

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7468 of 2017

1. Basundhara Devi Wife of Late Tarkeshwar Prasad Singh, Resident of Village- Banchhri, P.S. Chautarwa, District- West Champaran.
2. Manju Devi, Wife of Krishna Kumar Rao, Resident of Village- Tituhila, P.S.- Shikarpur, District- West Champaran.
3. Krishna Devi, Wife of Maheshwar Sahi, Resident of Village- Rajpur, P.S.- Shikarpur, District- West Champaran.
4. Chanda Devi, Wife of Anil Singh, Resident of Village- Bishunpur, P.S.- Kotwa, District- East Champaran.

... .. Petitioner/s

Versus

1. The State Of Bihar.
2. The Additional Member, Board of Revenue, Bihar, Patna.
3. The Collector, West Champaran, Bettiah.
4. The Additional Collector Land Ceiling, West Champaran, Bettiah.

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 7481 of 2017

1. Rajeshwar Rao Son of Bacha Rao Both Resident of Village-Mathia, P.S.- Lauria, District-West Champaran
2. Most. Rampati Devi W/o Late Gorakh Singh, and daughter of Nageshwar Rao, Resident of Village-Deora Bazar, P.S.-Jogia, District-Siddhart Nagar U.P..

... .. Petitioner/s

Versus

1. The State Of Bihar.
2. The Additional Member, Board of Revenue, Patna,
3. The Collector, West Champaran, Bettiah.
4. The Additional Collector Land Ceiling, West Champaran, Bettiah.

... .. Respondent/s

Appearance :

(In Civil Writ Jurisdiction Case No. 7468 of 2017)

For the Petitioner/s : Mr. Siya Ram Shahi, Adv.
Mrs. Shally Kumari, Adv.

For the Respondent/s : Mr. Vivekanand Singh, AC to GP 18

(In Civil Writ Jurisdiction Case No. 7481 of 2017)

For the Petitioner/s : Mr. Siya Ram Shahi, Adv.
Mrs. Shally Kumari, Adv.



For the Respondents : Mrs. Nutan Sahay, AC to AAG-12

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
CAV JUDGMENT
19-09-2025

Heard Mr. Siya Ram Shahi, learned counsel for the petitioners as also Mrs. Nutan Sahay and Mr. Vivekanand Singh, learned Assistant Counsels for the State.

A. PRAYER:

2. The present writ application has been filed for the following relief(s):

“(i) for the issuance of an appropriate writ for quashing of the order dated 27.02.2017 passed by Shri K.K. Pathak, I.A.S, Additional Member, Board of Revenue, Bihar, Patna in Revision (Land Ceiling Surplus) Case No. 3/2009 whereby, the order dated 30.01.2009 passed by the Collector, West Champaran, Bettiah in Appeal No. R.A. No. 58/1988-1989 and the order dated 07.06.1988 passed by the Additional Collector (Land Ceiling) West Champaran, Bettiah in Case No. 13/1975 have been re-affirmed (as contained in Annexure 8);

(ii) for the issuance of an appropriate writ restraining the respondents to distribute the surplus land arising out of Ceiling Case No. 13/1974-1975;



(iii) for any other relief/reliefs the petitioners are entitled for under the law as well as on facts.”

B. FACTS:

3. The matrix of facts giving rise to the present writ petition is/are as follows:

a) PETITIONERS’S CASE:

4. A **Land Ceiling Case no. 13/1974-75** was initiated against the landholder, Rajeshwar Rao over **72.96 acres of land** and after allowing **44.62 acres** equivalent to two units, the rest **28.34 acres** of lands were declared surplus. Accordingly, the draft statement under section **10(2)** of the **Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961 (henceforth for short ‘the Act’)** was issued on **12.11.1976**.

5. The landholder thereafter preferred objection as follows:

(i) he surrendered 2.86 acres of land;

(ii) late Bacha Rao’s daughter has been denied unit;

(ii) only two units have been allowed for the widow and the landholder, Rajeshwar Rao whereas



the grandmother was alive on 09.09.1970.

6. It came to be disposed of by the **Additional Collector, West Champaran** on **20.12.1976** holding that:

(i) 2.86 surrendered land be excluded from the land of the landholder;

(ii) late Bacha Rao's units has been allotted to her widow (mother of the landholder) and no separate unit can be allotted to his sister;

(iii) in the genealogical table, grandmother has been shown dead. The same is recorded in verification report and as such, she is entitled to a separate unit.

(Annexure R/2 to counter affidavit)

7. This followed notification under **Section 11(1) of 'the Act'** on **21.01.1977**. Thereafter, **Appeal No. 308 of 1976-77** was preferred before the **Collector, West Champaran** which came to be rejected on **15.02.1977**.

8. The landholder preferred **Ceiling Revision Case no. 348/1977** before the **Board of Revenue, Bihar**. It was disposed of on **27.07.1977** by the **Additional Member, Board of Revenue, Bihar** and the matter was remanded back to the Collector, West Champaran for fresh adjudication.

9. The Board of Revenue held that the petitioner's



main claim was grant of additional unit to the grandmother, Shujhari Kunwar who was alive on 09.09.1970. It came to the conclusion that the grandmother was entitled to an additional unit.

10. The Board of Revenue's order dated **27.07.1977** (Annexure-3 to the petition) is incorporated hereinbelow:

RESOLUTION

This revision application filed u/s 32 of the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961 (hereinafter referred to as the Act) on behalf of Rajeshwar Rao, son of late Bacha Rao and Mt. Sheojhari Kuer, widow of late Nageshwar Rso, both residents of village Mathis, P.S. Lauriya, district West Champaran is directed against order dated 15-2-77 of the learned Collector, in Revenue Appeal NO. 308/76-77, whereby the learned Collector dismissed the appeal filed on behalf of the petitioners against the order dated 20-12-76 or the learned in L. C. Case NO. 13/75-76.

2. The impugned orders of the learned lower courts have been assailed by the learned lawyer on behalf of the petitioners mainly on the ground that the lower courts erred in not giving a ceiling unit to



petitioner no.2 Sheojhari Kuer, widow of late Nageshwar Rao, grand father of petitioner No.1 Rajeshwar Rao.

3. Heard the learned lawyer appearing on behalf of the petitioners as well as the learned A.G.P. appearing on behalf of the state of Bihar. I have carefully perused the impugned order of the learned Collector and the order dated 20-12 1976 of the learned Addl Collector passed in L. C. Case No. 13. of 1975-76 well as other relevant papers of this case The learned lawyer on behalf of the petitioners has also referred to the living certificate along with the attested photographs of petitioner no.2 granted by the Anchal Adhikari, Lauria and P.R.O., Lauria being produced in the court of the learned Collector, West Champaran, In view of the documents referred to by the learned lawyer on behalf of the petitioners as well as the fact that the petitioner No. 2 was shown as alive in the return filed by petitioner no. 1 the learned lower courts should not have assumed petitioner NO.2 to be dead merely on the basis of the verification report of the local revenue officials specially when the entries in respect of petitioner no.2 being dead clearly appears to be an interpolation Apart from the above, the learned collector has not allowed ceiling unit to petitioner



No.2 in the round that she was not a member of the family of the landholder as she was grandmother of petitioner No. 1 Rajeshwar Rao. This line of reasoning of the learned Collector was wholly misconceived . Admittedly, the petitioners belong to Hindu undivided family governed by Mitakshra school of Hindu law on the appointed date 1.9.9.70 and, therefore the learned lower courts should have given independent ceiling unit to petitioner no.2 as the lands recorded in her name had also been clubbed together with the lands of petitioner no.I, Rajeshwar Rao.

4. In view of the above, the impugned orders of the learned lower courts are set aside and the case is remanded to the court of the learned Collector, West Champaran with direction to dispose of the matter in accordance with law and in the light of my observations made in the foregoing paragraphs. To set the matters at rest the learned Collector is directed to inquire if petitioner no. 2 was still alive on the basis of the evidence adduced by the concerned parties including the petitioners as well as the State.

5. In the result, the revision application is allowed.

6. Inform the parties accordingly.



Sd/- S.K. Srivastava

27.07.77

Addl. Member, Board of Rev. Bihar

(emphasis added)

11. Following the aforesaid direction, the **Additional Collector, West Champaran** took up the **Ceiling Case No. 13 of 1974-75** and vide an order dated **28.10.1977** allowed third unit to Shujhari @ Siodhari Kunwar, the grand-mother of Rajeshwar Rao. Total surplus land was found to be 8.41 acres including 2.86 acres of land voluntarily surrendered by the petitioners.

12. The case of the petitioners further is/are that while the matter was pending, vide **Amendment Act 55 of 1982, Section 32B** came into force.

Section 32 B of 'the Act' read as follows:

32B. [*Initiation of fresh proceeding. [Inserted by Act 55 of 1982.]*

All those proceedings, other than appeal, revision, review or reference referred to in Section 32-A pending on the date of commencement of the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) (Amendment) Act, 1982, and in which final publication under sub-section (1) of Section 11 of the Act as it stood before



the amendment by aforesaid Act, had not been made, shall be disposed of afresh in accordance with the provisions of Section 10 of the Act.

13. As per the petitioners, accordingly, a fresh draft statement was issued on **23.12.1982** over **108.63 acres of land** and after allowing **30 acres, 78.63 acres** land were shown to be surplus.

