

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.1630 of 2013
IN
Civil Writ Jurisdiction Case No. 3738 of 2007**

- =====
1. Md. Ishlam Son Of Abdul Bashid Resident Of Village - Hariharpur, P.S. - Kodha, District - Katihar
 2. Abdul Salam Son Of Late Md. Tayab Ali Resident Of Village - Hariharpur, P.S. - Kodha, District - Katihar
 3. Shankar Mahaldar Son Of Sri Sonai Mahaldar Resident Of Village - Binodpur, P.S. - Kodha, District - Katihar
 4. Lalu Mohammad Son Of Late Md. Ishlam Resident Of Village - Binodpur, P.S. - Kodha, District - Katihar
 5. Abul Hussain Son Of Late Md. Mohiuddin Resident Of Village - Binodpur, P.S. - Kodha, District - Katihar
 6. Devanand Mahaldar Son Of Late Sri Jangli Mahaldar Resident Of Village - Hariharpur, P.S. - Kodha, District - Katihar
 7. Bhuneshwar Sharma Son Of Late Fagu Sharma Resident Of Village - Hariharpur, P.S. - Kodha, District - Katihar
 8. Lal Mohammad Son Of Late Md. Tayab Ali Resident Of Village - Hariharpur, P.S. - Kodha, District - Katihar
 9. Domi Mahaldar Son Of Late Baldeo Mahaldar Resident Of Village - Hariharpur, P.S. - Kodha, District - Katihar
 10. Govind Mahaldar Son Of Late Barti Mahaldar Resident Of Village - Hariharpur, P.S. - Kodha, District - Katihar
 11. Amal Mahaldar @ Amol Mahaldar Son Of Sri Jagdish Mahaldar Resident Of Village - Hariharpur, P.S. - Kodha, District - Katihar
 12. Kamli Devi Widow Of Late Ayodhi Mahaldar Resident Of Village - Hariharpur, P.S. - Kodha, District - Katihar

.... Appellant/s

Versus

1. The State Of Bihar
2. District Collector, Katihar
3. Dy. Collector, Land Reform, Katihar
4. S.D.O. , Katihar
5. Anchaladhikari, Kodha Anchal, Katihar
6. Sikandar Son Of Md. Sanahullah Resident Of Village - Binodpur, P.S. - Kodha, District - Katihar
7. Ansur Ali Son Of Late Aynuddin Resident Of Village - Binodpur, P.S. - Kodha, District - Katihar
8. Md. Mushlim Son Of Late Abdul Bashid Resident Of Village - Binodpur, P.S. - Kodha, District - Katihar
9. Munefa Khatoon Wife Of Abdul Ganni Resident Of Village - Binodpur, P.S. - Kodha, District - Katihar
10. Suleman Ali Son Of Rahmat Ali Resident Of Village - Binodpur, P.S. - Kodha, District - Katihar
11. Makbul Son Of Late Asgar Ali Resident Of Village - Binodpur, P.S. - Kodha, District - Katihar
12. Rezul Ali Son Of Makbul Resident Of Village - Binodpur, P.S. - Kodha, District - Katihar
13. Azizul Son Of Makbul Resident Of Village - Binodpur, P.S. - Kodha, District -



Katihar

14. Arshad Ali Son Of Abdul Bashid Resident Of Village - Binodpur, P.S. - Kodha,
District - Katihar

15. Abdul Mayan Son Of Bashit Resident Of Village - Binodpur, P.S. - Kodha,
District - Katihar

16. Sheraj Ali Son Of Abdul Saiyad Resident Of Village - Binodpur, P.S. - Kodha,
District - Katihar

17. Noor-E-Ishlam Son Of Sikandar Resident Of Village - Binodpur, P.S. - Kodha,
District - Katihar

.... Respondent/s

Appearance :

For the Appellant/s : Mr. Kumar Malendu

For the Respondent/s : Mr. Ravi Verma, AC to GP4

CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

and

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

Date: 21-03-2017

Heard counsel for the appellants and counsel for the
State.

Since the settlement of lands in favour of these appellants was on the basis of a surplus land having been declared on the basis of a ceiling proceeding, which was ultimately set aside by an order of the High Court on 16.11.1999 in CWJC No.609 of 1990, the reliance, which is being placed by learned counsel for the appellants that they were necessary parties and ought to have been heard on the basis of the decision of the Hon'ble Apex Court rendered in the case of *Ram Swarup V. S.N.Maira and others, (1999) 1 SCC 738* will have no reflection on the order of the learned Single Judge dated 17.7.2013. If the appellants have a case if at all they have to first get



the order passed in CWJC No.609 of 1990 set aside or modified.

The order of the learned Single Judge to that extent refusing to interfere with the decision of the State to reduce the size of the land and plots, which have been settled in their favour earlier on the basis of earlier declaration of the size of the surplus land is not required to be interfered with.

Appeal is dismissed.

Appellant no.1 is dead. No legal heir has come forward to be substituted. The appeal will abate on his behalf.

(Ajay Kumar Tripathi, J)

(Nilu Agrawal, J)

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AFR/NAFR	NAFR
CAV DATE	NA
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Transmission Date	NA

