

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11886 of 1995

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1. Rajeshwari Prasad Singh, son of Hira Singh, R/o – Qtr. No. 2, 120
Kankarbagh Housing Colony, P.O. Lohianagar, P.S. – Kankarbagh,
District – Patna.
 2. Binay Kumar Singh, son of Markandey Singh
 3. Mostt. Mandodara Kuar, wife of late Markandey Singh
 4. Abhay Kumar Singh, son of Rajeshwari Singh
 5. Ajay Kumar Singh, son of Rajeshwari Singh

All R/o – village Khajura, P.S. – Bhagbanpur, District – Bhabhua.

.... Petitioners

Versus

1. The State of Bihar
2. Collector, Bhabhua.
3. Deputy Collector Land Reforms, Bhabhua.
4. Additional Member, Board of Revenue, Bihar, Patna.

.... Respondents

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Appearance :

For the Petitioners	:	Mr. Udit Narayan Singh, Advocate Mr. Gajendra Kr. Singh, Advocate
For the Respondents	:	Mr. Raju Giri, GP 30 Mr. Aditi Hansaria, AC to GP 30

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CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH
ORAL JUDGMENT

Date: 23-07-2015

It is stated that petitioner nos. 1, 3 and 4 have died
and Substitution Application has been filed. However, that
makes a little difference inasmuch as the estate of the petitioner
is duly represented by the remaining petitioners.



The petitioners are aggrieved by the order passed by the Collector, Bhabhua, in Ceiling Appeal No. 5 of 1992 and the resolution of Board of Revenue affirming the order dated 20.01.1993 passed in Ceiling case and the resolution of the Board of Revenue dated 13.03.1995 passed in Revision Case No. 83/1993 which are contained in Annexures – 3 & 5 of the writ petition.

Heard learned counsel for the petitioners and learned counsel for the State.

A land ceiling proceedings was initiated against the estate of Late Hira Singh through his sons, namely, Rajeshwari Pd. Singh and Markandey Singh. After considering the entire aspect, the learned Deputy Collector Land Reforms (in short the “D.C.L.R.”) ultimately held that the entire land held by the family was within the ceiling area. It was held that family was entitled to five units. On that finding, the land ceiling proceedings were dropped. This was passed by order dated 19.07.1988 by D.C.L.R., Bhabhua. Against this, the State filed an Appeal in the year 1992 being Land Ceiling Appeal Case No. 5/1992 before the District Collector, Bhabhua, who in spite of objection being raised entertained this belated appeal and allowed the same setting aside the order of the D.C.L.R. by his

order dated 29.01.1993. The petitioners being, aggrieved by this order, filed a Revision Application before the Board of Revenue which was numbered as Case No. 83/1993, and the Board of Revenue rejected the Revision on 13.01.1995.

A short issue has been raised on behalf of the petitioners. It is submitted that in view of Section 30 of the Land Ceiling Act, as amended in 1982, any appeal that has to be filed before the Collector from the order of the D.C.L.R. had to be filed within 30 days. The power to condone the delay in filing the appeal, as was contained in Section 30 of the Act prior to its amendment, had been taken away.

This matter has squarely come up for consideration in the case of **Bhuneshwar Bhagat v. State of Bihar** since reported in **1988 PLJR 721**. This Court clearly held that though the appellate forum had attributes of a civil court, it was not a civil court and not being a court, section 5 of the Limitation Act would not apply. The Court held that there was no power to condone the delay in filing the appeal.

If that be so, then the order of the Appellate Court i.e. the order of the District Collector was wholly without jurisdiction. If that be so, then the Revisional order also goes with the appellate order. Both the orders, as contained in



Annexures – 3 & 5, are liable to be set aside. They are set aside.

The order of the D.C.L.R. is, thus, restored.

The writ application is, accordingly, allowed.

(Navaniti Prasad Singh, J.)

Rajeev/-

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