14. After receipt of the draft statement, the petitioners preferred objection under section 10(3) of 'the Act' stating therein that:

(i) the above notice is absolutely illegal and wrong and against facts. This can be also considered in view of the previous draft statement notice under Section 10(2) of the Act notice dated 12.11.1976 of the Court of the Land Reforms Deputy Collector, Bettiah and according to this notice, total land for the family of the opposite party was shown to be 72.96 acres and 44.62 acres were shown in the unit of the opposite party and remaining 28.34 acres were shown as surplus;

(ii) against the notice dated 12.11.76, the opposite party filed objection petition under Section 10(3) of the Act. In the draft statement notice, as per verification report of the Anchal I Unit for Sheojhari Devi was left out due to the fact that the verification report showed that she was dead whereas in reality, she was and is still



alive. Besides objection against classification this point of unit was seriously contested and ultimately, the matter reached before the Hon'ble Board of Revenue, Bihar, Patna and vide its Case No. 348/1977, the Hon'ble Member Board of Revenue, Bihar, Patna by his order dated 27.07.1977 set aside the previous orders of the learned Lower Courts and directed for further enquiry and particularly for giving units of Sheodhari Devi and was also directed to verify about her existence;

iii) the learned Additional Collector thereafter got an enquiry report from the learned Anchal Adhikari and it was found that Mostt. Sheodhari Devi has been still alive and thereafter this court by its order dated 28.10.1977 allowed 3 units, i.e. previously 2 units as allowed for Mostt. Kamala Devi and Rajeshwari Rai and 1 unit for Sheodhari Devi and thereafter directed for taking further steps in the case and against such orders strangely enough the notice dated 23.02.1992 speaks only for 2 units;

(iv) the present notice is not based on any legal and valid enquiry. No Anchal or Revenue Personnel ever made any enquiry either on the spot about the units or extent of lands or their classification nor any enquiry was made after notice to the opposite or after giving any information to the opposite party and as such the entire case stands vitiated;

(v) there has been complete violation



of Rule 8 of the Act and unless and until a legal and valid enquiry and verification is done, no justice can be had in the case.

(vi) the genealogy in Schedule-A below is being given being part of this petition and it will show that Unarman Rao died leaving his son Nageshwar Rao who is also deceased and his wife Sheodhani Devi is still alive and he also left his son Barchha Rao who died in the year 1973 leaving his widow osth. Kamla Devi and two sons Rajeshwar Rao and Niteshwar Rao and four daughters viz. Basundhara Devi, Manju Devi, Krishna Devi and Chanda Kumari. Rajeshwar Prasad has his wife Smt. Shyam Devi and three sons Ranjan Kumar, Ratnesh Kumar and Sunil Kumar and a daughter Dipti Kumari alias Beauty. The respective age of the persons have been shown in the Genealogy;

(vii) according to the Genealogy the family is entitled to 4 direct units for Sheodhani Devi, Rajeshwar Rao and Niteshwar Rao plus 1/10 for the dependants on Rajeshwar Rao. Besides after the death of Bachha Rao, his daughters are entitled to their respective shares according to the Hindu Succession Act of 1956. Basundhara Devi, Menu Devi and Krishna Devi are married and Chanda Kumari is still unmarried. There has been no partition in the family and no share for the daughters have been carved and separately allotted rather all the 4 daughters of Late Bachha Rao leaving fully majors are holding joint interest and possession



in the lands etc. along with other persons of the family as such these four daughters are also entitled to 4 units. Thus the entire family is possessed of 81/10 units;

(viii) the lands in Scheduled-B do not belong to them which should be excluded from their lands;

(ix) the classifications of the land given in the notice are all wrong. There was no manner of irrigation on 09.09.1970 or prior to that hence the classification give as Class-I is absolutely wrong;

(x) the canal irrigation was made available for some lands of Lauriya Anchal of this case after 1975-76 and that also for only 1 crop in a year. No classification on account of this irrigation can be held since the same will be discriminatory in nature in as much as crucial date for the age for units as also for classification has been 09.09.1970 and when units are to be considered on the basis of age on 09.09.1970 classification of lands cannot be held on the basis of irrigation after 1975-76.. This is also against public policy and public interest and as such a classification on the basis of irrigation year 1975-77 and after 1970;

(xi) the details of the land as given in Schedule-C below show the extent of land possessed by the family of the opposite party. Their correct classification have been also shown there has been no irrigation up to 09.09.1970 and as such no land of the opposite



party has been of Class-I, II and III;

(xii) as aforesaid some of the lands of Lauriya Anchal getting irrigation after 1975-76 from canal which was made available since then and a few plots gets irrigation for two crops and some gets irrigation for one crop in the year and for them also the same has been shown in remarks column;

(xiii) the lands of Bagaha Anchal, some lands are irrigated by canal for one crop in the year. The remaining lands as shown in Class-IV never get water for irrigation;

(xiv) the lands of Lauriya Anchal and Chanpatia Anchal have been also shown in Class-V and which are water logging and flooded and Chaur lands and major part of the year they remained under water;

(xv) the lands detailed in Scheduled D below which have been voluntarily surrendered to the State may kindly be excluded;

(xvi) some of the lands (Scheduled E) are occupied by the tenants who are tenants under privileged persons Homestead Tenancy Act and hence these lands should also be excluded;

(xvii) in Bagaha Anchal, the total lands shown in the family of the opposite party is wrong. The family of the opposite party is only entitled to 8.53 acres of lands which have been shown in Schedule-C and this very area of land is and has been possession of the opposite parties.



15. The **Additional Collector (Ceiling), Bettiah** vide reasoned order dated **07.06.1988** rejected the objections save and except allowing an additional unit to the grandmother, Sheojhari Kunwar. He also rejected the claim of shares of landholder's brother, Nitishwar Kumar and daughters of Bachha Rao beside additional unit for 'BUA'. Though, it accepted the lands voluntarily transferred as also to some extent the classification of the land. The Additional Collector, Ceiling discussed all the points before passing the order.

16. The findings arrived at by the Additional Collector, Ceiling vide order dated 07.06.1988 is/are incorporated hereinbelow:

बहस के क्रम में ही भूधारी की फुआ रामपति देवी एवं उनकी उल्लेखित चारों बहनों की ओर से भी अपने पिता की सम्पत्ति में हिस्से के लिए दावा पेश किया गया तथा उनके विज्ञ अधिवक्ता की भी सुनवाई की गयी। उन्होंने बहस के क्रम में बताया कि रामपति देवी (भूधारी की फुआ) को 1/9 भाग हिस्सा मिलनी चाहिए। साथ ही भूधारी की बहनों 1/10 भाग हिस्सा देने का दावा किया गया। भूधारी के पिता बच्चा राव की मृत्यु 1973 में बताया गया। विज्ञ सरकारी अधिवक्ता ने अपने बहस के क्रम में बताया कि अगर भूधारी के पिता बच्चा राव तथा उनके बाबा नागेश्वर रायव की मृत्यु 1956 के बाद हुयी होगी तो हिन्दु उत्तराधिकार अधिनियम 1956 के अनुसार भूधारी के फुआ रामपति देवी एवं उनकी बहनों को उनके पिता की सम्पत्ति में से हिस्सा मिलनी चाहिए। बशर्ते कि वे लोग 09.09.70 को वयस्क होगी। इस बिन्दु पर उनलोगों को ठोस साक्ष्य देने के लिए कहा गया। साक्ष्य के रूप में पंचायत सेवक ग्राम पंचायत राज मठिया द्वारा श्री बच्चा राव की मृत्यु प्रमाण पत्र की प्रति भी निर्गत किया गया है जिसमें बच्चा राव की मृत्यु की तिथि 10.03.73 अंकित है। साथ ही पारिवारिक पंजी के अभिप्रमाणित प्रति दाखिल किया गया जिसमें भूधारी की बहन बसुन्धरा का जन्म तिथि 01.06.48 कृष्णा कुमारी की 02.05.52 मंजू कुमारी की 30.07.54 एवं चन्दा कुमारी की 06.04.57 तथा उनके भाई नीतेश्वर राव की 01.02.54 है। सरकारी अधिवक्ता द्वारा बताया गया कि पारिवारिक पंजी पर किसी पदाधिकारी का हस्ताक्षर नहीं है। साथ ही संबंधित पंचायत सेवक का परीक्षण एवं प्रतिपरीक्षण भी नहीं कराया गया। अंचल के सत्यापन प्रतिवेदन 1983 में भूधारी के तीन बहनों को विवाहित बताया गया लेकिन उम्र का उल्लेख



नहीं है। एक बहन का उम्र 20 वर्ष अंकित है। इससे स्पष्ट है कि वे 09.09.70 को अव्यस्क होगी। ऐसी परिस्थिति में इसे अमान्य किया जाता है। भूधारी का मां श्रीमती कमला देवी द्वारा दिनांक 02.12.87 को शपथ पत्र दिया गया है कि उनके पति का देहान्त 1973 में हुआ है। शपथ पत्र में रामपति कुअर (भूधारी की फूआ) का उम्र 70 वर्ष, अपनी पुत्री बसुन्धरा कृष्णा, मंजू एवं चन्दा की उम्र क्रमशः 45 वर्ष, 42 वर्ष, 40 वर्ष एवं 37 वर्ष बताया गया है। उम्र के संबंध में उल्लिखित शपथ पत्र के अतिरिक्त और कोई ठोस साक्ष्य प्रस्तुत नहीं किया गया। ठोस प्रमाण के अभाव में मात्र भूधारी की मां द्वारा दाखिल शपथ पत्र के आधार पर उन्हें 09.09.70 को बालिग नहीं करार दिया जा सकता है।

