

**Bihar Land Reforms (Fixation Of Ceiling Area And
Acquisition Of Surplus Land) Act, 1961**

12 of 1962

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**Bihar Land Reforms (Fixation Of Ceiling Area And
Acquisition Of Surplus Land) Act, 1961**

12 of 1962

An Act to provide for fixation of ceiling, restriction on sub-letting and resumption by certain raiyats, for personal cultivation of land, acquisition of status of raiyat by certain under-raiyats and acquisition of surplus land by the State in the State of Bihar and matter connected therewith. Be it enacted by the Legislature of the State of Bihar in the Twelfth Year of the Republic of India as follows:--

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1. Validity of main Act and subsequent amendments.--Validity of parent Act of 1961 and its subsequent amendment Acts of 1973 (Acts 1 and 9) are equally valid. These cannot be challenged as regards validity because these are protected being placed in Ninth Schedule.

2. Constitutional protection to Act.--The Act is provided with protection by Legislature and it cannot be challenged on allegation of being violative of Articles 14 and 19 of Constitution.

3. Object of the Act--Act being a self-sufficient code provides powers with procedures and jurisdiction of concerned authorities described under the Act.

4. Objective of Act.--Primary objective of the Act is to impose ceiling, subsequent calculations of surplus land and distribution of surplus to landless. It is nowhere linked to provide succession. The Act is wholly secular in nature, religion of and personal laws of a party are not allowed to overpower its provisions.

5. Preamble.--Comparison with that of provisions under Bihar Consolidation of Holdings and Prevention of Fragmentation Act, 1956--A comparative study thereof.

6. Purpose of Act.--The Act being a self contained code provides for enough power and procedure for authorities, mentioned therein, it also lays down procedure so far as the conduct of authorities concerned.

7. 1. This Act received assent of the President on 8th March, 1962. 2. Mahabir Pmsad v. State of Bihar, 1970 PLJR 134. 3. Bannrasi Yadav v. Krishna Chandra Das, 1976 PLJR 518 (FB). 4. Bhuneshwar Bhagat v. State of Bihar, 1988 BLJR 516. 5. State of Bihar v. KM. Zuberi, 1986 PLJR 67 (SB). 6. Kalika Kuar v. State of Bihar, 1990 (1) BLJR 51. 7. Bhuneshwar Bhagat v. State of Bihar, 1988 PLJR 721.

CHAPTER 1 Preliminary

1. Short Title, Extent And Commencement :-

(1) This Act may be called the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961.

(2) It extends to the whole of the State of Bihar.

(3) It shall come into force at once.

SYNOPSIS

1. Scope and constitutionality of the Act. 2

2. Purpose and motto of the Act. 2

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1. Scope and constitutionality of the Act.--Provisions under the Act are nowhere ultra vires, instead these are made as measures of agrarian reforms.1

2. Purpose and motto of the Act.--The Act has got purpose to let each tenure holder having certain area as his ceiling land, which does not exceed its prescribed limit, its motto is to take the surplus land from his holding for allotment to landless labourers and for other public purposes.2

3. Scope of res judicata on further proceedings.--Where proceedings began prior to enforcement of the Amendment Act, final order passed subsequently, further proceedings under Amended Act are barred by res judicata.3

1. Latafat Ali Khan v. State, AIR 1973 SC 2070.

2. Inayat Ali Khan v. State, AIR 1971 SC 1407.

3. Nalini Ranjan Singh v. State of Bihar, 1977 PLJR 174.

2. Definitions :-

In this Act, unless there is anything repugnant in the subject or context:--

1[(a) "appointed day" means the 9th day of September, 1970;]

2[(aa) "Tribunal" means the Bihar Land Reforms Tribunal Constituted under Section 50 of the Act;]

3[(aaa) "ceiling area" means the area of land fixed under Section 4 as the ceiling area;]

4[(b) "Collector" includes an additional Collector or any other officer not below the rank of Sub-Deputy Collector, appointed by the State Government to discharge all or any of the functions of a Collector under this Act;]

5[(c) "Commissioner" means Commissioner of Division and includes any officer not below the rank of the Collector of a district appointed by the State Government to discharge all or any of the functions of a Commissioner under the Act;]

(d) "Co-operative society" means a co-operative society registered under the law relating to registration of co-operative societies for the time being in force and a "co-operative farming society" means

a co-operative society registered as such under such law;

(e) "Diara Land" means any land which is subject to diluvion or alluvion on account of any change in the course of river or which lies between two embankments constructed to control a river and includes any land which may be surveyed as Diara land under the Bengal Survey Act, 1875 (Ben. Act V of 1875), or which after enquiry is declared as such by the Collector;

6[(ee) "family" means and includes a person, his or her spouse and minor children.

Explanation I.--In this clause the word "person" includes any company, institution, trust, association or body of individuals whether incorporated or not;]

7[Explanation II.--The personal law shall not be relevant or be taken into consideration in determining the composition of the family for the purposes of the Act;]

8[(eee) "minor child" in relation to family whose ceiling area is determined under Section 4 with reference to the land held by it on the 9th September, 1970, shall mean "a person who has not attained the age of eighteen years on that date" and in respect of future acquisition as contemplated in Section 18 of the date on which such acquisition takes place.

(f) "land" means land which is used or capable of being used for agriculture or horticulture and includes land which is an orchard, Kharhur or pasturage or 9[forest land or] 10[also the land] perennially submerged under water] or the homestead of land-holder;

Explanation I.--"Homestead" means a dwelling house for the purpose of living or for the purpose of letting out on rent together with any courtyard, compound, attached garden, orchard and out-building and includes any outbuilding for the purpose connected with agriculture or horticulture and any tank, library and place of worship appertaining to such dwelling house.

