IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14550 of 2008

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1. Sandeep Kumar Singh @ Sandeep Kumar, son of late Kameshwar Pd. Singh.
2. Bipul Kumar, son of late Kameshwar Pd. Singh
3. Divesh Kumar, son of late Arun Kumar Singh
4. Ajnas Devi, wife of Baleshwar Rai, deceased.
5. Ramashish Rai, son of late Baleshwar Rai.
6. Ram Sukhit Rai, son of late Baleshwar Rai
7. Ramuchit Rai, son of late Baleshwar Rai
8. Meena Devi, daughter of late Baleshwar Rai,

All resident of village Nayanagar, P.S. Rosera, District Samastipur

Land Holders.... .... Petitioners

Versus

1. The State of Bihar
2. The Add. Member, Board of Revenue, Patna
3. The Collector, Samastipur
4. The Land Reforms Deputy Collector, Rosera, Samastipur
5. Ramjee Pandit, son of late Bhuttu Pandit, resident of village Nayanagar P.S. Hasanpur
6. Bouni Devi, daughter of late Bhutto Pandit and wife of Raghuni Pandit, village Jitpur, Samsa, P.O. Parinara District Begusarai
7. Urmila Devi, D/0 Late Bhutto Pandit and wife of Mukhi Pandit village Gopalpur P.O. Akopur, P.S. Cheriya Bariyarpur, District Begusarai
8. Lakshmi Devi, D/o- Late Bhutto Pandit and Wife of Ramashray Pandit, village & P.O. Pahsara, P.S. Cheria Bariarpur, Begusarai.
9. Ram Chandra Singh, son of Late Sukhram Singh
10. Harish Chandra Singh, son of Late Sukhram Singh
11. Amarnath Singh, son of Late Sukhram Singh
12. Urmila Devi, D/o Late Sukhram Singh
13. Kaushalya Devi, D/o Late Sukhram Singh
14. Sudha Kumari, D/o Late Sukhram Singh
15. Mina Kumari, D/o Late Sukhram Singh
    All resident of village Nayanagar, P.S. Hasanpur, District Begusarai
16. Mukul Singh, Son of late Shiva Sajiban Singh, resident of village Nayanagar P.S. Hasanpur, District Samastipur
17. Mira Sharma, wife of Sri Satish Sharan Sharma, village Temue P.O. Fatiha, District Begusarai
18. Madhu Kumari, wife of Sri Ramanand Chaudhary, Village and P.O. Thatha Basantpur, District Khagaria
19. Shipra Kumari, wife of Sri Munna Chaudhary, village Chakla Nirmali, Ward no. 11, Supaul, Respondents 17, 18 and 19 are daughters of Kameshwar Singh, deceased.

…………. Respondents

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Appearance :

For the Petitioner s	:	Mr. Satyendra Nr. Singh, Adv.
		Mr. Prabhat Kumar, Adv.
For the State	:	Mr. Sarvesh Kumar, G.P. 24
		Mr. Anuj Kumar, AC to G.P. 24
For Private respondents		Mr. Aditya Narayan Singh No. 1, Adv.

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CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR SRIVASTAVA

ORAL ORDER

7 05-07-2017 1. Heard learned counsel for the petitioners as well as learned counsel appearing for the private respondents.

2. The grievance of the petitioners is that the impugned order dated 06.11.2006 was passed against the petitioners in their absence as before passing the aforesaid order no notice was given to the petitioners.

3. Learned counsel for the petitioners submits that Revision Case No. 353 of 1996 was filed against the order dated 09.08.1996/ 21.08.1996 passed by the Collector, Samastipur in Ceiling Appeal No. 10 of 1994-95/ 3 of 1995-96 as well as order dated 11.02.1994 passed by the D.C.L.R., Rosera in Original Land Ceiling Case No. 4 of 1991-92. The aforesaid Revision Case No. 353/96 was allowed and the impugned orders of the Collector and D.C.L.R. were set aside. However, against the order of revisional court, the private opposite parties came before this court by filing CWJC No. 5832 of 1998 which was disposed of remitting the matter back to the Board of Revenue for hearing the aforesaid

Revision Case No. 353/96 afresh after giving proper opportunities of hearing to the concerned parties. However, the parties again appeared before the Board of Revenue on 25.08.2004 but subsequently, the petitioners made absent themselves from the aforesaid proceeding as a result whereof, the aforesaid revision case was dismissed for non prosecution. The petitioners filed restoration petition and the aforesaid restoration was moved by private opposite parties on 23.02.2006 and on their prayer the Revision Case No. 353/96 was restored to its original number. The learned Member, Board of Revenue vide order dated 23.02.2006 ordered for issuance of notice to concerned parties but without receiving any service of notice passed the impugned order dated 06.11.2006 only on the ground that the petitioners were present before him prior to dismissal of the aforesaid revision petition for want of prosecution and, therefore, the aforesaid presence was sufficient to show that the petitioners had knowledge about pendency of the revision case.

4. Learned counsel appearing for the opposite parties submits that the impugned order goes to show that petitioners were aware about the pendency of aforesaid revision case as the impugned order reflects that they were present before the Board of Revenue prior to dismissal of the aforesaid revision case and that

was the reason the learned Member, Board of Revenue passed the impugned order.

5. It is an admitted position that record of Revision Case No. 353 of 96 was received in Board of Revenue after remand and after that the petitioners appeared before the revisional court on 25.08.2004 and 01.09.2004 but after that they absented themselves since 05.10.2004 as a result whereof, the aforesaid revision case was dismissed. However, Anexure-5 to this petition goes to show that the aforesaid revision case was restored on 23.02.2006 on the prayer of opposite parties but after restoration of aforesaid case, no notice was served upon the petitioners and the aforesaid fact has been admitted by learned Member, Board of Revenue in the impugned order. Therefore, it is obvious from the aforesaid fact that the impugned order dated 06.11.2006 has been passed by the learned Member, Board of Revenue without giving any proper notice to petitioners and, therefore, in my view, the impugned order dated 06.11.2006 cannot be sustained in the eye of law. Accordingly, the impugned order dated 06.11.2006 passed in Revision Case No. 353/96 is set aside and the matter is sent back to the learned Member, Board of Revenue to hear the matter afresh after giving proper opportunity of hearing to both the parties of aforesaid revision. It is also made clear that both parties

shall appear before the learned Member, Board of Revenue on 24.08.2017 and failure to do so on their part shall give liberty to learned Member, Board of Revenue to pass order in Revision Case No. 353/96 in their absence also.

(Hemant Kumar Srivastava, J)

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