

आदेश की क्रम सं०
और तारीख
1

आदेश और पदाधिकारी का हस्ताक्षर
2

आदेश पर की ग
कार्रवाई के बारे
टिप्पणी तारीख सं
3

BOARD OF REVENUE, BIHAR, PATNA.

Revision (Land Ceiling Surplus) Case No. – 47/1992
Dist.- Darbhanga

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

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Shri Shri 108 Lakshmi Narayan Ji & Others	- Petitioner/ Appellant
Versus	
The State of Bihar & Others	- Opposite party

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Appearance:

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

ORDER

06.03.2017

This is a ceiling surplus case in which a Revision application was filed on 21.03.1992 against the order passed by the Learned Collector, Darbhanga on 25.02.1992 in Ceiling Appeal No. 3/1991-92. The case was admitted for hearing on 01.04.1992 and Lower Court Records were called for. Subsequently, by a reasoned order dated 24.07.1992, the Revision Petition was dismissed by the Hon'ble Member, Board of Revenue.

Aggrieved, the Petitioner approached the Hon'ble High Court in CWJC No. 8055/1992 wherein the Hon'ble High Court, vide order dated 01.02.1993, remanded the matter back to the Board of Revenue.

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 Board of Revenue then reheard the matter. However, on 14.02.1997, the case was dismissed for non prosecution.</p> <p>Subsequently, a Restoration Petition was filed and which too was dismissed on 04.03.1997. Aggrieved, the Petitioner went to the Hon'ble High Court in CWJC No. 3375/1997 and the Hon'ble High Court, vide order dated 07.07.1997, again remanded the matter back to the Board of Revenue.</p> <p>On 24.08.1998, the said Restoration Petition was again dismissed by the Hon'ble Member, Board of Revenue.</p> <p>Aggrieved, the Petitioner again filed a writ Petition challenging the order of the Board of Revenue dated 24.08.1998. The Hon'ble High Court, vide order dated 22.07.2014, however, dismissed the writ Petition (CWJC No. 19296/2013) due to delay in filing the writ. It may be noted that this writ namely CWJC No. 19296/2013 was filed in 2013 after 15 years of the order passed by the Board of Revenue.</p> <p>Thus further aggrieved, the Petitioner approached the Hon'ble High Court in LPA No. 55/2015 wherein the Hon'ble High Court, vide order dated 07.07.2015, restored the proceeding by setting aside the order passed by the Hon'ble single judge dated 27.07.2014.</p> <p>Consequently, Hon'ble High Court also set aside the order passed by the Hon'ble Additional Member on 04.08.1998 vide which the Restoration Petition was dismissed. The Hon'ble High Court also held that the Board</p>	

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	<p>of Revenue shall now decide the matter on merits within three months.</p> <p>Consequently, this proceeding was again restored and notices were issued to all the parties. The case came up for final hearing on 16.02.2017 wherein the Learned Advocate of the Petitioner was heard in great detail. I also heard the Learned Special GP on behalf of the State who wanted the file written notes of arguments, who filed the written argument on behalf of the State on 03.03.2017. The Learned Advocate on behalf of the parchadharis (settles) was also heard. Thus concluding the hearing, the matter was posted for order on 27.02.2017.</p> <p>However, on 23.02.2017, the Learned Advocate of the Petitioner again presented himself before this Court and preferred to file written note of arguments and for that purpose, he wanted more time. Considering the request of the Learned Advocate of the Petitioner, the matter was posted for orders on 06.03.2017 giving liberty to the Petitioner to file written note of arguments before that date. The Petitioner filed the written note of arguments on 03.03.2017.</p> <p>Thus concluding the hearing, this order is being passed today.</p> <p>As per the Learned Advocate of the Petitioner, the Petitioner is the current Mahant called Ram Udit Das alias Mauni Baba. A ceiling proceeding (No. 185/1974-75) was started against the deity Sri 108 Lakshmi Narayan Ji and draft publication was made under Section 10(1) involving a total area of 735.45 acres.</p>	