11[Explanation II.--Land perennially submerged under water shall not include submerged in the bed of a river.]

12[(g) "Land holder" means a family as defined in clause (ee) holding land as raiyat or as under-raiyat or a mortgage of land in possession or holding land permanently settled by Government or lessee of land not resumable by Government;]

(h) "mental or physical disability" means mental or physical disability by reason of which the person subject to such disability is incapable of cultivating land by personal labour or supervision;

(i) "personal cultivation" with its grammatical variations means

cultivations by a raiyat himself, or by members of his family or by servants or hired labourers on fixed wages payable in cash or kind but not crop-share under his personal supervision or the supervision of any member of his family during main agricultural operation;

(j) "prescribed" means prescribed by rules made under Act;

(k) "raiyat" means primarily a person who has acquired a right to hold land for the purpose of cultivating it by himself or by members of his family or by hired servants or with aid of partners, and includes also the successors-in-interest or persons who have acquired such a right and includes, in the district of Santhal Parganas, village headman in respect of his private land, if any, but does not include in the areas to which the Chotanagpur Tenancy Act, 1908 (Ben. Act VI of 1908), applies, a Mundari, Khumt-kattidar or a Bhuinhar.

(l) "Schedule" means the Schedule appended to this Act;

(m) "under-raiyat" means a tenant holding whether immediately or mediately under a raiyat; and

(n) words and expressions used but not defined in this Act, shall have--

(i) in their application to any area in which the Bihar Tenancy Act, 1885 (VIII of 1885) is in force, the same meanings as are assigned to them in that Act;

(ii) in their application to any area in which the Chotanagpur Tenancy Act, 1908 (Ben. Act VI of 1908) is in force, the same meanings as are assigned to them in that Act; and

(iii) in their application to any area in which the Santhal Parganas Tenancy (Supplementary Provisions) Act, 1949 (Bihar Act XIV of 1949) is in force, the same meanings as are assigned to them in that Act.

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1. Scope of personal laws.--Insertion of clause (ee) and Explanation II in Section 2 of Act. Its effect on determination of holding vis-a-vis applicability of personal law of family involved, where major sons of a family governed by Hindu Law entitled to separate unit--Then major sons of family governed by Mohammadan Law also entitled to separate unit under Act.13

2. Tenure holding by separated pair.--For the purpose of aggregating the ceiling area, judicially separated husband and wife cannot be clubbed together to hold tenure holdership.14

3. Property and judicial separation.--Where property between husband and wife is divided and there was no evidence of separation of matrimonial land, it cannot be said that division of joint property did not mean judicial separation.15

4. Distinct types of lands under the subject-matter.--Bihar Land Ceiling Act deals with ceiling of land, capable of being used for agriculture or horticulture, whereas Urban Land Ceiling Act deals with ceiling in areas of non-agricultural lands, being different operational areas one Act does not exclude operation of other.16

5. Determination after amendment Act.--Determination of surplus area after Amendment Act of 1982--Validity of order under Section 10(2) on basis of old verification report--Question whether petitioners family entitled to only one unit--Held, order not valid--Proceedings be heard afresh whether his family held lands as surplus in accordance with provisions of Sections 6, 7, 8, 9 and 5 of Act--Mere reference to old verification report not sufficient--Order quashed and case remanded.17

6. "Tenure holder" under the Act.--When tenure-holder expires before he is served a notice under Section 6 of the Act, the Prescribed Authority may serve such notice on his executor, administrator or other legal representative and may also proceed to decide ceiling area applicable to deceased, as if this executor, administrator or legal representatives were the tenure-holder.18

7. Conferring jurisdiction under by Government.--It is the Collector only who exercises power under Section 45-B of the Act but it is

not every Collector of the district who is conferred such powers under Section 45-B, only that Collector is entitled to perform duty under Section 45-B who is authorised by State Government to do such works.¹⁹

8. Determination of ceiling area.--While deciding the matter, the definition of "family" has to be taken in the sense as it is given in provisions of Section 20(ee) of the Act. Under the Ceiling Act it is the "family" that is a unit and not the person specified as land holder.

9. Joint and separate properties.--Quantity of ceiling units has to be determined with reference to a "family" as defined in Section 2(ee), that means the land holder, his wife and their minor children, the joint and separate properties belonging to each member of the family have to be taken into consideration.²¹

10. Family of land holder.--"Family" is inclusive of a person his/her spouse and minor children. If considered under Hindu Law, married daughter is no more a member of her family, because in Hindu Law married daughters belong to family of her in-laws.²²

11. Section not ultra vires of Articles 14 and 16.--Provisions under Section 2(ee) regarding definition of "family" do not contravene, contradict or violate the provisions and spirit of Articles 14 and 16 of Constitution of India.²³

12. Widow and children losing units.--When coparcener of a Hindu undivided family dies subsequent to passing of and enforcement of Hindu Succession Act, 1956, his widow and sons can be regarded as a family to become entitled to an unit.²⁴

13. Contravention of preamble in invalidation of section.--Provisions under Section 2(ee) cannot be challenged neither on basis of contravention of preamble or being inconsistent with directive principles of constitution nor on the basis of any encroachment of central list.²⁵

14. Separate ceiling unit.--A daughter whose father died after enforcement of Hindu Succession Act, 1956, shall be entitled for a separate unit under Ceiling Act.²⁶

15. Heirs interest after death of holders.--Married daughters shall be entitled to be the heirs, so that their shares get devolved into the shares of married daughters of law holder, if he dies suddenly.²⁷

