

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Letters Patent Appeal No.644 of 2018**

**In**  
**Civil Writ Jurisdiction Case No.7018 of 1996**

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Devendra Kumar Singh S/o Jagarnath Singh, Resident of Village- Jalalpur,  
P.O.- Jalalpur, P.S.- Dharaunda, District- Siwan.

... .. Appellant/s

Versus

1. The State Of Bihar.
2. The Additional Member, Board of Revenue, Bihar, Patna.
3. The Collector, Siwan.
4. The Additional Collector, Siwan.
5. The Circle Officer, Dharaunda, Siwan.

... .. Respondent/s

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**Appearance :**

For the Appellant/s : Mr.Madhukar Pandey, Advocate

For the Respondent/s : Mr.Md.Khurshid Alam, AAG-12

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**CORAM: HONOURABLE THE CHIEF JUSTICE**

**and**

**HONOURABLE MR. JUSTICE DINESH KUMAR SINGH**

**ORAL JUDGMENT**

**(Per: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH)**

**Date : 19-11-2019**

The present appeal has been preferred, by the sole appellant, Devendra Kumar Singh against the order dated 13.04.2018 passed in C.W.J.C. No. 7018 of 1996, whereby the writ application has been dismissed by the learned Single Judge.

The writ application was preferred by the sole appellant for quashing of the orders dated 15.09.1982 passed

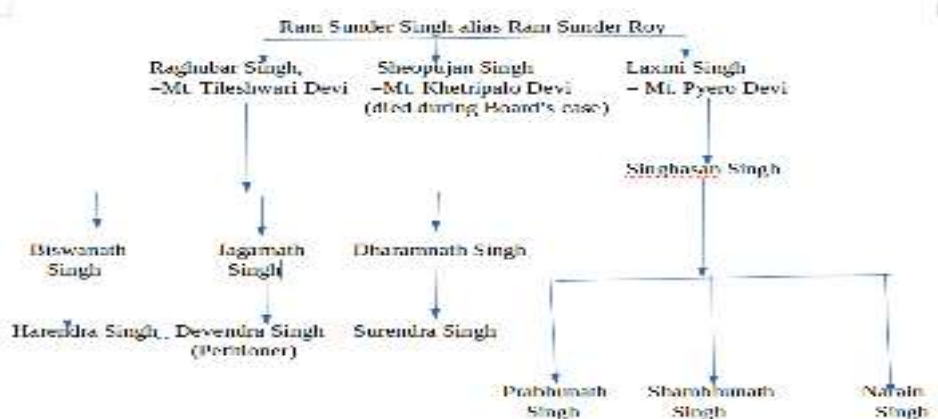


by the Additional Collector, Siwan in Land Ceiling Case No. 107 of 1973-74, the order dated 06.12.1991 passed by Collector, Siwan in Ceiling Appeal No. 258 of 1982-83/13 of 85-86 and the order dated 30.03.1996 passed in Case No. 37 of 1992 by Additional Member, Board of Revenue, Bihar, Patna, as contained in Annexures 2 to 5 to the writ application. Initially a proceeding in Land Ceiling Case No. 107 of 1973-74, which was initiated against the petitioner was dropped on the ground that the landlords are entitled to get eight units and to possess 200 acres of Class III land, whereas the petitioner's family possesses only 123.04 acres of land. But thereafter vide the impugned order dated 15.09.1982 passed by the Additional Collector, 16.02 acres of land of the petitioner was declared to be surplus.

The factual matrix of the case is that one Ram Sunder Singh alias Ram Sunder Roy had three sons namely, Raghubar Singh, Sheopujan Singh and Laxmi Singh. Raghubar Singh had three sons namely, Bishwanath Singh, Jagarnath Singh and Dharamnath Singh. Bishwanath Singh (against whom initially ceiling proceeding was initiated) had only one son namely, Harendra Singh whereas Jagarnath



Singh had only one son namely, Devendra Singh (petitioner-appellant). Dharamnath Singh had only one son namely, Surendra Singh. Sheopujan Singh died issueless. Laxmi Singh had only one son namely, Singhasan Singh whereas Singhasan Singh had three sons namely, Prabhunath Singh, Shambhunath Singh and Narain Singh. The genealogical table is given hereinbelow to explain the genealogy:-



The Ceiling Case No. 107 of 1973-74 was initiated against Bishwanath Singh vide order dated 21.09.1973. Subsequently, the Additional Collector, Siwan found that the land holder family is entitled to hold 8 units of Class III lands and thereby entitled to retain 200 acres of class-III land, whereas the family had only 123.14 acres of Class III



land, and hence vide order dated 10.05.1978 passed in Ceiling Case No. 107 of 1973-74, the Additional Collector, dropped the ceiling proceeding.