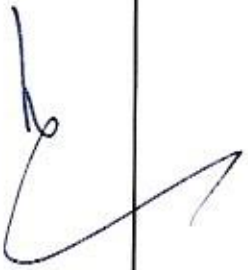
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	<p>Pursuant to the draft statement, the Petitioner filed objections on the ground that the land voluntarily surrendered was not excluded, urban area was included and some land which was personal property of the Mahant were wrongly included. After taking care of these objections, 580.75 acres was declared surplus while leaving one unit (30 acres) for the deity.</p> <p>As per the Learned Advocate, there should have been 19 units given to them for 19 different deities. Of these, 9 are located where the Mahant is seated which is a place called Pachhari in Darbhanga. Remaining 10 deities are located in different districts of Madhubani, Muzaffarpur and Vaishali. This point was not considered by the Learned Additional Collector when he passed this order on 18.04.1991.</p> <p>Aggrieved, the Petitioner went in appeal before the Learned Collector. During the pendency of the appeal, there was a rumour that the Petitioner's land is going to be forcibly distributed. This prompted the Petitioner to rush to the High Court in CWJC No. 873/1992 wherein the Hon'ble High Court, vide order dated 07.03.1992, restrained the Learned Collector not to distribute the land.</p> <p>On the appeal pending before the Learned Collector, he, vide order dated 25.02.1992, dismissed the Petitioner's appeal. Further aggrieved, he approached the Board of Revenue in Revision Case No. 47/1992. The Board of Revenue, vide order dated 24.08.1998, dismissed the same for default. The Petitioner approached the Hon'ble High Court which dismissed the writ. However, when he</p>	

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	<p>filed the LPA, the Hon'ble High Court remanded the matter back to the Board of Revenue and hence this proceeding.</p> <p>Concluding his arguments, the Learned Advocate mentioned that there are numerous judgements of the Hon'ble High Court and Supreme Court which says that each deity should get one unit. Summing up, the Learned Advocate mentioned that he wants units for each deity, exclusion of personal land belonging to Mahant and due consideration for classification of land.</p> <p>The Learned Special GP was heard on behalf of the State who desired that he wants to file written note of arguments in the matter. This liberty was given to the Learned Special GP.</p> <p>I also heard the Learned Advocate of the parchadharis. He mentioned that there are more than 200 parchadharis settled on the lands of the Petitioner by the State Government. In 1992, 68 persons were given parchas. In 1997, 32 persons were given parchas. In 2014, 122 persons were given parchas. In addition to the above, 108 people have already been living on certain portion of land since very long.</p> <p>Raising the issue of the validity of the Petition, the Learned Advocate of the parchadhairs mentioned that this application is not maintainable and challenged the right of the Mahant (Petitioner) Sri Ram Udit Das to prosecute the matter. Giving a background of the succession issue relating to the Mahant, he mentioned that the original Mahant Sri Jagdish Das died on 08.10.1993. Thereafter, Sri Jayram Das became Mahant, who, however, abdicated at a later stage. He</p>	

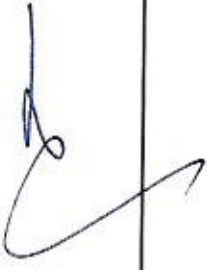
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	<p>authorised Sri Ramsevak Das to be the Mahant and it was Sri Ramsevak Das who had earlier fought this matter in the Hon'ble High Court.</p> <p>Now, the Learned Advocate of the Parchadharis has challenged the averments of the Petitioner that the Petitioner that Sri Ram Udit Das (alias Mauni Baba) was ever authorised by Sri Ramsevak Das. As per him, the Mahant hood can either be through election or nomination. This includes an elaborate 'teeka' function and 'chadar' function for the succeeding Mahant to be eligible to take over as a Mahant. There is no evidence anywhere to suggest that these functions were ever carried out in favour of the present Petitioner, Sri Ram Udit Das. Therefore, as per the Learned Advocate of parchadharis, the Petitioner is not competent to pursue this application.</p> <p>Concluding his arguments, the Learned Advocate of Parchadharis mentioned that land has already been settled with the settlees and the rights have been created in their favour. The settlees are in the possession of the land and their houses stand upon them. The Learned Advocate also mentioned that they were originally not made parties and hence they have to file an Intervention Petition.</p> <p>Finally, he submits certain judgements and papers showing distribution of the land to the settlees.</p> <p>In response to the above argument, the Learned Advocate of the Petitioner mentioned that he is in possession of most of the lands, though not all the lands. He further mentioned that the lands were dedicated to the deity and the deeds of dedication have been filed. He has also filed paper</p>	