16. Separate claim by both widows.--The two widows being members of a common family are entitled to a unit as their share in held property of land, however they cannot claim lands more than one unit as they do not constitute two units, they are not

separated.²⁸

17. Claim for units by "family".--"Family" as defined under Section 2(ee) of the Act, includes landholders, his or her spouse and minor children only. At the same time land of spouse and minor children has to be clubbed together to see if family holds more than the ceiling area, when both the widows hold rights to a unit being member of family they can be allowed additional fractional unit if it could be shown that members were more than five because widows do not constitute two separate families.²⁹

18. Meaning of family under Act.--"Family" under the Act--Not means a holder of land while deciding matter regarding "family" and individual --Determination of ceiling of surplus land, does not conceive applicability of land holder in the Act.³⁰

19. Widow--A separate unit.--Constitution of a family--Status of a widow with no spouse or minor children; such widow constitutes a family and entitled to be treated as one separate unit under Act.³¹

20. Separate unit for daughter.--Under Ceiling Act, a daughter whose father died after commencement of Hindu Succession Act, shall be entitled for a separate unit under the Act of 1961.³²

21. Meaning of "family".--"Family" under Section 2(ee) includes land holder, his/her spouse, minor children only. To calculate surplus land share of children and pair are to be clubbed together.³³

A fundamental social unit consisting basically of two adults, a male and a female, living in one household co-operating in many activities and frequently producing and caring for children. This gives rise to various legal relationships of great social importance, particularly those of husband and wife (including questions of the creation and dissolution of that relationship), parent and child, legitimation, adoption, and problems of individual, joint and community property, and of inheritance. The term family and legal relationships attaching thereto is variously defined in different bodies of legislation and has no settled legal connotation. Variants on the basic pattern of family are the extended family, which includes married children, their spouses and offspring, and the one-parent family, where one spouse is missing, dead or divorced. In some cultures polygamy is permitted, either polyandry (more than one husband) or polygyny (more than one wife). These variants raise different legal problems.

Legal systems commonly treat the family as a social institution to be preserved and supported. In many systems at different times rules have been sought to encourage family life, favouring

- marriage, legitimate children, and succession within the family. This object has justified provisions in such fields as property, succession, evidence, and criminal law as well as in family law itself.³⁴
22. Concurrent findings not interferable.--Constitution of India, Articles 14 and 16--Constitutionality of Section 2(ee)--Concurrent findings of authorities having jurisdiction to adjudicate not to be ordinarily interfered into--Section 2(ee) of Act not being unconstitutional.³⁵
23. Clubbing of shares.--Land inherited by daughters in terms of Hindu Succession Act cannot be taken to be the land of other land holders, children, if adult, are heir, irrespective of being male or female, therefore their shares cannot be clubbed together with that land already held by land holder.³⁶
24. Determination of ceiling area.--A major child can get an independent ceiling determined for his/her ceiling "family" provided he/she was a separate raiyat within the meaning of Section 2(k) and has become a land holder within the meaning of Section 2(h) and has become a land holder vide Sections 2(g) and 2(e).³⁷
25. Separate family.--Separate unit in ceiling proceedings--Family--Widow and son of landholder--Both widow and son form separate family--Thus widow entitled to separate unit.³⁸
26. Determination of surplus land.--Separate unit--Land includes homestead and pasturage--Major members of Hindu family entitled to be treated as land holders and thus as separate unit under Act.³⁹
27. Medical report rejected.--A medical report cannot be discarded by a Revisional Authority, merely on ground that supporting evidence were not attached. Medical report prepared by a Medical officer should have been accepted.⁴⁰
28. Scope of.--Where there is no material before the authorities to doubt verification report or no assertion is made on, no reason to reject the claim in such a situation an order granting unit and attaining finality cannot be set aside.⁴¹
29. Determination of ceiling area.--While fixing ceiling area, it is necessary to find out who is owner of land and who are his heirs, such heirs can be determined vide concerned personal laws, exclusion of personal law has very limited scope while determining share, the land held by such family member as an independent unit holder would revert to heirs of her father upon her dying intestate and issueless, heirs of her husband cannot claim the land by inheritance.⁴²
30. Partial dedication of land to deity.--Deed of dedication--Deity

made entitled to sewa puja only to extent of Rs. 12/- p.m. out of dedicated land--Being partial dedication land holders become real beneficiaries and they have right to property--Case remanded for fresh consideration in light of this observation.⁴³

31. Position of married daughters in ceiling proceedings.--Whether they remain members of their fathers family after their marriage--No and thus not entitled to separate unit in holding of their father, the land holder.⁴⁴

32. "Family" and "person".--Interpretation thereof--Part of math--For being a trust, it is not necessary that it was a subsidiary to the main trust.⁴⁵

33. Entitlement of grandson to a unit.--Where a Mitakshara law is taken as basis for determination of hierarchy, the major grandson shall be entitled to a unit and such right is nowhere and in no way affected by Explanation II of Section 2(ee) of the Act.⁴⁶

34. Proceedings against heirs.--After death of land holder fresh proceedings have to be initiated against heirs. The land holder must be a person living on date of declaration under the Act.⁴⁷

35. Scope of--In determination of unit.--Where sale deed does not show land to be agricultural and it was situated within municipal limits it can be considered that it was not an agricultural land, the concerned authorities committed illegality in holding that provisions under Section 16(3) were applicable.⁴⁸

36. "Tank" whether to be considered as land.--Under meaning of land vide Section 2(f), "Tank" used for which purpose is necessary to be known, if used for agricultural purposes it will be within the meaning of land.⁴⁹

37. Applicability of Act.--Applicability of Act to lands used for non-agricultural purposes only--Act is not applicable to such lands.⁵⁰

