention of the Petitioner that the land is in his possession is also false. In fact, in the Petitioner's own Revision Application (Para 12), he mentioned that much of their land has already be taken over by number of Schedule Caste persons. Furthermore, if the contention of the Petitioners is to be believed, even the land (which was allowed to be retained as a result of two units allotted to them) is not in their possession.</p> <p>The above therefore only indicates that the Petitioners are admitting that their aforementioned land so declared surplus has already been distributed by the District Administration to the landless persons.</p> <p>If any person is sitting on their allotted land (which they have been allowed to retain), then they should approach the District Authorities for getting the same vacated. However, in so far as the surplus land is concerned, it appears the matter has already achieved finality and the land has been distributed to the landless persons.</p>	

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	<p>In the absence of any documentary evidence or any paper whatsoever, this Court is finding it difficult to support the contention of the Petitioners. Coupled with the absence of the documents, we have a long delay of 24 years making it difficult for any interference at this stage.</p> <p>That be the case, I find no reason to interfere with the order passed by the Learned Collector dated 21.12.1988.</p> <p>Revision Dismissed.</p> <div style="display: flex; justify-content: space-around; margin-top: 200px;"> <div style="text-align: center;"> <p>Dictated &amp; Corrected</p>  <p><b>K.K.Pathak</b> Additional Member Board of Revenue, Bihar.</p> </div> <div style="text-align: center;">  <p><b>(K.K.Pathak)</b> Additional Member Board of Revenue, Bihar.</p> </div> </div>	