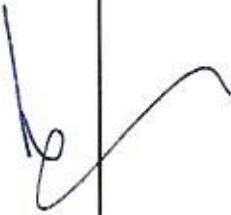
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	<p>where Sri Ramsevak Das has transferred the Mahanthood to the Petitioner on account of his ill health.</p> <p>This Court wanted to know from the Learned Advocate of the Petitioner as to the status of the land vested with the deity, whether it is a registered Trust or an informal arrangement. The Learned Advocate of the Petitioner mentioned that it is not a Trust and hence it is not required to be registered under Bihar Religious Trust Board.</p> <p>At this point, the Learned Advocate of the Parchdharis intervened and mentioned that this is a Trust and it is duly registered under the Bihar Hindu Religious Trust Act, 1950.</p> <p>The Learned Special GP also reiterated that any new Mahant has to be selected by a formal proceeding in the presence of local people, <i>chelaas</i> and the Mukhiya. This proceeding has to go to the Religious Trust Board and where the Board will issue a certificate acknowledging the new Mahant.</p> <p>As a rebuttal to the above arguments, the Learned Advocate of the Petitioner mentioned that in the absence of the <i>de jure</i> Trustee, the <i>de facto</i> Trustee is entitled to file a suit for recovery of the Trust property and this answers the question whether the Petitioner can sue the State or not.</p> <p>The Learned Advocate of the Petitioner also filed a written note of arguments which are placed on record.</p> <p>Having heard the Learned Advocate of the Petitioner and the Parchadharis in great detail and having heard the Learned Special GP on behalf of the State, and</p>	


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	<p>having perused the material available on record as well as the written note of arguments submitted by the parties, my own findings on the matter are as under:-</p> <p>(a) I note that the Petitioner has been deliberately dragging the case for too long. It is evident from the fact that when his case was dismissed for default by the Revenue Board on 24.08.1998, he filed a writ before the Hon'ble High Court in 2013, approximately 15 years after the order was passed by the Board of Revenue. This delay has not been explained by the Petitioner. The Hon'ble Single Judge had rightly dismissed the writ on account of the delay. However, the Petitioner got relief when he filed an LPA wherein the double bench remanded the matter back to the Board of Revenue. This delay of 15 years in filing the writ before the Hon'ble High Court, goes against the Petitioner.</p> <p>(b) Coming to the issue whether the present Petitioner is competent to file this case or not, I note that the case before the Learned Additional Collector was fought by Sri Jagdish Das. Same is the position before the Court of the Learned Collector.</p> <p>(c) Now, what is to be seen is whether the present Petitioner is a valid successor to Sri Ramsevak Das, who was the successor of Sri</p>	

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	<p>Jayram Das and who was the successor to Sri Jagdish Das, who fought this case at the Learned Lower Courts.</p> <p>(d) I also note that the Petitioner has enclosed an agreement between Mahant Ramsevak Das and himself wherein he claims that the said Mahanthood had been transferred to him. However, without going into the merits of the document, I would still hold that this Agreement would not pass the muster required under Bihar Hindu Religious Trust Act, 1950, particularly with reference to Section 44 of the Act. Needless to mention, this document cannot replace the requirements mentioned under Section 15 to Section 21 of the Act. Therefore, not much reliance can be placed on this document.</p> <p>(e) From the perusal of the records, it appears that the Trust is the registered Trust under the Bihar State Religious Trust Board as is borne by the original agreement between Mahant Siyaram Das and Sri SP Sahi, IAS (Retired) who was the then Special Officer of the Religious Trust Board. The said agreement in original was signed on 02.11.1957.</p> <p>(f) But the Petitioner has not filed any papers to suggest that it is registered Trust under the Bihar Hindu Religious Trust Board. Even a</p>	