38. Definition of land vide charging Section 4.--In spite of the fact that land includes "homestead of land holder" under definition clause, the very same sense cannot be taken into consideration for determining ceiling area of land holder in light of Section 4 because Section 4 does not use word homestead.⁵¹

39. Declaration of surplus land.--Relevance of passing an order under Section 29(1)(f) of the Act exempting land covered by tea garden--No representation by petitioner--No need for State to pass any order vide Section 29(1) of the Act.⁵²

40. Orchard a land under Act.--Pre-emption of land used as orchard--Orchard being "land" under Act--Petitioner as adjoining raiyat of such land eligible for pre-emption of land.⁵³

41. Applicability of--Section 16(3) of Act to land--Condition--Land

must be land as defined in Section 2(7) of Act.54

42. Claim for right of pre-emption.--Where there was no finding that land in question was capable of being used as agriculture or horticulture, the order impugned is liable to be set aside to decide it afresh.55

43. Homestead--Scope and meaning.--Homestead means homestead of a land-holder. Petitioner showing himself only as homestead, Court not precluded from holding that if it is a homestead of a landlord.56

44. Land holder--Meaning of.--There is no necessary finding that land holder means holding land in excess of statutorily fixed area.57

Land holder refers to a family as defined under clause (ee) of Section 2, where land is held as raiyat or is under a raiyat, for constituting a person as raiyat there is no legal necessity that possession of land should be by him only.58

Proprietor or a superior tenant of land.

"Land-holder" means any person responsible for the payment of the land-revenue, if any assessed on land. It also includes the proprietor of land the land-revenue of which has been wholly, or in part, released, compounded for, redeemed or assigned Pun. Act XX of 1883 (District Board), S. 3, cl. 3.

The assignee of a lessee or a person farming lands from a Zamindar or Jaghirdar, is a land-holder within the meaning of the Madras Rent Recovery Act 8 M. 394 (FB).

Per Sadasiva Aiyar, J.--Even an assignee of arrears, of rent from the owner of the estate or even a part of the arrears is a land-holder.59

The word "landholder" in S. 61(1) does not mean "land- owner".60 Land-holder means entire body of co-sharers. Nanhor v. Board of Revenue, AIR 1972 All 433, 434, 435. [U.P. Zamindari Abolition and Land Reforms Act (1 of 1951), Sec. 202(f)(i) and (ii)].

Holder of land; a tenant or proprietor of land; a person to whom rent is payable in respect of the land; proprietor of the land responsible for the payment of the revenue. [Sec. 4(2), CPC].61

45. Separate units for separate land holders.--Property endowed to four separate deities, but by a single document, in such cases deities must be considered as a different land-holder, accordingly he must be considered as a separate unit.62

46. Age--Determination of.--For determination of age under the Act, matriculation certificate is a valid piece of evidence but still it is not a conclusive piece of evidence to determine age.63

47. Decision under old Act--Scope for review.--Where in a decision under old Act, petitioner and his family have held land below ceiling area, such land can be allowed to be re-opened after passing of the present Amendment Act that lowered ceiling area. Review does not arise.⁶⁴

48. Determination of separate unit.--Dedication of properties to four deities without creation of trust--Idols became owner of property--Shebait being only to administer properties--Each deity entitled to one separate unit.⁶⁵

49. Land holder.--"Land holder"--A major Muslim son in life time of his father--He cannot become a land holder and thus cannot claim a separate unit in ceiling proceedings.⁶⁶

50. Inheritance of property.--Land holder--On his death his widow and daughter inherited property of land holder in equal shares under Hindu Succession Act and became land holders--Possession of land only by widow would be on behalf of all heirs unless otherwise proved.⁶⁷

51. Grant of exemption.--Where requisites of Section 29 are fulfilled only then exemption can be granted, a claim for giving units by producing fake certificates will not create a deity which has to be recognised by a Hindu mythological book. It is only Hindu idols that can be considered to be juristic persons.⁶⁸

52. No raiyat on disputed land.--Where a purchaser acquires raiyati rights in adjoining land after purchase of disputed land, it cannot be said to be a raiyat within the purview of the Act, nor just by a possession over adjoining land on date of sale in his favour, he can although claim to be a raiyat to defeat right of pre-emption under Section 16(3).⁶⁹

53. Raiyat of land.--Raiyat--Hindu undivided family--Land belonging to--Each member of such family becomes raiyat of land.⁷⁰

54. Claim under.--Claim of pre-emption by opposite party--Claim not admissible as he is not raiyat of vended land.⁷¹

55. Grant of units--Challenged.--Where by an order authorities do not determine whether individual major members of family of original holder were raiyats or separate land-holders and consequently entitled to claim separate units for their respective families, further they, considering the right of one branch of land holder and not considering entire property of original land-holder was subject-matter of the proceedings, matter not sustainable, required to be considered afresh.⁷²

56. Tribunal--Meaning of.--In its most general sense, any person or

body of persons having power to judge, adjudicate on, or determine claims or disputes. But in modern Britain the term means more particularly a person or body, formerly frequently called an administrative tribunal (q.v.), as distinguished from a Court properly so-called with professional judges, formal procedure and decisions according to rules of law. Tribunals have greatly increased in number, variety, and jurisdiction since 1918, being frequently established to decide issues not wholly suitable for courts of law, to bring experience and expertise to the decision, to operate locally, speedily, and cheaply. Common features are their being composed largely or entirely of laymen, though the chairman is often legally qualified, simplicity and informality of procedure, and decisions based on discretion, impression, and experience rather than on the application or rules of law. Important examples are industrial tribunals, rent tribunals, and social security tribunals. Appeal to a court is commonly restricted or practically excluded, frequently confined to questions of law, but most tribunals are subject to the supervision of the Council on Tribunals and to the supervisory jurisdiction of the courts, whereby the courts will ensure that tribunals observe the rules of natural justice, do not overstep their jurisdiction, or otherwise act illegally.⁷³

57. Land--Meaning of.--The solid and dry part of the surface of the earth, including, however, streams traversing tracts of land and enclosed, or semi-enclosed, areas of water. Land is a major factor of economic production, as economic asset as a source of wealth and a store of wealth, and possession of it has in many cases been a source of social, political, and economic power and a great status symbol. The law of each country applicable to land tends, by reason of the permanence of land, to be old at least in origin and to be complicated, to reflect social and economic patterns which may have changed very substantially. In consequence, at many times in history and in many countries, major reforms of land-tenure have been made, frequently forcibly, and often without benefit to the utilization and management of the land for productive purposes.