No appeal was preferred by the State of Bihar against the order dated 10.05.1978 of Additional Collector, dropping the proceeding. However, subsequently, the proceeding of Ceiling Case No. 107 of 1973-74 was revived and after conducting a fresh enquiry, 16.02 acres of land was declared surplus and Gazette publication was made on 1.10.1982 under the provisions of Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act (hereinafter referred to as the 'Ceiling Act'). Consequently, a petition was filed on 6.12.1982 for recall of the ex-parte order which was rejected by the Additional Collector, Siwan vide order dated 20.12.1982. Thereafter, Appeal No. 258 of 1982-83 was preferred before the Collector, Siwan which was also dismissed vide order dated 5.1.1988. Against the order of the Collector, appeal was preferred before the Commissioner, Saran Division vide Ceiling Appeal No. 21 of 1986-87 and the Commissioner, Saran after examining the records vide order dated 11.5.1988



remanded the appeal to the Collector.

On remand, the Collector, Siwan vide order dated 6.12.1991 passed in Land Ceiling Appeal No. 258 of 1982-83, came to the conclusion that the land holder was aware about the entire proceeding from verification of return till the conclusion of ceiling proceeding and hence dismissed the appeal which was filed on the ground of no opportunity of being heard being given and upheld the order of the Additional Collector dated 15.9.1982 in following terms:

“In view of the above facts it is clear that the appellant has given different facts in different petitions and could not substantiate his arguments through any document. He was fully aware of the proceeding from the stage of verification of return to last. This appeal is merely a pretext to prolong the matter and utilize the products of land found surplus. As such the appeal petition is rejected and the order of the learned Additional Collector dated 15.9.82 is upheld.”

The order of the Collector was challenged before the Board of Revenue vide Case No. 3 of 1992 which was heard by the Additional Member, Board of Revenue and



vide order dated 30.3.1996 the same was dismissed. Hence, all the orders were challenged in the writ application but the learned Single Judge, after hearing learned counsel for the parties, came to the conclusion that order dated 15.9.1982 passed by the Additional Collector for recall of the order passed in Ceiling Case No. 107 of 1973-74, whereby 16.02 acres of land was declared surplus, was rejected on 20.12.1982 but neither the said order nor the order dated 11.5.1988 passed by the Commissioner in Ceiling Appeal No. 2 of 1986-87 whereby the matter was remanded to the Collector was brought on record in the writ proceeding and since the petitioner-appellant failed to bring on record the relevant document, the writ application was dismissed and hence the present Letters Patent Appeal.

It is submitted by learned counsel for the appellant that the learned Additional Collector ought not to have revived the ceiling proceeding which was dropped. Moreover, no notice was given to the land holder. Hence, the entire proceeding is bad in law and fact as well.

Learned counsel for the respondent-State submits that from the order of the Collector dated



06.12.1991 passed in Land Ceiling Appeal No. 258 of 1982-83/13 of 1985-86, as contained in Annexure-4 to the writ application, it appears that the land holder had adequate notice and they participated in the entire proceeding from beginning to end.

Considering the rival submissions of the parties, it appears that initially the land ceiling proceeding was initiated against Bishwanath Singh but at different stages, the orders were challenged only by one or two members of the land holders family which gets reflected from the genealogical table quoted hereinabove. Since the appellant participated in the proceeding subsequent to revival; thereafter he filed an application for recall of the revival order and challenged the rejection of the same, concerning which, there is concurrent finding of Additional Collector, Collector, Commissioner, Additional Member, Board of Revenue against the appellant and the same being confirmed by the learned Single Judge, we are not inclined to interfere with the same.

Accordingly, we are of the considered view that the proceeding in question was concluded more than three



decades ago and in view of the fact that there is concurrent finding by all the courts below, we do not find any error/perversity in the order of the learned Single Judge.

In the circumstances, we do not find any merit in the appeal and accordingly, it is dismissed.

**(Sanjay Karol, CJ)**

DKS/Anil/

**(Dinesh Kumar Singh, J)**

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