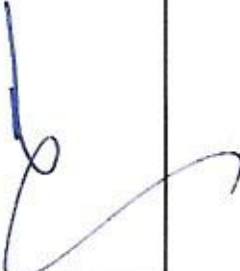
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	<p>written note of arguments, there is no such paper submitted by the Petitioner. Moreover, in his written note of arguments, he has mentioned that all the deeds of dedication in favour of 19 deities on claim paper and has enclosed them as Annexures.</p> <p>(g) Therefore, I find that there is no certificate of registration of the Trust under the Bihar Religious Trust Board submitted by any party.</p> <p>(h) It seems that there is a succession dispute regarding the Mahanthood and perhaps a section of the followers do not accept the Petitioner as a Mahant. This also explains the delay in filing the case before the High Court in 2015. Moreover, the case before the Hon'ble High Court was pursued by Sri Ramsevak Das. However, the case before this Board of Revenue is being fought by the Petitioner Sri Ram Udit Das. How the Petitioner came to succeed Ramsevak Das would have to be decided within the ambit of law as given under Bihar Religious Trust Board. This, therefore, would lie in the domain of the Civil Court to settle the succession dispute, if any.</p> <p>(i) This Revenue Court shall not be the Competent Authority to adjudicate the issue of succession of the Petitioner as Mahant</p>	

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	<p>and this Court shall confine itself to the issue of land ceiling.</p> <p>(j) Coming to the matter of the number of units entitled to the deities, the demand of the Petitioner is that he should get 19 units for 19 deities. I find that a similar request was made by the erstwhile Mahant to the Revenue Department of the State Government and same was rejected twice.</p> <p>(k) His request for exemption under Section 29 of the Ceiling Act was also duly rejected by the State Government.</p> <p>(l) From the examination of the paper submitted by the Petitioner, it seems that these are not 19 different deities but the branches of a single Matth. This is also evident from the original agreement signed in the year 1957 between the then Mahant Siyaram Das and Sri SP Sahi IAS (Retired) of the Bihar State Religious Trust Board. It is clearly mentioned in the original agreement that all these lands spread over various districts of Darbhanga, Madhubani, Muzaffarpur and Vaishali were being looked after by the said Mahant.</p> <p>(m) Had these deities been different, then Religious Trust Board would have entered into 19 different agreements. By signing only one agreement for all the lands spread</p>	

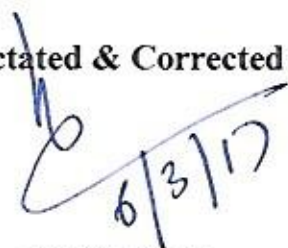
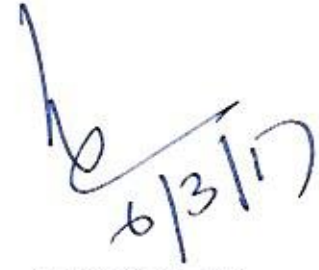
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	<p>over four districts, the Religious Trust Board as well as the erstwhile Mahant acknowledged that this is only one Matth with various branches and not 19 different establishments. Therefore, the Learned Additional Collector was correct in holding the entire property as one establishment and rightly allowed only one unit.</p> <p>(n) I find that the Petitioner has enclosed certain judgements in support of his contention that each deity is entitled to a unit and has filed them in his written note of arguments. I have carefully gone through the judgement reported in AIR 1978 Patna Page 330. I note that the deity in question were two different deities duly registered with the Bihar Religious Trust Board. Their properties were also duly registered and enlisted with the Religious Trust Board and the same were under the control and the guidance of the Board. The lands endowed to these deities were also through registered sale deeds. Moreover, both the deities were registered <i>separately</i> by the Board, as two different entities. In the instant case, there are following characteristics which make the aforementioned judgement inapplicable:-</p> <ol style="list-style-type: none"> i. The deities are not registered with the Religious Trust Board. 	

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	<p>ii. The deeds of dedication are also not registered.</p> <p>iii. There is no separate recognition of these 19 deities by the Board. Instead, contrary is the indication, which is, the Board has signed a single Agreement for all 19 deities in 1957.</p> <p>(o) Similarly, some other judgements have been mentioned by the Petitioner in his written note of arguments. However, these judgements too are not applicable in this case for the aforementioned reasons.</p> <p>(p) Coming to the other issue of the land being voluntarily surrendered by the Mahant, I see that 63.65 acres land was excluded from the ceiling proceeding as these were voluntarily surrendered. Therefore, it may not be correct on part of the Petitioner to suggest that his voluntarily surrendered lands were not included.</p> <p>(q) The other objection of the Petitioner was that the lands in the urban area were also included. I find that such land was also excluded from the proceeding when the Petitioner objected. This land is about 3.15 acres.</p>	