From the legal point of view the material questions are whether land is owned by the State, or by communities, or by groups jointly, or by individuals, and what rights and interests can be held in it, whether it is heritable or not, whether freely alienable or not.⁷⁴

58. Raiyat--Meaning of.--Peasant, tenant, farmer or cultivator of the soil in India. Art. 31-A(2)(b), Constitution.

Raiyat--A subject, but especially applied to the agricultural

population, a cultivator, a farmer, a peasant.

The word raiyat is often used in judgments in the sense of tenants of various classes.⁷⁵

A leeses who takes land for grazing cattle on it, without any connection with cultivation, is not a raiyat within the meaning of sub-section (2) of Section 5 of the Bengal Tenancy Act VIII of 1885.⁷⁶

"Raiyat" means primarily a person who has acquired a right to hold land for the purpose of cultivating it by himself, or by members of his family, or by hired servants, or with the aid of partners.⁷⁷

Raiyat distinguished from tenure-holder.⁷⁸

"Raiyat having Khunt-Katti rights" means a raiyat in occupation of, or having any subsisting title to, land claimed from jungle by the original founders of the village or their descendants in the male line, when such raiyat is a member of the family which founded the village or a descendant in the male line of any member of such family.⁷⁹

Raiyat means a person who holds land for purposes of agriculture. *Ramkumar Kahariea v. M/s. Chandra Engineering (India) Ltd.*, AIR 1972 Cal 381, 383. [W.B. Land Reforms Act (10 of 1956), Sec. 2(10)].⁸⁰

59. Pre-emption of specific land.--Authorities while examining application under Section 16(3) are required to see what is the primary object for which such land was being used or is capable of being retained by the transferor or was being transferred to another person for a purpose and object which is not concerned with agriculture then an application under Section 16(3) cannot be entertained.⁸¹

60. Pre-emption--Degree of adjacency.--Act of 1961 does not contain any provision authorising Revenue authority to determine degree of adjacency for the purpose of recognizing right of pre-emption. Degree of adjacency cannot be claimed towards right of pre-emption, for applicability and interpretation of doctrine of pre-emption it is not survey plot that matter but the price of land which does not refer to any such survey plot number at all.⁸²

61. Sale by registered deed.--Pre-emption of second sale under Section 16(3) of the Act got rejected--Parties seeking pre-emption are land-holders under Sections 2(g) and 2(k) of the Act--Land being used for agricultural purpose within the meaning of land under Section 2(f), Explanation I--Concurrent findings of Courts below that land was capable of being used for agricultural purposes within the meaning of land under Section 2(f) of the Act, cannot be

disturbed--Order of single Judge under Section 16(3) needs no interference--Appeal dismissed.⁸³

1. Ins. by Act 22 of 1976 (1.11.1976) and existing clause (a) made clause (aa) thereof.
2. Ins. by Act 21 of 1987.
3. Re-numbered by *ibid*.
4. Appointment of officers under Section 2(b), see Appendix B.
5. Omitted by Act 22 of 1976 and ins. again by Act 55 of 1982.
6. Ins. by Act 1 of 1973.
7. Ins. by Act 22 of 1976.
8. Ins. by Act 22 of 1976.
9. Ins. by Act 55 of 1982 and shall be deemed always to have been inserted.
10. Subs. by Act 5 of 2002.
11. Existing explanations renumbered as I and II added by Act 55 of 1982 and shall be deemed always to have been inserted.
12. Subs. by *ibid* and shall be deemed to have been substituted.
13. *State of Bihar v. KM. Zuberi*, 1986 BLJR 176.
14. *Viroj Kumar v. IInd A.D.J.*, 1996 (1) SCC 570.
15. *Saroj Bharadwaji v. Additional Civil judge*, (1998) 9 SCC 186.
16. *Lai Mohan Bej v. State of Bihar*, 1990 (1) PLJR 750.
17. *Kunti Shawm (Smt.) v. State of Bihar*, 1989 (2) BLJR 490: 1989 (1) BLJ 690.
18. *State v. Civil Judge*, AIR 1987 SC 10:1987 (2) SCJ 32 (SC).
19. *Mahanth Siaram Das v. State of Bihar*, 1985 PLJR101 (FB).
20. *Ram Kishore Narain Singh v. State of Bihar*, 1993 (2) PLJR 295.
21. *Sib Narain Roy v. State of Bihar*, 1994 (1) PLJR 294.
22. *Randhir Chaudhary v. State of Bihar*, 1990 (2) PLJR 330.
23. *Mahanth Dhansukh Giri v. State of Bihar*, 1985 PLJR 235 (FB).
24. *Bindeshwari Prasad Yadav v. State of Bihar*, 1984 PLJR 806.
25. *Mahabir Prasad v. State of Bihar*, 1976 PLJR 134.
26. *Ram Ratan Roy v. State of Bihar*, 1999 (3) PLJR 218.
27. *Uma Shankar Prasad Sinha v. State of Bihar*, 1999 (1) PLJR 195 (Pat).
28. *Brij Kumar Singh v. State of Bihar*, 1999 (1) PLJR 51.
29. *Brij Kumar Singh v. State of Bihar*, 1999 (2) PLJR 55:1999 (2) All PLR 48:1999 (1) BLJ 619:1999 (1) BBCJ 898 (Pat).
30. *State of Bihar v. KM. Zuberi*, (1996) 2 BLJR 1251.
31. *Ganesh Bharti v. State of Bihar*, 1976 BLJR 606.
32. *Ram Ratan Ray v. State of Bihar*, 1999 (3) PLJR 218:1999 (2) BBCJ 279 (Pat).
33. *Brij Kumar Singh v. State of Bihar*, 1999 (2) PLJR 55:1999 (2)