जहां तक भूधारी की फुआ रामजित देवी अपने पिता नागेश्वर राव की सम्पत्ति में से हिस्सा पाने का प्रश्न है, इनका नाम अंचल के प्रतिवेदन में कहीं नहीं है। साथ ही ये जीवित है या नहीं ऐसा भी कोई प्रमाण नहीं दिया गया, इसके अतिरिक्त इनके पिता नागेश्वर राव के 1956 के बाद मृत्यु होने का भी कोई ठोस प्रमाण न्यायालय के समक्ष प्रस्तुत नहीं किया गया। दिनांक 02.09.1935 एवं 26.02.1943 को एक एक दस्तावेज की फोटो कॉपी दाखिल की गयी है जिससे कोई तथ्य प्रकाश में नहीं आता है। अतः इन्हें भी कोई हिस्सा देय नहीं होगा।

आपत्ति का दुसरा बिन्दु परिशिष्ट 'बी' में अंकित अन्य पट्टीदारों की जमीन से संबंधित है। भूधारी का कहना है कि इस जमीन को अधिशेष घोषित कर देने पर भी उन्हें कोई नुकसान नहीं होगा क्योंकि यह जमीन उनकी नहीं है। इस बिन्दु पर अंचलाधिकारी बगहा-2 का प्रतिवेदन जो उनके पत्रांक 93 दिनांक 27.06.83 द्वारा प्राप्त हुआ है उसके अवलोकन से ज्ञात होता है कि ग्राम तुर्की एवं पडड़ी में भूधारी की मात्र 8.53 ए0 जमीन है। शेष जमीन उनके पट्टिदार श्री लक्ष्मीकान्त राव एवं विरेन्द्र राव की है। अंचल द्वारा प्राप्त सत्यापन प्रतिवेदन में भी ग्राम तुर्की एवं पडड़ी की कुल जमीन श्री लक्ष्मीकान्त राव के नाम पर ही प्रतिवेदित है। अतः उल्लिखित 8.53 ए0 भूमी भूधारी का मानते हुए शेष जमीन इस वाद से निकाल देने का आदेश दिया जाता है।

यह भी आदेश दिया जाता है कि विरेन्द्र राव एवं लक्ष्मी राव के भूहदबन्दी अभिलेख को जांच कर देख लिया जाय कि उसमें यह जमीन सम्मिलित है कि नहीं। अगर सम्मिलित नहीं है तो इसे सम्मिलित कर विधि वत अग्रेतर कारवाई की जाय।

तीसरी बिन्दु वर्गीकरण के संबंध में है। इस संबंध में अंचलाधिकारी लौरिया का प्रतिवेदन उनके पत्रांक 380 दिनांक 28.04.83, 208 दिनांक 16.05.87 तथा 420 दिनांक 21.8.87 द्वारा प्राप्त हुआ है। तीनों प्रतिवेदन एक दूसरे से भिन्न हैं। प्रथम प्रतिवेदन 10.82 प्रथम श्रेणी 44.26 त्रितीय श्रेणी एवं 11.01 ए0 चतुर्थ में अंकित है। दुसरे प्रतिवेदन में प्रथम श्रेणी में शून्य त्रितीय श्रेणी में 35.14.19 धूर एवं चतुर्थ श्रेणी में 7-14-19 धूर बताया गया है। तीसरी प्रतिवेदन में 44.63 एवं प्रथम श्रेणी में एवं 21.42 ए0 चतुर्थ श्रेणी में बताया गया है।

बगहा-2 अंचल की जमीन के संबंध में भूधारी द्वारा अपने आपत्ति पत्र में असिंचित बताया गया है। इसकी सम्पुष्ट अंचल अधिकारी बगहा-2 के पत्रांक 93 दिनांक 27.09.83 द्वारा किया गया है।

अतः अंचलाधिकारी, लौरिया के अंतिम प्रतिवेदन जो उनके पत्रांक 420 दिनांक 21.08.87 द्वारा प्राप्त हुआ है के अनुसार एवं अंचलाधिकारी बगहा-2 के



पत्रांक-93 दिनांक 27.06.83 के द्वारा प्राप्त वर्गीकरण को ही सही मानकर आवश्यक सुधार करने का आदेश दिया जाता है।

चौथी आपत्ति 15 (क) के अंतर्गत समर्पित जमीन से संबंधित है। भूधारी द्वारा निम्नांकित जमीन स्वेच्छा से समर्पित बतायी गयी है।

ग्राम	खाता नं०	खेसरा नं०	रकबा
पड़री	213	322	1.65
लौरिया	237	325	0.16
अंचल	114	346	0.51
		512	<u>0.02</u>
			2.34

अंचलाधिकारी लौरिया द्वारा अपने पत्रांक 480 दिनांक 21.02.87 में निम्नांकित जमीन समर्पित बताया गया है:-

खाता नं०	खेसरा नं०	रकबा
213	322	1.65
213	512	0.02
213	325	<u>0.16</u>
		1.83

इस संबंध में भूधारी द्वारा समर्पित जिला गजट का अवलोकन किया गया। जिससे ज्ञात होता है कि उनकी निम्नांकित जमीन धारा 15(क) के अंतर्गत समर्पित किया गया है जिसका उल्लेख जिला गजट के पृष्ठ 225 है तथा अधिसूचना संख्या-2642 भु०सु० दिनांक 12.06.76 है।

ग्राम	खाता नं०	खेसरा नं०	रकबा
पड़री (लौरिया)	213	322	1.65
		325	0.16
		345	0.52
		512	0.03
तुर्की(बगहा-2)	5	43/2	<u>0.50</u>
			2.86

अतः इस उपरोक्त जमीन को इस वाद से निकाल देने का आदेश दिया जाता है।

पांचवी बिन्दु पी०पी०एक्ट के अन्तर्गत 0.02 डी० जमीन के संबंध में इस बिन्दु पर अंचलाधिकारी लौरिया का प्रतिवेदन देखा। उन्होंने अपने पत्रांक 380 दिनांक 28.04.83 द्वारा प्रतिवेदित किया है कि मौजा मठिया की खाता नं०-260 खंसरा नं०- 1002 रकबा 0.02 डी० जमीन का वासगित का परचा दिया जा चुका है। अतः उल्लेखित 0.02 डी० जमीन को इस वाद से निकाल देने का आदेश दिया जाता है।

उल्लेखित विवेचना के आधार पर अंतिम प्रकाशन की विवरणी तैयार कर हस्ताक्षर हेतु प्रस्तुत करें।

लेखापित

ह०/- अस्पष्ट

ह०/- अस्पष्ट

07.06.88

07.06.88

अपर समाहर्ता (भूहदबंदी)



अपर समाहर्ता (भूहदबंदी)

26.07.88 धारा 11(1) की विवरणी तैयार की गयी है। भूधारी द्वारा धारित कुल विभिन्न श्रेणियों की 85.74 एवं भूमी में से उन्हें तीन इकाई हेतु प्रथम श्रेणी की कुल 33.95-1/2 ए० चतुर्थ श्रेणी की 22.09 कुल 56.4-1/2 ए० आवंटित करते हुए शेष प्रथम श्रेणी की 19.19-1/2 ए० चतुर्थ श्रेणी की 7.77 ए० कुल 29.69-1/2 अधिशेष घोषित की गयी है। तदनुकुल विवरणी ए. बी. एवं सी. तैयार किया गया है। जिस पर हस्ताक्षर किया। विवरणी की एक प्रति भूधारी को निबंधित पावती डाक से भेजे एवं एक प्रति जिला गजट प्रशाखा में असाधारण अंक में प्रकाशित करने हेतु एवं दिनांक 27.08.88 को प्रस्तुत करें।

ह०/- अस्पष्ट

26.07.88

अपर समाहर्ता

(Annexure-5 to the petition)

17. This followed gazette notification under section **11(1) of 'the Act'** on **20.08.1988** in **Land Ceiling Case No. 13/1974-75.**

18. An appeal preferred before the **Collector, West Champaran, Bettiah** vide **Appeal Case No. R.A. 58/1988-89** came to be rejected on **30.01.2009** thus affirming the order passed by the Additional Collector, (Ceiling) West Champaran. The learned Collector, West Champaran held that save and except the affidavit given by the mother, no cogent material was provided to prove the majorhood of the daughters. So far as Rampati Devi (Bua) is concerned, again no material was on record to show that she is alive.

(Annexure 6 to the petition)

19. Thereafter, the petitioners preferred **Revision (Land Ceiling Surplus) Case no. 03 of 2009 and 04 of 2009**



before the **Board of Revenue, Bihar, Patna** against the order dated **30.01.2009** passed by the **Collector, West Champaran in R.A. No. 58/1988-89** as also the order dated **07.06.1988** passed by the **Additional Collector, Ceiling, West Champaran in Case No. 13/1974-75.**

20. Both the petitions were heard together and dismissed on **22.02.2017** by the **Board of Revenue, Bihar** and the findings arrived at by the Additional Member is/are incorporated hereinbelow:

Having heard the Learned Advocate of the Petitioner as well as the Learned Special GP and having perused the material available on record as well as the Lower Court Records, my own findings on the matter are as under:-

(a) I note that the ceiling proceeding was once adjudicated in the year 1977 itself prompting the Petitioner to approach the Board of Revenue for relief. In the said revisional matter, the Petitioner then had raised the point which he has raised now namely extra unit for Sri Niteshwar Rao, share for Rampati Devi and four daughters of Sri Baccha Rao in the property of Sri Nageshwar Rao, and the classification;

(b) The issue of minor children of the Petitioner, Rajeshwar Rao was not raised then;

(c) In the said Revision matter, only one issue was raised by the Petitioner regarding



asking one extra unit for Smt. Shivdhari Kuer who is the widow of late Nageshwar Rao and grandmother of Petitioner Sri Rajeshwar Rao. All the other issues were not raised by the Petitioner then i.e. in the year 1977, whereas, all these said persons were very much alive in the year 1977 and therefore these issues should have been raised then;

