IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16734 of 2022

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1. Satyendra Singh Son of Late Brij Bihari Singh, Resident of Village - Sadokhar, P.S. - Chenari, District - Rohtas.
2. Bimlesh Singh, Son of Late Chotan Singh, Resident of Village - Sadokhar, P.S. - Chenari, District - Rohtas.
3. Vidyasagar Singh, Son of Late Bikarma Singh, Resident of Village - Sadokhar, P.S. - Chenari, District - Rohtas.
4. Upendra Kumar Singh, Son of Late Ram Lal Singh, Resident of Village - Sadokhar, P.S. - Chenari, District - Rohtas.
5. Arun Singh, Son of Late Bishan Singh, Resident of Village - Sadokhar, P.S. - Chenari, District - Rohtas.
6. Kamla Devi, Daughter of Jai Kumar Singh, Resident of Village - Sadokhar, P.S. - Chenari, District - Rohtas.
7. Narayan Singh, Son of Late Navrang Singh, Resident of Village - Sadokhar, P.S. - Chenari, District - Rohtas.

... ... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Revenue and Land Reforms Department, Govt. of Bihar, Patna.
2. The Board of Revenue Govt. of Bihar, Patna.
3. The Collector-Cum-District Magistrate, Rohtas at Sasaram.
4. The D.C.L.R., Sasaram, Rohtas.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Giridhar Gopal Tiwary, Advocate
For the Respondent/s	:	Mr. Raj Kishore Roy, GP 18

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA

ORAL JUDGMENT

Date : 27-08-2024

Heard learned counsel for the petitioners and learned counsel appearing on behalf of the State.

2. The present writ petition has been filed for setting aside the order dated 23.06.2022 passed by the Chairman-cum-Member Board of Revenue, Government of Bihar, Patna in

Ceiling Case No. 1753 of 1976 whereby the Chairman-cum-Member Board of Revenue has dismissed the Restoration Petition filed by the petitioners and further directed the Board of Revenue, Bihar to restore the Ceiling Case No. 1753 of 1976 and decide the same on merit in compliance of the order dated 16.04.1980 passed in CWJC No. 345 of 1977 by a Division Bench of this Hon'ble Court.

3. The case of the petitioners is that apart from the ancestral land, 4.5 Bighas of land were purchased from the Raja/Zamindar of Dumraon in the year 1942 and the ancestors of the petitioners came in possession of the same and their names were entered in Register II as occupants as male members members were in jail during freedom struggle and they could not get it mutated. Further the case of the petitioners before the Revenue Authority was that Rajbanti Kuer, wife of Ram Sundar Singh executed a will on 23.12.1970 in favour of Ramji Singh, Briksha Singh, Ramanad Singh, Surya Kumar Singh, Kulbansh Singh, Surajbanch Singh donating her share in land (after giving 25 Acres to her daughter Deolochachan Kuer) described in the "Will" in Muuzes Mundadih, Gangapur and Pachanra. The entire property in the share of Rajbanti Kuer, wife of Ram Sundar Singh split in multiple shares after her

death in 1970 and could not have been treated as one unit for the purposes of ceiling. However, Government of Bihar came out with Gazette Notification No. 142 Sasaram dated 30.06.1976 under Section 15(1) of the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961 acquiring entire 59.96 of land treating the same as surplus. The aforesaid acquisition was assailed before the D.C.L.R Sasaram in Case NO. 56/1974-75. However, the same was dismissed vide order dated 03.08.1976. The same was challenged before the Collector, Rohtas in Appeal which was numbered as Ceiling Case No. 117 of 1976-77 and the same was dismissed by the Collector vide order dated 24.09.1976. The petitioners/their ancestors preferred revision before the Board of Revenue, Government of Bihar which was numbered as Ceiling Case No. 1753 of 1976. However, the aforesaid case was rejected vide order dated 31.03.1977 on the ground of maintainability due to promulgation of certain ordinance which amended the provision of revision. The order dated 31.03.1977 which was passed in Ceiling Case No. 1753 of 1976 was challenged in CWJC No. 345 of 1977 and the same was allowed vide order dated 16.041980 and the order dated 31.03.1977 passed in Ceiling Case No. 1753 of 1976 was set aside and it was directed that the matter be decided on its merits.

4. Learned counsel for the petitioners submits that in the year 2022 the petitioner no. 1 of this case came to Patna and could locate the lawyer of petitioners in Ceiling Case No. 1753 of 1976 before the Board of Revenue, the learned advocate informed that the aforesaid case was dismissed for default and advice him to file a restoration petition and accordingly, a restoration petition was filed in the Board of Revenue on 24.05.2022 for restoration of Case No. 1753 of 1976. The Restoration Petition filed on behalf of the petitioners was dismissed by the Chairman-cum-Member of Board of Revenue, Government of Bihar vide order dated 23.06.2022 on the ground of delay of more than 17 years in filing the restoration petition.

5. Learned counsel appearing on behalf of the State on the other than vehemently opposed the prayer of the petitioners and submits that from perusal of the impugned order it appears that restoration petition has been filed by the petitioners after long period of more than 17 years and the Chairman has rightly dismissed the restoration petition and no sufficient cause has been assigned by the petitioners for the purpose of getting such long inordinate delay of more than 17 years condoned for filing of restoration application. He further relied upon the paragraph

nos. 26 & 27 of the judgment reported in 2024 SCC Online SC 489 in the case of Union of India vs. Jahangir Behrami which are quoted hereinbelow:-

> *"26. In spite of affording another opportunity to file better affidavit by placing adequate material, neither the Department nor the person-in-charge has filed any explanation for not applying the certified copy within the prescribed period. The other dates mentioned in the affidavit which we have already extracted, clearly show that there was delay at every stage and except mentioning the dates of receipt of the file and the decision taken, there is no explanation as to why such delay had occasioned. Though it was stated by the Department that the delay was due to unavoidable circumstances and genuine difficulties, the fact remains that from day one the Department or the person/persons concerned have not evinced diligence in prosecuting the matter to this Court by taking appropriate steps.*
> *27. It is not in dispute that the person(s) concerned were well aware or conversant with the issues involved including the prescribed period of limitation for taking up the matter by way of filing a special leave petition in this Court. They cannot claim that they have a separate period of limitation when the Department was possessed with competent persons familiar with court proceedings. In the absence of plausible and acceptable explanation, we are posing a question why the delay is to be condoned mechanically merely because the Government or a wing of the Government is a party before us."*

6. In view of the aforesaid, it appears that the Chairman-cum-Member Board of Revenue has rightly dismissed the restoration petition filed on behalf of the petitioners on the ground that the restoration petition has been filed after delay of more than 17 years without assigning

sufficient reason in the restoration petition.

7. This Court finds no merit in the writ petition and the same stands dismissed.

(Rajesh Kumar Verma, J)

Vanisha/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	09.09.2024
Transmission Date	NA