- All PLR 48:1999 (1) BLJ 619:1999 (1) BBCJ 898 (Pat).
34. See David M. Walkers "Oxford Companion to Law" Ed. 1980 p. 459.
35. Mohanth Dhansukh Giri v. State of Bihar, 1985 BLJR 254.
36. Mohan Chaudhary v. State of Bihar, 2000 (3) PLJR 780.
37. Uma Shankar Prasad Sinha v. State of Bihar, 1999 (1) PLJR 195 (Pat): 1999 (1) BLJ 219 (Pat).
38. Mayabati Devi v. State of Bihar, 1977 BLJR 290.
39. Mahabir Prasad v. State of Bihar, 1976 BLJR 195.
40. Saraswati Devi v. State of Bihar, 1998 (3) PLJR 340.
41. Chaturbhuji Singh v. State of Bihar, 1999 (2) PLJR 892:1999 (3) BLJ 804 (Pat).
42. Krishna Prasad Sharma v. State of Bihar, 1998 (3) PLJR 179.
43. Muneshwar Lal v. State of Bihar, 1978 BLJR 286.
44. Randhir Choudhary v. State of Bihar, 1990 (1) BLJR 167.
45. Sant Saran Goswami v. State of Bihar, (1995) 2 BLJR 1084.
46. Bindeshwari Prasad Yadav v. State of Bihar, 1984 PLJR 806.
47. Savitri Devi Drolia (Smt.) v. State of Bihar, 1978 PLJR 240.
48. Urmila Devi v. State of Bihar, 1998 (1) PLJR 758.
49. K.H. Farms Industries (Pvt.) Ltd. v. State of Bihar, (1993) 2 BLJR 1425.
50. Kamlakant Goswami v. Balgobind Sah, 1971 BLJR 974.
51. Shankar Prasad Sahi v. State of Bihar, 1993 (2) PLJR 676.
52. Mahabir Prasad v. State of Bihar Jalan, (1991) 2 BLJR 915.
53. Jugeshwar Singh v. Baldeo Singh, 1971 BLJR 12 (Pat).
54. Syed Fakir Mohammad v. Sheikh Sahabuddin, 1975 BLJR 360 (FB).
55. Ram Chandra Keot v. State of Bihar, (1999) 3 BLJR 2156 (Pat).
56. Syed Fakir Mohammad v. Sheikh Sahabuddin, 1975 PLJR 1 (FB).
57. Mahanth Bipin Behari Das v. State of Bihar, 1971 PLJR 343.
58. Ram Prasad Yadav v. State of Bihar, 1990 (2) PLJR 3.
59. 40 MLJ 319:44 M 433: 62 IC 890:29MLT 203: (1921) MWN 198 (FB).
60. 48 MLJ 147: 86 IC 191: AIR 1925 Mad 454.
61. See P. Ramanatha Aiyers "Law Lexicon" Reprint 2004 p. 1078.
62. Lakshmi Namin v. State of Bihar, 1978 PLJR 544.
63. Mahanth Sheo Bachan Giri v. State of Bihar, 1977 PLJR 487.
64. Mahanth Sheo Bachnn Giri v. State of Bihar, 1977 PLJR 487.
65. Lakshmi Narain v. State of Bihar, 1978 BLJR 671: AIR 1978 Pat 330:1978 PLJR 544:1978 BLJ 724:1978 BBCJ 489.
66. Hassan Choudhary v. State of Bihar, 1982 BLJR 150.

67. Bishunpat Singh v. State of Bihar, 1978 BLJR 337.
68. Ram Janki Ji Deities v. State of Bihar, 1991 (2) PLJR 417:1999 (2) BBCJ 102 (Pat) (DB).
69. Phuleim Prasad v. Jagdish Choudhary, 1969 PLJR 418.
70. Dinbandhu Jha v. Harish Chandra Jha, 1971 BLJR 14 (Rev).
71. Uchit Yadav v. Jagdish Poddar, 1971 BLJR 24 (Rev).
72. Bishwanath Pandey v. State of Bihar, 1998 (3) PLJR 449.
73. See David M. Walkers "Oxford Companion to Law" Ed. 1980 p. 1239.
74. See David M. Walkers "Oxford Companion to Law" Ed. 1980 p. 710.
75. 39 IC 409: 21 CWN 452.
76. 17 CLJ 411:20 Ind Cas 332 at 334.
77. Ben. Act VI of 1908 (Chotanagpitr Tenancy), Sec. 6.
78. 33 CWN 564.
79. See Ben Act VI of 1908 (Chotanagpur Tenancy), Sec. 7.
80. See P. Ramanatha Aiyers "Law Lexicon" Reprint 2004 p. 1605.
81. Ram Prnsad Sao v. State of Bihar, 2007 (2) JLJR 662 (Jhr).
82. Bibi Ambeya Khatoon v. State of Bihar, 2007 (2) BLJR 1226 (Pat).
83. Saikun Bibi v. State of Jharkhand, 2005 (4) JCR 354 (Jhr).

