

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8622 of 2017

1. Rajendra Prasad Singh and Anr Son of Late Hirday Narayan Singh, Resident of Village- Bharmarpur, P.S. Thana Bihpur, District- Bhagalpur.
2. Sarita Kumari @ Sarita Devi, Wife of Late Vijay Kumar Singh, Resident of Village- Bharmarpur, P.S. Thana Bihpur, District- Bhagalpur.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Collector, Bhagalpur.
3. The Additional Collector, Bhagalpur.
4. The Circle Officer, Thana Bihpur, District- Bhagalpur.
5. Prem Ranjan Singh, Son of Late Brahmdeo Singh,
6. Abhay Kumar Singh, Son of Brahmdeo Singh,
7. Laxmi Narayan Singh, Son of Late Dukhmochan Singh,
8. Minni Devi, Wife of Late Narayan Singh
9. Jagdish Prasad Singh, Son of Late Dukhmochan Singh,
10. Subhash Prasad Singh, Son of Late Dukhmochan Singh,
11. Ajay Singh, Son of Late Dukhmochan Singh,
12. Siyaram Singh, Son of Late Hirday Narayan Singh All are Resident of Village- Bharmarpur, P.S. Thana Bihpur, District- Bhagalpur.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Pramod Kumar
For the Respondent/s : Mr.Subhash Chandra Yadav-Gp15

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL JUDGMENT

Date : 14-11-2022

Heard the parties.

1. The present writ petition has been filed for quashing the order dated 28.02.2017 passed in Revision Land Ceiling Surplus Case No. 01/2011 by the Additional Member Board of Revenue, Bihar, Patna, by which the revision



application filed by the petitioners against the order dated 15.11.2010 passed by the Collector, Bhagalpur in Ceiling Appeal No. 58/2006 was rejected.

2. The petitioners have also challenged the order dated 21.09.1983 passed in Ceiling Case No. 210/1976 by Additional Collector, Land Ceiling, Bhagalpur.

3. It has been contended by the learned counsel for the petitioners that a detailed objection petition was filed by the petitioners before the Additional Collector, which has not been properly considered either by the Additional Collector or by the Member, Board of Revenue.

4. Ceiling Case No. 210/1976 was initiated against the father of the petitioner late Hirday Narayan Singh and draft publication was issued under Section 10(2) of the Bihar Land Reforms Fixation of Ceiling Areas & Acquisition of Surplus Land Act (hereinafter referred to as Land Ceiling “Act”) but the proceeding abated after amendment of 1982 and a fresh draft publication was made on 03.07.1982 by which three(3) units of Class-V land was allotted to the land holder and his two sons, namely, Rajendra Prasad Singh and Siyaram Singh and an area of 110.77 acres of Class-V (Five) land has been declared surplus.



5. The petitioners filed an objection dated 20.01.1983 under Section 10(3) of the Act. It has been contended by the petitioners in their objection that they are legally entitled to extra lands under the various provisions of the Act.

6. The classification of the land was also challenged by the petitioners with regard to some land in Mauza Baina Dih, Garaiya and Jairampur which was under water but the same has been shown to be Class-III (three) land and with regard to the land of Mauza Dharampur Rati and Mauza Nagarpara, the classification should be Class-III (three) and Class-IV(four) but the State has treated them to be Class-II(two), III(three).

7. The order dated 21.09.1983 was passed by the Additional Collector (Ceiling), Bhagalpur in Ceiling Case No. 210/76 and that the land holder preferred an appeal vide Ceiling Appeal No. 25/83-84 against order dated 21.09.1983 which was again dismissed by the Collector on 13.06.1988.

8. The order dated 13.06.1988 was challenged in Revision Case no. 274/1988 before the Board of Revenue but the same was also dismissed by the Additional Member, Board of Revenue on 07.03.1989.



9. C.W.J.C. No. 4083 of 1989 was preferred against appellate order as well as Revisional order and the matter was remitted back to the Collector, Bhagalpur for rehearing in accordance with law by order dated 05.05.1989. Thereafter, the Collector vide his order dated 15.11.2010 dismissed the appeal of the petitioner again and the order has been affirmed by the Board of Revenue vide order dated 28.02.2017.

10. Learned counsel for the petitioners has taken this Court to Annexure-I, the objection petition filed by the petitioners under Section 18(3) of the Act and has submitted that his various objections have not been considered properly by both Appellate Court as well as Revisional Court.

11. Though, the petitioners have pointed out in their application the details of the land which were in possession of co-sharers but the same have not been properly considered by both the authorities. He also submits that the land which is under river (Koshi) has been included in the land of the petitioners about which the Member Board of Revenue has written that the details of those lands have not been given whereas in paragraph 12 of the objection petition, the petitioners have given the details. The objection petition of the petitioners has been considered in a cryptic manner and both the authorities



have proceeded in a way so that they could dismiss the application of the petitioners and had not properly examined the objection of the petitioner. It is the right of the petitioners that their objection petition is considered in accordance with law by the Authorities and duty is cast upon the authorities to consider the objection and decide the appeal/revision properly.

12. In the opinion of this Court, the Appellate order dated 13.06.88(Annexure-3) passed by the Collector, Bhagalpur as well as Revisional order dated 07.03.1989(Annexure-4) passed by the Additional Member, Board of Revenue cannot be sustained and therefore they are quashed. The matter is again remitted back to the Collector, Bhagalpur for fresh consideration after hearing the parties.

13. It is made clear that if a matter is remanded before an Authority, it is not only the duty of the petitioners but it is the duty of the State also to point out before the Authority that the matter has been remanded and therefore, it should be heard. However, this case is remitted back to the Collector with a direction that the petitioners will appear before the Collector, Bhagalpur on 2nd of January, 2023. On that date, the Collector will fix a date for hearing of the case and thereafter will decide the case in accordance with law after considering each and



every objection of the petitioners properly.

**With the aforesaid observations and directions,
this application is allowed.**

(Sandeep Kumar, J)

Shishir/Vikas

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	15.11.2022
Transmission Date	N/A