(d) The Board of Revenue, while passing the order dated 27.7.1977 felt that Smt. Shivdhari Kuer should be given additional unit in terms of Hindu Mitakshara Law and remanded the matter back to the Learned Collector;

(e) The Learned Additional Collector, in terms of said remand, passed an order dated 28.10.1977 and allowed a unit to Smt. Shivdhari Kuer thus giving a total of three units to the landholder;

(f) The Petitioner never challenged the order of the Learned Additional Collector on 28.10.1977 when he granted the third unit to Smt. Shivdhari Kuer and in all three units granted to the landholder. No other objections, which are now subject matter of this Revisions case were either discussed in 1977 nor any orders were passed in 1977. Thus, the land ceiling proceeding, in so far as the State and the landlord (the Petitioner) were concerned, the matter had achieved the finality. The Petitioner never went in appeal to any other forum against the order dated



28.10.1977 because he got what he wanted as per the direction of the Board of Revenue namely, the third unit on account of Smt Shivdhari Kuer;

(g) From the perusal of the record of the Learned Additional Collector, I find that the averments made by the Learned Advocate that the case was reopened as a result of the amendment in the year 1981, is not correct. From the perusal of the record of the Learned Additional Collector, it seems that the case was reopened in the year 1979 itself. Moreover, the case was opened under powers conferred to the Collector under Section 45B of the Bihar Land Ceiling Act, 1961. This was done because it was found that certain villages were not included in the verification report where the landholder is said to be owning land;

(h) Pursuant to the said reopening of the case, a report from the Circle Officer was sought and it was found that out of the total land 108.63 acres, 78.63 was declared surplus after allowing 30 acres of Class-I land to the landholder on account of two units allowed to him;

(i) Upon the said reopening of the case, the Petitioner had raised the issue before the Learned Additional Collector about the shares of her fua and her four sisters in the property of Late Baccha Rao. He also raised the issue of a unit on account of Niteshwar Rao, his brother, said to be a major as on 09.09.1970. On 05.12.1987, these issues were duly noted by the Learned Additional



Collector and the Petitioner was directed to submit the evidence in his support;

(j) On 07.06.1988, a final order was passed by the Learned Additional Collector, wherein he ruled the following:-

i. An extra unit on account of the grandmother of the Petitioner namely Sri Shivdhari Kuer was allowed as before;

ii. Regarding a unit for the brother Sri Niteswar Rao, the exact date of birth is not given and no paper was provided in support and hence no unit was given on account of Sri Niteswar Rao, except for the family register mentioned the date of birth to be 01.02.1959;

iii. All the four sisters were held to be minor as no evidence was given except the family register and an affidavit submitted by the mother of landholder;

iv. Regarding the fua of the Petitioner Smt. Rampati Devi, though she is entitled for a share in the property as per the Hindu Succession Act, the Learned Additional Collector held that there is no evidence submitted by the Petitioner as to whether she is alive or not. Moreover her name does not appear in the Anchal record;

v. On classification issues, certain objections filed by the Petitioner were considered on the basis of the second report submitted by the Circle Officer Based on that report, necessary corrections were also made. Hence to this end,



objection raised by the Petitioner was duly considered by the Learned Additional Collector;

vi. Another objection of Petitioner was regarding the inclusion of the land of his pattidars. This was considered by the Learned Additional Collector and said land was excluded from the ceiling proceeding;

vii. The land voluntarily surrendered (2.86 acres) and the land in which homestead Parcha has been issued were excluded from the ceiling proceeding;

(k) Aggrieved at the order of the Learned Additional Collector, the Petitioner filed an appeal before the Learned Collector who took 21 years to dispose of the appeal. The Learned Collector also, vide order dated 30.01.2009, rejected the appeal and upheld the order of the Learned Additional Collector;

(l) I also find that the Petitioner had submitted no evidence or any paper in his Revision Petition in support of the fact that his brother and sisters, on whose behalf he is seeking units, are major nor any birth certificate has been annexed with regard to the sisters;

(m) Regarding Niteshwar Rao, a certificate which is undated, has been submitted as Annexure-5. The certificate is signed by the Principal but it has not been signed by the SDO (Education). As per this certificate, the date of birth Niteshwar Rao is 16.02.1952. Whereas as per



the family register submitted by the landholder in the Learned Lower Court in the Learned Additional Collector, the date of birth of Sri Niteshwar Rao has been mentioned as 01.02.1959. This difference of 7 years cannot be ignored. Therefore, no reliance can be placed on both the papers and it can be safely held that the landlord has not been able to prove beyond doubt that his brother Niteshwar Rao is a major as on 09.09.1970. Hence, there is no question of giving any units to Sri Niteshwar Rao;

(n) Coming to the share in the property on account of the Petitioner fua, no evidence has been produced by the landlord as to whether the fua is alive on the date on which the Learned Additional Collector passed the order. Moreover, there is no mention of Smt. Rampati Devi in the Anchal records;

(o) Coming to the share in the property on account of four sisters, the only evidence submitted by the Petitioner regarding the fact that the four sisters were major as on 09.09.1970 was a family register submitted by the Petitioner. However, the family register has not been signed by any official. Additionally, an affidavit submitted by the mother of the Petitioner has been enclosed, which too is not a reliable evidence. Therefore, it is difficult to arrive at the conclusion that the four sisters were major as on 09.09.1970;

(p) Regarding the issue of classification,



reports were sought from the Circle Officer on three different occasions and each report was different than the previous one. However, the objections of the Petitioner were considered by the Learned Additional Collector to the extent admissible and necessary correction were indeed made. Therefore, it would not be correct to say that this objection was not entirely considered by the Learned Additional Collector. The Petitioner did get some relief on this score;

(q) Regarding the additional unit with regard to minor children of the Petitioner, it is an entirely a new issue which has been raised by the landholder. This issue was not raised in the year 1977 or in the year 1988 before the original Court of the Learned Additional Collector. The issue was also not raised before Learned Collector. Moreover, the details have not been given by the Petitioner regarding their age. Furthermore, under no stretch of imagination, three generations of a landholder can be included within the meaning of the word 'family' as defined under Bihar Land Ceiling Act, 1961.

Conclusion:-

From the aforementioned findings, it is clear that the Petitioner has not submitted any document with regard to his claim for additional unit for younger brother, share of property for fua, share of property for four sisters and the classification of land which would allow this Court



to intervene in the order passed by the Learned Lower Courts.

Moreover, I find it strange that this objection was not raised by the Petitioner either when the ceiling case was earlier adjudicated in the year 1977 or when he came to the Board of Revenue in the year 1977 itself.

Rather, these new sets of issues were raised by the landholder when the land ceiling case was reopened in the year 1979 under Section 45B. In fact, after he got the desired one unit on behalf of his grandmother Smt. Shivdhari Kuer (on which issue he had come to the Board of Revenue in the year 1977), vide order of the Learned Additional Collector dated 28.10.1977, he allowed the matter to rest in the sense that he did not challenge or raised these issues which he is doing now.

Therefore, it can be safely held that all these new issues were raised by the Petitioner when the land ceiling case was reopened in 1979.

In nut shell, it can be said that these issues were absent in the year 1977. However, they came up in 1979 when the Learned Collector reopened the case under Section 45B. Therefore, it appears that these issues were raised more as an afterthought in order to delay the proceeding.

Coming to the merits of this issue, I have already held that no papers have been given in support of the date of birth of four sisters that they were major as on 09.09.1970. Nor any papers



were given in support of the fact that the fua of the Petitioner was alive on 09.09.1970. Only paper given in support of date of birth was Sri Niteswar Rao which only confused the matter further as the family register showed a different date of birth and the certificate of the Principal of the school showed a different date of birth. Obviously, much reliance cannot be placed on these two papers- both submitted by the Petitioner himself.

I, therefore, am unable to help the Petitioner in the absence of any reliable evidence. That also explains why the Learned Collector did not intervene in his favour. In the absence of any documents, no court would prefer to alter the findings of the original Court.

That be the case, I find it difficult to intervene with the order passed by the Learned Collector on 30.01.2009 or the order passed by the Learned Additional Collector on 07.06.1988 and the same are hereby reaffirmed.

Revision Dismissed.

K.K. Pathak

Additional Member

Board or Revenue, Bihar

(emphasis added)

(Annexure-8 to the writ petition)

21. Aggrieved, the present writ petition(s).

b) STATE's CASE:



22. A counter affidavit has been filed on behalf of the respondent nos. 3 and 4, namely, the Collector, West Champaran and the Additional Collector (Ceiling) respectively and the sum and substance of the said affidavits is/are as follows:

23. A Land Ceiling Case was initiated against the land holder, Rajeshwar Rao over 72.96 acres of land vide Land Ceiling Case No. 13/1974-75 and after allowing 44.62 acres equivalent to 2 units, 28.34 acres of land were declared surplus.

24. Accordingly, the draft under section 10(2) of 'the Act' was issued on 12/11/1976. The landholders upon notice appeared and filed objections on 09.12.1976 which read as follows:

1. That in the verification report, an incorrect statement is mentioned that the grandmother- Sheodharo Kuer of the landholder is dead. The mention of dead is in different ink. That lady is alive. Vakalatnama on her behalf is being filed herewith. Certificate from the local Anchal Adhikari is also filed herewith to the effect that the lady is alive.

The lady, grandmother of the landholder shall be produced also at the time of the hearing of this objection petition and the landholder undertakes a proper identification of the lady to the full satisfaction of the Court.

2. That the grandmother is entitled to one



unit in her own right. Thus, if 3 units are allowed, then 66.82 acres of lands would be allowable for the 3 units leaving a balance of 6.14 acres as surplus.