3. Provision Of The Act To Prevail Over Other Laws :-

The provisions of this Act shall have effect, notwithstanding anything to the contrary contained in any other law, custom, usage or agreement, for the time being in force or in any decree or order of any Court:

Provided that nothing contained in this Act shall be deemed to have any effect on the provisions of the Bihar Bhoodan Yagna Act, 1954 (Bihar Act XXII of 1954).

CHAPTER 2 Ceiling on Land

4. Fixation Of Ceiling Area Of Land :-

1[4. Fixation of ceiling area of land.--

2[On the appointed day the following shall be ceiling area of land for one family consisting of not more than five members for the purposes of this Act:]

(a) Fifteen acres, that is, equivalent to 6.0705 hectares of land, irrigated or capable of being irrigated by flow irrigation work or tube-wells or lift irrigation which are constructed, maintained,

improved or controlled by the Central or the State Government or by a body corporate constituted under any law and which provide or are capable of providing water for more than one season (hereinafter referred to as Class I land).

Explanation.--A land shall not be regarded as Class I land unless it is capable of growing at least two crops in a year; or

(b) eighteen acres equivalent of 7.2846 hectares of land irrigated by such private lift irrigation or private tube-wells as are operated by electric or diesel power, and provide or are capable of providing water for more than one season (hereinafter referred to as Class II land).

Explanation.--Private lift irrigation or private tube-wells means those which are not constructed, maintained, improved or controlled by the Central or the State Government or by a body corporate constituted under any law; or

(c) twenty-five acres, equivalent to 10.1175 hectares of land, irrigated or capable of being irrigated by works which provide or are capable of providing water for only one season (hereinafter referred to as Class III land);

(d) thirty acres, equivalent to 12.141 hectares of land, other than those referred to in clauses (a), (b), (c), (e) and (f) or land which is an orchard or used for any other horticultural purpose (hereinafter referred to as Class IV land); or

(e) thirty-seven and a half acres, equivalent to 15.368 hectares of Diara land, or chaur (hereinafter referred to as Class V land); or

3[(f) forty-five acres equivalent to 18.211 hectares of hilly, sandy, forest land, even land perennially submerged under water or other kind of land none of which yield paddy, rabi or cash crops (hereinafter referred to as Class VI land).]

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1. Challenge to findings.--Where a finding is based upon a report submitted by Anchal Adhikari, it cannot be challenged in absence of specific and vitally distinct pleadings and evidence against same.⁴
2. Determination of surplus land.--Cold storage situating on land--Such land cannot be considered, while determining surplus land of petitioner.⁵
3. Grant of units to heiress.--Where ceiling land belongs to branch of late land holder, then all such land holders of such branch who were major on day of death of owner are entitled for a unit each. Merely because parties had a mutually accepted separation and revenue was being paid by one of the members, cannot deprive such members of their unit.⁶
4. Ceiling area.--Unit allotment and determination of ceiling area--Relevancy of date--It is important with reference to appointed date--Date on which ceiling area determined will be relevant date.⁷
5. Determination of ceiling area.--Husband given land to wife making her absolute owner--No divorce taken place--Wife living separately--While determining ceiling area of her husband land in her ownership cannot be included.⁸
6. Entitlement for separate units.--When sons of land holder were adult, another son was also named being major as a sharer, S.D.O. was wrong in awarding entitlement for separate unit during lifetime of their father land holder. Collectors decision to re-open case under Section 45-B of the Act was justified.⁹
7. God not a juristic person but can be treated so.--A deity that is being concerted by performance of appropriate ceremonies and having a visible image and residing in its abode has to be treated as a juristic person within the proviso of Act of 1961.¹⁰
8. Muslim law--Discussed.--A son of a Muslim cannot be held as raiyat during lifetime of his father, whether he was entitled to a

separate unit during the lifetime of his father. Provisions of Muslim law discussed.¹¹

9. Fresh proceedings.--Start of fresh proceedings after amendment--Ceiling area reduced by amendment--So fresh proceedings becoming necessary to start--It cannot be characterised as review of earlier order but would be a fresh proceeding in light of change in law.¹²

10. Reduction of ceiling area by will.--Declarant of will cannot reduce his ceiling area merely by a will. Where determination relates to his successor/heirs either by intestate succession or testamentary succession the said proposition shall no more be applicable.¹³

11. Ceiling on land, right to receive property.--A person who is receiving property on grounds of will shall achieve such right only when said will comes into existence on date of death of executor of will.¹³

12. Classification of land--Admissibility of.--In matters of classification of land, the Court has to be very slow and careful because once authorities under the Act have chalked out and finalised a classification considering irrigation facilities, productivity and situation of land, such issue is based purely on facts and should not ordinarily be obstructed.¹⁴

13. Family under, separate from that in personal law.--Determination of a ceiling area is by the term "family" as stated in Section 2(ee) of the Act and not as per the family as understood in personal laws. Merely because of birth the eldest son cannot claim as a successor of land holder.¹⁶

14. Appeal--Determination of surplus area.--Where the surplus area on the appointed date was finalised by appellate authority in way back two decades ago, such determination of ceiling area was not bad.¹⁷

15. Nature of land.--It is necessary for a certainty about irrigation of lands if it has to be declared as a land under Class I.¹⁸

