

की कृपया सं०
गोपनीय

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आदेश और पदाधिकारी का हस्ताक्षर

आदेश पर की गई
कार्रवाई के बारे में
टिप्पणी तारीख सहित

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BOARD OF REVENUE, BIHAR, PATNA.

Revision (Land Ceiling Surplus) Case No.- 74/2001.

Dist.- Begusarai

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

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Balmiki Bhagat

- Petitioner/ Appellant

Versus

Jago Sah & Others-

- Opposite party

Appearance:

For the Appellant/Revisionist

: Sri Madheshwar Singh

For the OP

: Sri Murli Manohar Singh

For the State

: Sri Nirmal Kumar, Special G.P.

ORDER

07.12.2016

Heard the Learned Advocate of the Petitioner.

The Learned Advocate of the OPs (who are the Purcha Dharis) were also heard. The Petitioner claims that he is the Bataidar of the disputed land and hence the land, which was declared Ceiling Surplus should have been settled with him. The Learned Advocate of the Petitioner further mentions that he has already filed the written notes of argument and has nothing more to add. He further draws the attention of this Court towards the order passed by the Hon'ble High Court in CWJC No. 4448/1992 and urges this Court to decide the matter in that light.

Learned Special G.P. was also present and was heard in great detail. The Learned Special G.P. draws the attention of the Court to the order passed by the Learned Collector, Begusarai on 24.12.2000. As per the order, an on the spot enquiry was conducted by the Authorities wherein the possessions of the Purcha Owner

(Opposite Parties) has been confirmed. It has been also confirmed that the Petitioner is also a Government Employee in the State Department of the Tubewell and hence Government Employees are not eligible for Bataidar benefits. Accordingly, the Revision Petition is fit to be dismissed.

Perused the record available and the Lower Court Record. It appears that this Revision was first preferred on 29.03.2001 against the order of the Collector, Begusarai on 23.12.2000. The Revision Petition was dismissed as time barred on 03.10.2001 by the Hon'ble Member himself. Aggrieved with this order, the Petitioners approached the Hon'ble High Court in CWJC No. 15092/2001 wherein the Hon'ble High Court on 23.09.2008 remanded the matter back to the Board of Revenue to be disposed of in accordance with law. Since then, numerous dates were given in this Case. Final hearing could not take place due to various reasons.

Now today, the case came up and all the parties concerned were heard on merit.

The Brief history of the Case is that the Petitioner claims to be a Bataidar of a certain plot of land belonging to a Trust. The Learned DCLR however, in the Bataidar case no. 5552/75-76, rejected the claim of the Petitioner on 29.06.1976. It may be noted that the Trust had surrendered 1327 acres of lands voluntarily to the State Government. On that basis, a Ceiling Case no. 137/76-77 was started in which the Petitioner raised the

same issue which was the rejected by the Additional Collector and then, by the Collector. The Petitioner went to the Board of Revenue in Revision who remanded the case back to the Collector on 01.03.1998.

In between, in a parallel Case No. 7/82-83 before the Additional Collector, he declared the Petitioner to be a Bataidar on 07.09.82. Against the order of Additional Collector, the Opposite Party (Purcha Owners) approached the Learned Collector, where upon, on the order of the Collector, the Purcha Dharis were given possession. Aggrieved, the Petitioner approached the Board of Revenue where the Revision was also rejected.

The Petitioner preferred an appeal against the order of the Additional Member, Board of Revenue on 11.5.1992 before the Hon'ble High Court which in CWJC No. 4448/1992 wherein the Hon'ble High Court after hearing all concerned remanded the matter back to the Collector. The order of the Hon'ble High Court was passed on 25.06.1993.

In that view of the matter, the Collector finally passed an order dated 23.12.2000 in Ceiling case no. 111/1993 which is under challenge in the instant proceeding.

Perused the order of the Collector which seems to have been passed after due consideration and after hearing all the parties concerned. The Learned Collector has further held that the Petitioner does not fit in the definition of Bataidar and also held that the intention

of the Petitioner was to defeat the objective of the Ceiling Laws in connivance of the local Revenue Officers.

From the perusal of the record, it is also evident that Additional Collector vide his report dated 29.09.1995 has confirmed that, although the Petitioner was in possession of the land before the distribution of the Purchas, the Opposite Parties (the Parch owners) were now in the possession of the land after they were given Purchas by the District Administration. Moreover, the Petitioner is also a Government Employee and hence he cannot enjoy the benefits of Bataidar.

In view of the above facts, I find it difficult to agree with the contention of the Petitioners and find no reason to interfere with the orders passed by the Learned Collector on 23.12.2000. I also do not find merit in the argument of the Petitioner that the Hon'ble High Court has upheld their view point in CWJC.No. 4448/1992. I have carefully gone through the said judgement. Nowhere in the said judgement, the Hon'ble High Court upheld the primary contention of the Petitioner to be a Bataidar of the Trust. The Hon'ble High Court dwelt upon the procedural irregularities in the orders passed by various Revenue authorities and noted that the Appellate and Revisional Authorities did not take into consideration all the materials placed on records. Therefore the Hon'ble High Court remanded the matter back to Collector to hear the Petitioner again including providing him a right to file an application u/s 22 of the Ceiling Act. It may be noted that

the Petitioner has availed of the benefit under Section 22 of the Act in the case no- 137/76-77. As such the Petitioner cannot claim that the Revenue Authorities did not give him a right u/s 22 of the Ceiling Act.

In that light of the matter, I find the Collector's Order comprehensive and passed after due deliberations. I therefore uphold the same. The Revision Petition is hereby dismissed.

Dictated & Corrected

K.K.Pathak

Additional Member
Board of Revenue, Bihar.

(K.K.Pathak)

Additional Member
Board of Revenue, Bihar.