3. That the landholder has already made voluntary surrender of an area of 5 acres which has to be deducted from the surplus of 6.14 acres leaving a balance surplus of 1.14 acres.

4. That there is a tank on about 1.14 acres of land in village Bighania over plots 135 and this is not covered by the ceiling act and therefore, this tank is no land as defined under the ceiling act. So, this area has also to be excluded. As a result, there is no surplus left.

5. That the father of the landholder died in the month of 10 May in 1973. He was alive on 09.09.1970 with reference to which date unit has to and so 1 unit has to be allowed in his name also.

6. That Manjoo Devi, daughter of Bachcha Roy has inherited from her father who was the father of the land-holder as well. Manjoo Devi, therefore, is also entitled to 1 unit. She is already married.

It is therefore, prayed that the case of the land-holder now blocked.

For this the land holder shall ever pray.

25. It was considered and rejected by the Additional



Collector, (Ceiling) Bettiah on 20/12/1976. This followed the direction for the issuance of notification under Section 11(1) of 'the Act' on 31.01.1977.

26. The appeal filed before the Collector, West Champaran, came to be dismissed on 15/02/1977. Aggrieved, the petitioners filed revision petition before the Board of Revenue, Bihar who vide an order dated- 27/07/1977 remanded the matter back to the Collector, West Champaran to consider grant of third unit to the grandmother.

27. The petitioners accepted the said order and never challenged it on the ground of additional units for other family members save and except the grandmother.

28. This followed the order dated 28.10.1977 granting additional unit to the grand mother. However, no final publication under section 11(1) of 'the Act' happened and in the the meantime, the information came that the verification reports of lands amongst the other at Bagaha-2 and Lauria Circles belonging to the landholders were not received.

29. Accordingly, an opinion was sought for from the Government Pleader who opined on 03.11.1979 that the matter has to be reopened under Section 45 B of 'the Act'.

30. Thereafter, the Additional Collector, Ceiling



referred the matter to the Collector, West Champaran who vide file noting dated 10.11.1979 transferred the records to the Court of the Additional Collector, Ceiling for adjudication after its revival under Section 45(B) of 'the Act'. Later, the Additional Collector, West Champaran received verification reports from the revenue authorities and as per it, certain lands amongst the other at Bagaha 2 and Lauria Circles belonging to the landholders were left out.

31. In between, 'the Act 55 of 1982' came into existence incorporating Section 32B which mandated disposal of all pending cases afresh. Later, vide an order dated 04/12/1982, the Additional Collector, Ceiling directed for preparation of the draft under Section 10(2) of 'the Act' observing that the petitioner is actually owning 108.63 acres of different category lands within Lauria, Chanpatia & Bagaha -2 circles.

32. The petitioners duly who appeared and filed fresh objections raising new issues. Each and every issue raised by the landholder was/were taken up, duly verified by the concerned authority and after hearing them at length; allowing 56.64 acres of lands equivalent to three units, 29.69 acres of land declared surplus. This followed the order dated 07/06/1988



by the Additional Collector (Ceiling) for the issuance of final notification. In compliance of the same, the final notification was placed before the Additional Collector, which was signed on **26/07/1988**. This followed the gazette notification **no. 12 dated 20/08/1988 u/s 11 (1) of 'the Act'** was published.

33. Aggrieved with the orders dated-**07/06/1988** and **26/07/1988**, the writ petitioner preferred appeal u/s 30 of 'the Act' before the Collector, West Champaran at Bettiah bearing **R.A. Case No. 58 of 1988-89, (Rajeshwar Rao vs. the State)**, with following points:-

A. lower court failed to consider the claim of one separate unit for Nitishwar Rao (younger brother of land holder), although he was major on the appointment date i.e. 09/09/1970.

B. share to Rampati Devi (aunt of land holder) and four sisters of the land holder, not allowed although they were entitled for shares.

c. lower court has not considered the objection filed by the land holder against the classification of land.

34. The Collector, West Champaran dismissed the aforesaid appeal vide an order dated **30.01.2009** holding as follows:



i. according to the family register submitted by the land holder before the lower court, the age of Nitishwar Kumar was mentioned as 01/02/1959, which reflect that Nitishwar Kumar was not major on the appointment date i.e. 09/09/1970;

ii. subsequently, they came up with the certificate issued by the Head Master showing DOB as 16.02.1952. However, though the certificate incorporates the designation of the Sub Divisional Education Officer, the signature is missing, which cannot be relied upon;

iii. with regard to the allotment of unit to Rampati Devi (aunt of land holder), the lower court has rightly rejected the claim, as Rampati Devi had not been mentioned in the report of the Circle Officer nor there is any cogent document on record to substantiate the claim;

iv. with regard to units to the sisters of the land holder, the land holder had not produced any cogent evidence, that his sisters were major on the date (09.09.1970);

v. so far as the classification of the land is concerned, the land holder is concerned, there is no reason to disbelieve the findings arrived at by the Additional Collector (Ceiling).

(Annexure-R/6 to the petition)



35. Aggrieved, the **Revision Case No. 03 of 2009** and **04 of 2009** were preferred by the petitioners before the Board of Revenue, Bihar, Patna which was dismissed on **22.02.2017** by a common/reasoned order after answering to the points raised by the landholders.

(Anexure-R/8 to the counter affidavit)

36. The contention of the State is that the petitioners are agitating the matter only to delay the process and the orders passed by the respondents are fully justified. Thus, the writ petitions are fit to be dismissed.

C) ARGUMENTS ON BEHALF OF THE PETITIONERS:

37. Mr. Siya Ram Shahi representing the petitioners submit as follows:

(i) in the first round of litigation, after the two units were granted to the landholder, the matter went up to the Board of Revenue and the same was remanded back in the year 1977 for taking decision on grant of additional unit to the grandmother;

(ii) the same was granted and matter remained pending, as the notification under Section 11(1) of 'the Act' was not published. Meanwhile, the State got report about left out lands and though the Collector, West Champaran gave instruction for reopening under Section 45B of 'the Act', it



never saw the light of the day nor any order passed.

(iii) the submission is that during the pendency of the matter, came 'the Act 55 of 1982' and all those proceeding(s) which was/were pending, the same was/were to be heard afresh.

38. Mr Shahi took this Court to **section 10 of 'the Act'** which read as follows:

10. Preparation of draft statement.

(1) On the basis of the information given by or on behalf of the land-holder under Sections 6, 8, 9, or the information obtained by the Collector under Section 7, checked in the prescribed manner, the Collector shall cause a draft statement to be prepared showing the following particulars:

(a) the area and description of:

(i) each class of land held by the land-holder and the land selected by him which he desires to be included within his ceiling area;

(ii) orchards held by him and the orchards in compact blocks which he desires to retain;

(iii) homestead land and the pucca structures including the land necessary for the use and enjoyment of such structures; held by him on the date of commencement of this Act; and such land, pucca structures



including land necessary for the use and enjoyment of the pucca structures which he desires to retain.

(b) area and description of land of each of the categories in clause (a) which is allowed by the Collector to be held and retained by the landholder under Section 5;

(c) the area [x x x] [Omitted by Act 55 of 1982.] description of the land which is in excess of the limit permissible under Section 5 and which the land-holder is not entitled to hold or retain under this Act (hereinafter to be called the 'surplus land');

(c1) the area and description of land transferred by the landholder in accordance with or in contravention of the provisions of clause (ii) of sub-section (1) of Section 5; [Inserted by Act 55 of 1982.]

(c2) the substance of finding of the Collector under clause (iii) of subsection (1) of Section 5;

(c3) the substance of the recommendation and order regarding exemption under Section 29; and

(d) any other particular which may be prescribed.

(2) The draft statement shall be published in the Official Gazette of the district and at such places, and in such manner, as may be prescribed:



Provided that a copy of the draft statement shall be served on the land-holder or land-holders concerned or on their guardian or guardians, as the case may be, by registered post with acknowledgment due which shall be conclusive evidence of the service of such notice.

(3) Any objection to the draft statement in respect of the matters specified in clauses (a), (b), (c) and (d) of sub-section (i) received within 30 days of the publication of the draft statement or service thereof under sub-section (2), whichever is later, preferred by any person having any claim or interest in said matters shall be considered by the Collector who shall, after giving the parties a reasonable opportunity of being heard and adducing evidence, pass such orders as he thinks fit:

Provided that the Collector may on any application made by the land holder or a person having claim or interest in the land, extend the period of filing objection by another fifteen days. [Substituted by Act 55 of 1982.]

39. The contention is that under section 10 of 'the Act', the information was to be sought for from the landholder under its sections 6,8,9 and only thereafter, any draft statement could have been published under Section 10(2) of 'the Act'.



This provision having not been followed, the Court has to interfere in the matter.

40. In support of the said contention, learned counsel for the petitioners relied on Patna High Court judgement in the case of **Ram Ratan Roy & Ors. Vs. the State of Bihar reported in 1999 (2) BBCJ 279** with reference to **paragraphs 5 and 6** which read as follows:

5. In my view, having regard to different decisions of this Court, in the case of Harendra Prasad Singh v. The State of Bihar & ors. (supra) 1984 PLJR 908, Smt. Kunti Sharma and others v. The State of Bihar and others 1990(1) PLJR 66 and a recent decision in the case of Mukhlal Ram vs. The State of Bihar & Ors. 1997(1) PLJR 487, the question raised above is no longer res integra. Undisputedly, in view of Act 55 of 1982, a fresh draft statement, as required under sub-section (1) of Section 10 of the Act on the basis of information given by or on behalf of the landholder, under sections 6, 8 and 9 of the Act or the information obtained by the Collector under section 7, checked and verified in the prescribed manner, shall be published in the official gazette under sub-section (2) of section 10 of the Act.



