

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11797 of 1997

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Smt. Pushpa Lata Devi @ Pushpa Devi, Wife of Sri Dharamendra Prasad Sah,
Resident of Jamui Bazar, P.S. - Jamui, Dist. - Jamui.

... .. Petitioner/s

Versus

1. The State of Bihar, Bihar, Patna.
2. The Commissioner, Munger.
3. The District Magistrate - Cum - Collector, Jamui.
4. The Additional Collector, Jamui.
5. The Deputy Collector (Land Reforms), Jamui.
6. The Circle Officer, Jamui.
7. Satyawati Devi, Wife of Sri Dumanlal Sah, Resident of Jamui Bazar, P.S. Jamui, Dist. - Jamui.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Ashutosh Nath, Amicus Curiae
For the Respondent No.7	:	Mr. Keshri Kishore Sharan, Advocate
For the State	:	Mr. Hari Mohan Mishra, AC to GP-27

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL JUDGMENT

Date : 07-08-2023

In continuation of the order dated 31.07.2023, learned counsel for the private respondent fairly submits that so far as the legal points as raised by *Amicus Curiae* arguing on behalf of the petitioner is absolutely in accordance with law but he further submits that since the orders passed by Additional Collector, Munger as well as Divisional Commissioner, Munger are non-jurisdictional order. Therefore, the liberty may be given to the aggrieved party (Respondent no.7), so that his grievances on the facts as well as on the law may be considered by the

Collector who is competent to hear the dispute in accordance with law.

2. In continuation of the argument, learned *Amicus Curiae* has placed ratio laid down in the case of **Shankar Shukla vs. State And Ors.** decided on 21st July, 2000 reported in **2001 (2) BLJR 1086** in which a similar situation has arisen where Additional Collector has decided revision and this court held that the order passed by Additional Collector as a non-jurisdictional order and has granted opportunity to the petitioner to file a fresh revision before the Collector in accordance with law. The relevant paragraphs of the said judgment are as follows:-

“3. Mr. Mahesh Narain Prabhat, learned Counsel appearing for the petitioner, submitted that no jurisdiction could be conferred upon an authority by consent of the parties and the Additional Collector could not assume the legal authority to hear and dispose of a revision simply because the revision petition was filed before him. The submission is well founded and it must, therefore, be accepted. It is plain and clear that Section 16 of the Act confers the revisional power only on the

Collector of the District and the Additional Collector has no power to hear and decide a revision petition. The order dated 24.07.1999, passed by the Additional Collector, Siwan is, therefore, quite invalid and it is accordingly, set aside.

4. The matter, however, does not end here. Normally, after setting aside the order passed by the Addl. Collector in such matters, this Court remits the case back to the collector for being decided by him in accordance with law. In this case, however, I am not inclined to take that course. This is for the simple reason that no revision was ever filed before the Collector of the District and it was never, therefore, pending in that Court. Remitting the matter now to the Collector of the District would, therefore, amount to condoning the delay of about four years in filing the revision, as required by law before the Collector even without any consideration of the question of limitation.

5. The position as it stands thus, is that following

the order of the Additional Collector being set aside, it will be the order, dated 20.07.1996 passed at the appellate stage by the Deputy Collector, Land Reforms in Mutation Case No. 42/95 that will hold the field.

6. Petitioner will be at liberty to seek his relief as may be available to him in accordance with law. In case, a fresh revision petition is filed before the Collector of the District, the authority will undoubtedly consider the question of limitation in accordance with law.

7. In the result, this writ application is allowed to the extent indicated above and subject to the aforesaid observations and directions.”

3. In this background, the order dated 03.10.1991 passed by the Additional Collector, Munger in Mutation Appeal No.201 of 1985-86 as well the order dated 26.09.1997 passed by Divisional Commissioner, Munger in Mutation Revision Case No.28 of 1991-92 are hereby set-aside.

4. Under normal circumstances the matter was remitted back, but here the authority to hear the revision is vested in the Collector and there was no case pending before the

Collector at any period of time relating to the present dispute. Therefore, liberty is granted to the petitioner to file fresh revision before the Collector, Jamui and under law, there is limitation in revision but due to pendency of the litigation there shall delay in filing the revision, hence, the Collector, Jamui is hereby directed that he shall entertain the revision upon hearing all the affected persons including respondent no.7 and delay in filing revision shall be condoned.

5. With this direction, the present writ petition stands disposed off.

6. It goes without saying that the liberty of filing the revision petition shall in any case, shall be made within one year.

7. The final decision of this writ petition is combination of the orders dated 31.07.2023 and 07.08.2023.

(Dr. Anshuman, J.)

ravishankar/-

AFR/NAFR	NAFR
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