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	<p>(r) Additionally, 57.90 acres land was found to be shown in excess and the same was also excluded.</p> <p>(s) Thus, a total of 124.7 acres were excluded from the proceeding in view of the objections made by the Petitioner. Therefore, I find that the State has incorporated all the concerned of the Petitioner and has accommodated the same.</p> <p>(t) Regarding the objection on classification of land, I see that no details have been provided by the Petitioner in his Revision application as to which lands have been wrongly classified. I also see that Petitioner has not raised this issue before the Lower Courts and this is entirely a new issue which the Petitioner has raised. In the absence of any details, it is not possible for this Court to give any relief to the Petitioner on classification issue.</p> <p>(u) The other concern that the Petitioner has raised is regarding the fact that pokhara will not form part of that ceiling proceeding. He has, again, not given any details in his revision application. Nor has he raised this objection before the Learned Lower Courts.</p> <p>(v) Coming to the next objection, that he was not given opportunity to file his option, I note that the ceiling proceeding was initiated</p>	

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	<p>in the year 1973. The final orders was passed in the year 1991 which is roughly a period of 18 years. Nothing stopped the Petitioner to file his objection in these 18 years. In any case, this issue had to be raised at the original Court, <i>before</i> the order was passed by the original Court i.e. the Learned Additional Collector, who passed the order on 08.04.1991.</p> <p>(w) Regarding the land which is claimed by the erstwhile Mahant Siyaram Das (<u>not</u> the present Petitioner) to be his personal property, I find that the original Agreement of the year 1957 does mention about such land. However, the present Petitioner has to prove how the personal property of Mahant Siyaram Das has vested with the present Petitioner. No such documents have been provided by the present Petitioner to suggest that he is the rightful successor of the personal property of Mahant Siyaram Das. In the absence of any evidence, it will be difficult to this Court to comment on the issue. In any case, such succession issue shall have to be decided by the Competent Civil Court and not this Revenue Court.</p> <p>(x) I also find that the land has been settled in the favour of the settlees, mutation has been</p>	

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	<p>done and they are in peaceful possession of the same.</p> <p>(y) I also tend to agree with the Learned Advocate of the parchadharis that the Petitioner should have made these settlees a necessary party as their rights were to be affected. However, now that they have been duly issued Parchas by the Revenue Authorities, I find no reason to disturb their possession.</p> <p>Conclusion:-</p> <p>From the aforementioned findings, it is clear that most of the issues raised by the present Petitioner have been duly addressed by the Learned Lower Courts.</p> <p>The State has been more than reasonable in accommodating the concerns of the Trust. A total of 124.7 acres were excluded from the ceiling proceeding and out of a total of 735.45 acres, 610.75 acres were declared surplus. Thus, to the extent possible, the State has excluded the lands which were covered under the ambit of law.</p> <p>Regarding giving 19 units to 19 different deities, it has been abundantly established that these are not 19 different establishments but only one establishment looking after all the 19 deities. This is borne out from the original agreement of the year 1957 between the erstwhile Mahant and the Religious Trust Board. Had there been 19 different establishments, there would have been 19 different registration certificates.</p>	

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	<p>Since, the Religious Trust Board never acknowledged that these are 19 different establishments and never issued 19 different certificates of registration, it is not possible to consider these 19 deities as 19 different establishments, particularly when they are looked after by a single Mahant.</p> <p>Moreover, issues of succession have to be dealt by the competent Civil Court of District Judge as required under Section 48, read with Section 54, of Bihar Hindu Religious Trust Act, 1950. This Revenue Court, therefore, would not venture into this domain and rather confine itself to the adjudication of the surplus land under Bihar Land Ceiling Act, 1961.</p> <p>In light of the above, it can be safely held that, given the existing evidence, there is only one establishment looking after all the 19 deities and therefore it is rightly entitled for only one unit.</p> <p>That be the case, I find there is no procedural or legal infirmity in the order passed by the Learned Collector on 25.02.1992 or the Learned Additional Collector on 08.04.1991 and the same are hereby reaffirmed.</p> <p>Revision Dismissed.</p> <div style="display: flex; justify-content: space-around; 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>	