6. It has to be noticed that by reason of brought at various stages under sections 2, the Bihar Act 55 of 1982, amendments were 4,6,8,9, 10 and 11 etc of the Act in order to give effect of such changes. Therefore, in un-mistakable terms by virtue of sections 32A and 32B of the Act, surplus area of the land has to be determined afresh. Therefore, unless and until, the necessary formalities are observed, particularly, when basic changes were brought under sections 5 and 9 etc of the Act, no draft statement under section 10(2) 3. of the Act can be held valid. As I have already noticed, the publication of draft statement under section 10(2) of the Act would be on the basis of the information collected under sections 6, 8, and 9 or the information obtained by the Collector under section 7. Therefore, it would not be open to the State authorities to rely upon the same information and the materials with respect to which the amendments were brought by the instant Act. In this regard, it would be useful to refer to a Bench decision of this Court, in case of **Mukhlal Ram Vs. State of Bihar and Ors (supra)**.

41. Learned counsel next submits that once the matter



was reopened, the landholder was free to raise all issues/new issues as the matter has to be redetermined afresh. Thus the respondents were duty-bound to look into all the issues and respond to it.

42. Learned Counsel on this point relied on the case of **Harendra Prasad Singh Vs. the State of Bihar & Anr.** reported in **1984 PLJR 909 (FB) 908** with reference to **paragraphs 6 and 9** in support of the said contention and submits that the matter has to be re-determined afresh in accordance with the amended law.

43. **Paras 6 to 9** of the said order read as follows:

6. It is in the light of the aforesaid backdrop of legislative changes that sections 32A and 32B are now to be construed. It is manifest that by virtue of amendments in section 2, 4, 10 and 11 and the actual substitution of section 5 and 9 (apart from amendments in other sections) wide ranging substantive and structural changes were brought about in the Ceiling Law. To give effect and content to these changes, it was, therefore, laid down in unmistakable terms by virtue of sections 32A and 32B that the surplus area would be determined in accordance therewith, from the date of the enforcement of the Amending Act. These two



sections, therefore, were the effectuating or the executing provisions to give practical shape to the intent of the Legislature in making the statutory changes. It deserves recalling that the Ceiling Act was enforced nearly 20 years earlier in 1962 and surplus area had been determined in accord therewith for nearly 2 decades. Therefore, if the Legislature had not directed a re-determination of the surplus area in accordance with the new law, the same would have merely remained on paper. It is with this end in view that section 32A provided even with regard to all appeals, revisions, reviews or references, which were pending before any authority on the 9th of April, 1981 that they would abate and the Collector shall proceed with the case afresh in accordance with the amended provisions of section 10. Similarly, with regard to all proceedings pending on the 9th of April, 1981, barring those which had achieved finality already by the publication under the unamended sub-section (1) of section 11, it was directed in categorical terms that the same shall be disposed of afresh in accordance with the amended law. In the larger prospect, therefore, it is plain that the 9th of April, 1981 is in a way a clear watershed herein. It was on that day that Ordinance no. 56 of



1981 was enforced and retrospectivity has now been given to the Amending Act with effect from this very date All proceedings, whether by way of appeal, revision, review or reference or pending pro-ceedings by way of publication under section 11(1) of the Ceiling Act prior to the 9th of April, 1981 were left untouched. However, all such proceedings subsequent to the said date were thereafter to be decided in accordance with the changed law and consequently it was mandated that these shall be disposed of afresh in accordance therewith. In sum, substantive changes in the law, which had been enacted, were sought to be procedurally enforced by directing a re-determination of the surplus area in accordance therewith with effect from the date of the commencement of the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) (Amendment Act, 1982, i.e., on the 9th of April, 1981 aforesaid. That, plainly, is the larger legislative intendment behind sections 32A and 32B aga-inst which their particular language has to be interpreted.

9. The submission aforesaid, instead of aiding the stand of the writ petitioner, appears to me, in fact, as heavily boomeranging on it. By the settled canons of



construction, a Statute has to be construed as a whole and its provisions have to be read harmoniously. When Sections 32A and 32B are read together, they seem to run patently counter to the writ petitioner's stand. Both of them, with effect from the 9th of April, 1981, cry a halt to all the earlier proceedings and to begin on a clean slate and to have them disposed of afresh. These again have to be re-determined or decided afresh in accordance with the provisions of Section 10 of the Ceiling Act, i. e., in accord with the changes brought about in the law. As has already been noticed, the whole thrust of the Amending Act was to bring about changes in the substantive law and to effectuate them by directing a re-determination in accordance therewith. The legal pun that is sought to be made out on behalf of the writ petitioner on the ground that Section 32B does not employ the word 'abatement' is of no consequence. Indeed it is well settled in legal terminology that the term 'abatement' is usually employed with regard to appeals, revisions, reviews or references and thereafter directed that the Collector shall proceed with the case afresh in accordance with provisions of Section 10 by Section 32B. However, when it came to pending proceedings (other than those covered



earlier by Section 32A), Section 32B provided that (except those which had achieved finality already before the 9th of April, 1981 by express publication under the unnamed Section 11(1) of the Ceiling Act) these pending proceedings must be disposed of afresh in accordance with the amended law. Far from the fact that nothing would have turned on the non-employment of the word 'abatement' in Section 32B, in fact, the reading of both the sections would indicate that the Legislature had in mind the identical results to follow, namely, a re-determination or disposal afresh in accordance with the amended law in either case. Indeed, it was plausibly argued before us on behalf of the respondents that the categorical mandate to decide afresh is even something stronger and larger than mere abatement. The word 'abatement' connotes only a ceasing or putting an end to the proceeding, The direction to decide afresh not only wipes away the earlier decision or finding but directs a fresh application of mind and a decision thereafter and in a way would even be on a larger and stronger footing. The specious argument resting on the non-employment of the word 'abatement' in Section 32B must fail.

44. Learned counsel next submits that after the grant



of third unit to the landholder, the respondents were duty-bound to publish the same and delay in its publication led to coming of 'the Act 55 of 1982'. The submission is that this inordinate delay led to deciding the matter afresh and on this point alone, it has to be interfered with.

45. In support of the said contention, reliance has been placed in the case of **Pitambar Singh And Ors. Vs. State of Bihar and Ors. reported in (2010) 13 SCC 453** where the Hon'ble Apex Court in paragraph 17 held as follows:

17. In our opinion, this is a completely erroneous view. In fact, after the order dated 15-12-1977 was passed, it was not for the appellants to do anything, but it was the duty of the State Government to issue a final draft statement on the basis of that order and then to publish it in the light of the order dated 15-12-1977, which duty emanated from the positive language of Section 11(1) of the Ceiling Act. It is not at all the fault of the appellant landholders if the State Government did not do anything for four years i.e. between 16-12-1977 and 9-4-1981 when the Amendment Act came into force. Though the inaction on the part of the State Government is noted by the High Court, the Division Bench refused to act upon it and went on to observe:



"Thus although there is no just reason for the Collector not finally publishing the draft statement immediately after the appellate order dated 15-12-1977 was passed, but still then in view of the mandate contained in Section 32-B of the Act, fresh proceeding became necessary in respect of the land in question."

46. Learned Counsel for the petitioners further submit that the classification of the land has to be determined as per the appointed day i.e. 09.09.1970 and not the year when the order is passed as the irrigation facility available on 09.09.1970 has to be taken into account.

47. In support of the said contention, learned counsel relied on the decision of Patna High Court in the case of **Ganesh Prasad Singh and Others Vs. the State of Bihar reported in 1978 BBCJ 125** with reference to **Paragraph 6** which read as follows:

6. The first contention that has been raised in this connection is that the appointed day is 9th of Sept., 1970. The ceiling area has to be determined as on the appointed day. Consequently, it has to be seen whether the irrigational facilities were available on that day. The fact that the State tubewell was constructed about two years



after the appointed day would not be relevant for the purpose of classification of the lands in question and would not make the lands class I land. The view taken by the authorities is that the fact that the tubewell was constructed in the year 1972 is not of importance and it does not make any difference, since 9-9-1970 is not relevant for the purpose of classification of the land. The contention of the petitioner appears to be correct. After the amendment brought about by Act 22 of 1976, it is now clear, in view of the amendment of [Section 4](#) of Act 12 of 1976, that the ceiling area has to be determined with reference to the appointed day, the actual words used in the section being "on the appointed day the following should be ceiling area for one family unit for the purpose of this Act". Clause (a) of [Section 4](#) of the Act fixes the area as 15 acres so far as lands irrigated or capable of being irrigated by State tubewells etc. are concerned. It is thus obvious that classification of lands has to be done on the appointed day. If irrigation facilities were not available on that day through such tubewell, the lands in question cannot be classified as class I lands. In this connection, it will be pertinent to refer to [Section 5 \(3\) \(ii\)](#), which states that any further



improvement will not be taken into account. The authorities thus erred in law in holding that 8.17 acres of land was class I land, on the ground that it was irrigated or capable of irrigation by the tubewell which was constructed in the year 1972.

48. Regarding the additional units for the sisters of the landholder, learned counsel placed reliance on the case of **Mohan Choudhary and Ors Vs. State of Bihar reported in 2000 (3) PLJR 780** with reference to **paragraphs 23 and 24** which read as follows:

*23. The authorities have wrongly held that the daughters of the land holder cannot be treated as land holder. This court in the Division Bench case of **Ram Dulari Kuer vs. State of Bihar**, 1976 BBCJ 641 has already held that the definition of the family includes his or her spouse and minor children. Major children sons and daughters are not included in the definition of family and the land inherited by major sons and daughters in terms of the provision of the Hindu Succession Act, 1956 cannot be clubbed together with the land held by the land holder.*

24. Thus if the father of the petitioners died in 1967 the daughters were also entitled to inherit the property to the



extent of their share in terms of the provisions of the Hindu Succession Act and those lands inherited by them cannot be treated as land of the other land holders.

49. The submission is that beside the unit that was granted for the grandmother, the landholder rightly sought units for the 'BUA', the brother, Nitishwar Rao, the sisters as also to decide the classification issue afresh beside the exclusion for the lands voluntarily surrendered.

50. Learned counsel concludes by submitting that in the aforementioned background, the matter needs to be remanded back to be heard afresh in accordance with law.

D) ARGUMENTS OF THE STATE:

51. Mrs. Nutan Sahay and Mr. Vivekanand Singh, learned State Counsels jointly made following submissions on behalf of the State:

(i) earlier, the petitioners were allotted two units and order was passed for the publication of notification under Section 11(1) of 'the Act' in the year 1976;

(ii) however, after the Board of Revenue remanded the matter back in the year 1977 on the point of granting third unit to the grandmother, it was allowed;

(iii) meanwhile, it was found that certain lands of the land holders were



neither verified nor included so far as Bagaha 2 and Lauria circles are concerned and no verification reports were there;

(iv) considering the aforesaid facts, an opinion was sought for from the learned Government Pleader vide noting dated-31/10/1979 who gave his opinion on 03/11/1979 for reopening the case u/s 45 (b) of 'the Act'.

(v) accordingly, upon seeking guidelines, vide noting dated-07/11/1979, the Collector, West Champaran sent the files to the Additional Collector, Ceiling to proceed in the matter for re-opening of the case u/s 45 (b) of 'the Act' and thereafter on 12/11/1979 transferred the records to the Court of the Additional Collector, Ceiling, Bettiah where it remained pending awaiting the verification reports;

(vi) meanwhile, Act 55 of 1982 came into existence opening all the pending issues for the fresh disposal;

(vii) the reports were finally received confirming the presence of lands amongst other in the Lauria and Bagaha-2 beside Chanpatia circles. Accordingly, an order came to be passed on 23.12.1982 by the Additional Collector, Ceiling allowing 30 acre of Class I land and declaring 28.63 acres as surplus lands and thereafter



accordingly direction given for the draft statement and notice to the landholder.

(Annexure R/7 to the counter affidavit)

52. The submission is that this followed the issuance of the draft statement, the petitioners as recorded above, submitted objections. The Additional Collector, Ceiling picked up each and every issue raised by the landholders and after allowing three units (56.64 ½ acres), 26.69 ½ acres were declared surplus vide an order dated 07.06.1988. Learned State Counsels submit that a perusal of the order would show that each and every issue was considered/answered before the order came to be passed.

53. Thereafter, the final notification was put up before the Additional Collector, Ceiling, signed on 26.07.1988 and vide no. 12 dated 20.08.1988, the gazette notification was published under Section 11(1) of 'the Act'.

(Annexure R/5 to the counter affidavit)

54. The appeal preferred by the landholders before the Collector, West Champaran too was dismissed on 30.01.2009 by a reasoned order. The submission is that again, the Collector, West Champaran answered the issues raised by the landholders.

(Annexure R/6 to the petition)

55. The landholders thereafter preferred Revision



(Land Ceiling Surplus) Case No. 03 of 2009 and 04 of 2009 which were dismissed by a common order dated 22.02.2017. The Board of Revenue, Bihar looked into the grievances/issues raised by the petitioners and gave reason for negating the same.

(Annexure-R/8 to the petition)

56. The learned counsels submit that:

(i) earlier, the grievance was that the grandmother was not granted additional/third unit though she was alive on 09.09.1970;

(ii) this was accepted by the Board of Revenue;

(iii) the Additional collector (Ceiling) accordingly on remand allotted the third unit;

(iv) the petitioners accepted the order dated 27.07.1977 passed by the Board of Revenue, Bihar inasmuch as it was never challenged on the ground that brother, Nitishwar Rao, Sisters and 'BUA' have not been allotted units;

(v) the petitioners further never pointed out that certain lands of Bagaha-2 and Lauria Circles were left out and needs to be taken note of;

(vi) once such reports came, they came up with newer issues;

(vi) nonetheless, all the issues were



discussed by each and every revenue authority and thus the claim that the same was/were not considered needs rejections;

(vii) further, prior to the High Court, the petitioners never raised the grievance against the re-opening of the proceedings at any forum rather they contested and came up with new issues. As such, raising the said point now is fit to be rejected.

57. Learned State Counsels on the point of invoking section 10 of 'the Act' [before the draft publication under Section 10(2) of 'the Act'] submits that it clearly records that on the basis of the information given by or on behalf of the landholder under Sections 6, 8, 9 or **the information obtained by the Collector under Section 7, checked in the prescribed manner, the Collector shall cause a draft statement to be prepared showing the following particulars.**

58. Learned counsels took this Court to Section 7 of 'the Act' which read as follows:

7. Collection of information through other agencies- If any person holding land in excess of the ceiling area fails to submit the return under Section 6, the Collector may obtain the necessary information through the Executive



Committee of Gram Panchayat of the area concerned as constituted under the Bihar Panchayat Raj Act, 1947 (Bihar Act VII of 1948), or through such agency as he thinks proper.

59. The submission is that in this case, the information/verification reports from the revenue authorities confirmed that certain lands of the landholders were left out/could not be verified earlier and thereafter it rightly took decision in question and as such, the respondents were fully justified in taking the steps for the publication of draft statement under Section 10(2) of 'the Act' as also the issuance of the notice to the petitioners. Thus, the case of **Ram Ratan Roy** (supra) do not come to the rescue of the landholders.

60. Learned Counsels for the State further submit that again the judgement of **Harendra Prasad Singh** (supra) talks about deciding all the issues and the matter has to be heard afresh. They submit that once the landholders preferred objections, each and every issue was/were discussed before the order(s) in question(s) came to be passed. Thus, the State has acted exactly in line with the **Harendra Prasad Singh** (supra) judgment.

61. So far as the Hon'ble Apex Court's judgment in the case of **Pitambar Singh and Ors.** (supra) is concerned,



learned State Counsels submit that the same is not applicable in this present matter as in that case, the Hon'ble Apex court took note of the observation made by the Division Bench of Patna High Court that although there was no reason for the Collector for not publishing the draft statement but the mandate contained in Section 32B of 'the Act' has to be followed and thus fresh proceeding became necessary to be the reason to interfere in the matter holding that there was inaction on the part of the State in the non publication.

62. Here, the case is not so. Immediately after the decision to allot third unit to the landholder, came the information that verification reports of certain lands of the landholder were not received. The fact that subsequent verification reports confirmed that the lands both at Lauria and Bagaha 2 were left out clearly gave them the reason for proceeding afresh. Thus the order of the Hon'ble Apex Court in Pitamber Singh & Ors. (supra) is not applicable in the case of the petitioners as the valid reasons were there which ultimately came to be true.

63. Again, so far as the order passed in **Ganesh Prasad Singh** (supra) is concerned, it do not come to the aid of the petitioners as per the learned State Counsels as in that case,



the authorities held that the tube wells constructed by the State in the year 1972 to justify the classification so made. On the contrary, in the present case, the Additional Collector (Ceiling) mostly accepted the contention of the landholders regarding classification of lands.

64. So far as the decision cited by the petitioners in **Mohan Choudhary** (supra) is concerned, according to the State counsels, in the said case, the death, the father of the petitioners died in the year 1967 and as such, the Court held that the daughters were entitled to the property. Here, the admitted position is that the father of the land holder died in the year 1973.

65. The State Counsels conclude by submitting that:

(i) the grant of additional unit to Nitishwar Rao, brother of landholder was rejected holding that the family register provided by the landholder showed his date of birth as 01.02.1959 and as such, on 09.09.1970, he was minor. Further, the certificate submitted lately submitted had no signature of the Sub Divisional Education Officer;

(ii) no evidence was produced to show the sisters to be major on 09.09.1970 save and except an affidavit submitted by the



mother of the landholder;

(iii) regarding grant of an additional unit to the 'BUA', no evidence was again submitted whether she was alive or not. Further, her name did not figured in the circle's records;

(iv) the submission is that save and except the affidavit, no further proof was provided to support the grant of additional units;

(v) again, on the issue of classification, the objections filed by the petitioners were well considered on the basis of the second report of the Circle Officer and necessary corrections were also made/the claim of the landholder accepted. Hence, it cannot be said that the objection/issues raised regarding the classification of lands forward by the landholders were not considered acted upon.

(vi) so far as the lands that were surrendered (2.86 acres) as also the land, in which homestead 'Parcha' issued, the same were considered and duly excluded from the Ceiling proceedings.

66. The contention is that the petitioners are litigating the matter with the sole view to anyhow hang on to the surplus lands by getting it started afresh when each and every issue raised has been discussed and rejected. Thus the writ petitions



be dismissed.

E) FINDINGS:

67. Having heard the parties at length and perusing the materials on record, the facts that emerges is/are as follows:

(i) Land Ceiling Case No. 13/1974-75 came to be instituted against the landholders who were possessing lands at Chanpatia, Bagaha 2 and Lauriya;

(ii) allowing two units for Rajeshwar Rao and his mother (44.62 acres of land), the rest 28.34 acres were declared surplus by the Additional Collector (Ceiling), West Champaran;

(iii) pursuant to the draft publication u/s 10(2) of 'the Act' on 12.11.1976, the landholders preferred objection;

(iv) it was rejected on 20.12.1976 by the Additional Collector (Ceiling). This followed direction for the publication of the notification u/s 11(1) of 'the Act';

(v) the appeal preferred before the Collector, West Champaran in Appeal Case No. 308 of 1976-77 came to be rejected on 15.02.1977;

(vi) still aggrieved, Revision petition was preferred before the Board of Revenue, Bihar in Revision Case no. 348 of



1977. It was disposed of on 27.07.1977 and the matter was remanded back after holding that the landholders are entitled to an additional unit for the grandmother.

68. Thereafter, the Additional Collector (Ceiling), West Champaran took up the matter and vide an order dated **28.10.1977** held as follows:

In this case, the Additional Member, Board of Revenue directed that a fresh enquiry may be made if Srimati Sheodhari Kuar was or was not alive on 9.9.70. This enquiry has been made and the report of Anchaladhikari has been received saying that Smt Seodhari Kuar was alive on 9.9.70 and was 60 years old. On this basis of this report, Smt.Seodhari Kuar is allowed one full unit in addition to two full units already allowed for Sri Rajeshwar Rao and his mother Smt.Kamala Devi. In other words instead of two full units, three full units are allowed to this joint Hindu family.

In this case the family possesses lands of different classes as indicated below

Class I Land- 13.89

Class II land-13.06

Class III land 14.93

Class IV land- 30.45

Class V land -00.63

This when converted to class IV



land comes to 98.41 acres. The family is entitled to hold 90 acres of class IV land. There is thus 8.41 acres of surplus land with the family. This includes 2.80 acres of land voluntarily surrendered. The classification of surrendered land may be checked with reference to verification report. This voluntarily surrendered land would be shown in the surplus land noting against it. The Notification No. and date by which it has been acquired. The final statement u/s 11(1) published on 31.1.77 is cancelled and substituted by the revised final statement in the light of orders above. A copy of the same may be served on the landholder and service report may be attached with the record for the necessary action.

69. However, while all these developments were taking place and final publication under Section 11(1) was not yet made, a noting was placed before the Additional Collector, Ceiling informing that verification of additional lands of the landholders at Bagaha 2 and Lauria Circles were not provided and as such, it needs to be verified before the final publication is made. This happened on 30.10.1079.

70. The Additional Collector, Ceiling thereafter sought opinion of the Government Pleader on 31.10.1979. The learned G.P. in turn opined on 03.11.1979 that it can be done



only after the reopening of the case under Section 45(B) of 'the Act'.

71. The Additional Collector (Ceiling) vide file noting dated 05.11.1979 thereafter sought guidelines from the Collector, West Champaran who accordingly gave his approval on 20.11.1979 in the files while transferring it to the Additional Collector (Ceiling). However, as pointed out by the learned counsel for the petitioners, no order was finally passed.

72. While the Additional Collector (Ceiling) was awaiting the verification reports from the concerned Circle Officers, 'the Act 55 of 1982' came into existence reviving all the pending cases. The verification reports received confirmed that the lands of the landholders at Bagaha 2 & Lauria Circles were earlier left out. This followed the order dated 23.12.1982 for the issuance of the draft statement under section 10(2) of 'the Act' whereafter the landholders were put on notice.

73. The landholders, upon notice, preferred fresh objections as follows:

(i) the aunt, Rampati Devi and four sisters beside one brother, Nitishwar Rao are also entitled to additional units;

(ii) the grandmother has again been left out;

(iii) 2.86 acres of land has been



voluntarily surrounded;

(iv) 0.02 dec. has been transferred through 'Parcha';

(v) some lands of 'Pattidars' have been included and need exclusion.

74. The Additional Collector, Ceiling vide an order dated 07.06.1988 after allowing three units as also accepting the contentions regarding the lands which were voluntarily surrendered, transferred through 'Parcha' and after excluding the lands of the agnates declared the rest of the lands as surplus. Accordingly, direction was issued for the final notification. It came to be signed on 26.07.1988 and vide the gazette notification no. 12 dated 20.08.1988, Section 11(1) of 'the Act' was notified.

75. The **R.A. Case No. 58 of 1988-89** preferred before the Collector, West Champaran came to be dismissed on **30.01.2009** vide reasoned order after holding that all the issues raised by the landholder was/were discussed by the Additional Collector (Ceiling). The issues and the findings recorded are as follows:

(i) in support of additional unit for Nitishwar Rao, Headmaster's photocopy certificate without the signature of Subdivisional Education Officer was submitted which cannot be relied upon;



(ii) earlier, genealogy submitted by the petitioners recorded the age of Nitishwar Rao as 01.02.1959 and as such, he was not major on 09.09.1970;

(iii) non grant of unit to Rampati Devi (aunt) is again justified as the petitioners failed to prove whether she is dead or alive, in the circle report, nowhere her name comes up and even in appeal, no such document was filed;

(iv) so far as units to sisters is/are concerned; the revenue reports show death of father of landholder on 10.03.1973. The petitioners failed to submit any document to support their claim and as such, it is rejected;

(v) no authentic document was found on record and in that background, the Appellate Authority is bound to follow the revenue reports. The claim as such, was rejected.

(Annexure 6 to the petition)

76. Still aggrieved, **Revision Case Nos. 03/2009 and 04/2009** were preferred before the Board of Revenue, Bihar, Patna. It again was dismissed by a common order by the Additional Member, Board of Revenue on **22.02.2017**.

77. The Board of Revenue, Bihar held that:

(i) before the Revisional authority in



the earlier round of litigation, only one issue was raised i.e. the grandmother Shiojhari Deo is entitled to additional unit;

(ii) no other issue was raised in the year 1977 whereas the cause was available even then;

(iii) the Board of Revenue gave an additional unit to the grandmother. This was accepted by the petitioners and the said order dated 28.10.1977 was never challenged assailing non grant of units to Bua, Sisters/Brother. It as such became final;

(iv) it thus was restricted to the addition of certain lands which remained left out for want of verification reports;

(v) once the verification reports showed certain lands were not included, the petitioners came up with this additional units as also faulty classification theory;

(vi) the reasons assigned by the Additional Collector/Collector for non-grant of the additional units are based on cogent reasons.

(vii) Regarding the additional unit with regard to minor children of the Petitioner, it is an entirely a new issue which has been raised by the landholder. This issue was not raised in the year 1977 or in the year 1988 before the original Court of the Learned Additional Collector. The issue was also not raised before Learned Collector. Moreover, the details have not been given by the Petitioner regarding their



age. Furthermore, under no stretch of imagination, three generations of a landholder can be included within the meaning of the word 'family' as defined under Bihar Land Ceiling Act, 1961.

(Annexure 8 to the petition)

78. This Court has gone into all the issues raised by the petitioners and the reply/reason given by the respondents in the successive orders and is satisfied that the points/issues raised by the petitioners have been adequately answered.

79. Further, reasons have been assigned by the respondents for the revival of the case after 'the Act' came into existence. The petitioners do not deny that their lands at Bagaha 2 and Lauriya were left out and once the verification report received, after entertaining the claim extensively and deciding the units, the respondents rightly came to the conclusion and declared the rest of land surplus. The orders in question are just and proper and the contentions put forward by the petitioners as such is/are rejected.

80. So far as the case cited by the learned counsel for the petitioners of **Ram Ratan Roy and Ors. (supra)** is concerned, it has been rightly contended by the learned State Counsels that section 10 of 'the Act' is clear, the information has to come either on the basis of details provided by the landholder



or obtained by the Collector. The fact remains that during the pendency of the proceedings, the reports came about certain left out lands at Bagaha 2 and Lauria Circles before the Additional Collector, Ceiling and once the verification reports confirmed it, the respondents were perfectly justified in passing an order for issuance of draft publication as also noticing the petitioners. Thus the respondents acted exactly in line with Section 10 of 'the Act' and the aforesaid case do not come to the rescue of the petitioners.

81. So far as the case of **Harendra Prasad Singh (supra)** is concerned, this Court has to show its agreement with the Full bench decision that once revived, the matter has to be redetermined afresh. Here, a perusal of the order passed by the revenue authorities would show that each and every issue/new issues raised by the landholders was/were taken note of and answered before the reasoned order(s) was/were passed. Thus this Court holds that the aforesaid order has been followed by the State.

82. Regarding the **Pitambar Singh and Others (supra)** case, learned State Counsel has rightly observed that unlike in the said case, here valid reason was available with the respondents as the lands of the Lauria and Bagaha 2 belonging



to the petitioners were left out. The admitted position is that the landholder never pointed out this fact to the respondents in the first round of litigation has to be taken note of by the Court and in that background, the respondents were fully justified in taking up the matter and deciding it afresh.

83. So far as the case of **Ganesh Prasad Singh** (supra) is concerned, this Court has taken note of the fact that the respondents have mostly accepted the contention of the petitioners on the point of classification once it was endorsed by the Circle Officer.

84. Regarding the grant of additional units to the sisters is/are concerned, admittedly, the death of landholder's father took place in the year 1973 and the petitioners failed to bring on record any document, save and except an affidavit that they were major on 09.09.1970. Thus the decision of **Mohan Choudhary** (supra) cited by the petitioners also do not come to their rescue.

F) CONCLUSION:

85. This takes the Court to only one conclusion. The writ petition(s) have no merit and have been filed not only to defeat the provisions of 'the Act' but also to any how hang on to the surplus lands which otherwise should have been vested with



the State of Bihar decades ago.

86. Both the writ petitions are dismissed. The stay order dated 15.06.2017 stands vacated.

87. A copy of the order be sent to the Collector, West Champaran for his/her perusal/needful.

(Rajiv Roy, J)

Vijay Singh/-

AFR/NAFR	AFR
CAV DATE	15.09.2025
Uploading Date	19.09.2025
Transmission Date	NA