16. The words "Capable of providing water for more than one season" --Import and meaning of.--Held: The expression used in the provision is "capable of providing water for more than one season". The expression capable has been used because the Legislature wanted to emphasise that even though a person may not utilise water that may be available by flow irrigation work etc., yet if those works were capable of providing irrigation for two seasons, then the land in question will come under Class I. The capability to provide irrigation must be regular capability year in

and year out and not irregular or occasional capability. It should not, for instance, depend on the vagaries of nature. The expression must be interpreted to mean, that the irrigation work mentioned in the said clause was capable of providing assured irrigation for more than one season. It is only when it was capable of so providing the irrigation that the sub-clause would apply- Where the assured irrigation was not possible for two seasons, the land irrigated, even by flow irrigation work, tube-well etc. could not be classified as Class I land.¹⁹

17. Expression "work" under.--Where land in question did not have any facility for irrigation such land cannot be brought under category of clause (c) of land.²⁰

18. Scope on "diara land".--"Diara lands" being covered under -- Should be treated as Class V lands and determined surplus, if any-- In case there being two provisions in Act, namely one specific or special and other general in character, specific or special provision to be applicable in preference to general one.²¹

19. Classification of land.--When land in question did not have any irrigational facilities, objections regarding classification already rejected, proceedings remanded for re-consideration, then in paucity of irrigation of land of paddy crop it cannot be brought under category of fully irrigated land.²²

20. Settlement of land.--When source of settlement has been accepted in favour of petitioners through ex-landlord, then it cannot be challenged with respect to remaining lands.²³

21. Cancellation of settlement.--Due to displeasure felt by the circle officer on account of the lands having been settled to people belonging to "upper caste" in the meeting of the communist party-- Settlers acquired full occupancy raiyati status in terms of Section 19 of the C.N.T. Act--Action taken on the report of authority without any notice and knowledge to the aggrieved persons--Total deprivation of opportunity of hearing--Purpose of passing order was something else--Notice in accordance with law--Quashed--Held: Status of occupancy raiyats could not be taken by revenue authorities under the Act.²⁴

Without hearing parties--Petitioners with full occupancy raiyati statutes --With sada settlement--Supported by continuous issuance of rent receipts--Revenue authorities could not have taken away status of occupancy raiyats--The petitioners have established a full occupancy raiyati status, who were always in possession in terms of Section 19 of Chhotanagpur Tenancy Act. Therefore, they had the right of occupancy regarding lands held as raiyats. Purpose for

passing impugned order was something else and it was not in accordance with law. Their status of raiyati could not have been taken away by revenue authorities and that too in the manner resorted to both the circle officer as also by Deputy Commissioner.²⁵

22. Idol as a land holder.--The two idols were consecrated in two separate maths located at two distant places and their worship was performed quite separately, their servants were also separate there was no indication that two idols were entitled to hold land in their favour. Where there was no plea to go into an enquiry by local inspection there was no need to do so.²⁶

1. Subs. by Act IX of 1973.
2. Subs. by Act 22 of 1976.
3. Subs, by Act 55 of 1982.
4. Samswati Devi v. State of Bihar, 1998 (3) PLJR 340.
5. Mahabir Prasad v. State of Bihar, 1976 BLJR 195.
6. Chaturbhuj Singh v. State of Bihar, 2000 (3) PLJR 218.
7. Rajiv Kumar Thakur v. State of Bihar, (1993) 1 BLJR 418.
8. Indumati Singh (Smt.) v. State of Bihar, (1993) 2 BLJR 836.
9. Latifur Rahman v. State of Bihar, 1993 (2) PLJR 104.
10. Ram Jnnki Ji Deities v. State of Bihar, 1991 (2) PLJR 417:1999 (2) BBCJ 102 (Pat) (DB).
11. Imamul Hassan Choudhary v. State of Bihar, 1982 PLJR 321.
12. Chandrajohb Kuer v. State of Bihar, 1983 BLJR 301: AIR 1983 Pat 220:1983 BLJ 179:1983 BBCJ 197.
13. Jamil Ahmad v. V Addl. Distt. Judge, 2001 (7) Supreme 503.
14. Devinder Kumar v. Additional Commissioner (Judge), (2001) 4 SCC 286.
15. Deokinandan Singh v. State of Bihar, 1997 (1) BLJR 349.
16. Uma Shankar Prasad Sinha v. State of Bihar, 1999 (1) PLJR 195 (Pat).
17. Shiv Ram v. State, AIR 2004 SC 3849.
18. Gore Lal Singh v. State of Bihar, 1977 PLJR 252.
19. Gore Lal Singh v. State of Bihar, AIR 1977 Pat 232.
20. Mohammad Fakhruddin v. State of Bihar, 1976 PLJR 384.
21. Ram Ran Vijay Pd. Sinha v. State of Bihar, 1978 BLJR 639:1978 BLJ 34.
22. Mohd. Fakhurddin v. State of Bihar, 1976 PLJR 384.
23. Dip Narain Giri v. State of Bihar, 1999 (2) PLJR 649 (SC): 1999 (2) All PLR 475:1999 (3) BLJ 701:1999 (2) BBCJ 87.
24. Santan Shukla v. State of Bihar, 2003 (4) JCR 379: 2003 (2) JLjR 454 (Jhr).

25. Santan Shukla v. State of Bihar, 2003 (4) JCR 379: 2003 (2) JLR 454 (Jhr).

26. Shri Ram Janki Ji v. State of Bihar, 2007 (2) BBCJ 206 (Pat).

4A. Re-Determination Of Ceiling Area :-

Where the ceiling area of the land for any family or any member of the family constituting the family on the appointed day has been determined by any order passed by any authority in accordance with the provisions of this Act prior to the commencement of the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) (Amendment) Act, 1972 (Bihar Act 1 of 1973) the ceiling area of such family or member of the family shall be re-determined under this Act with reference to the appointed day in accordance with the amended provisions.

Explanation.--In this section authority includes the Collector, Commissioner of the Division and the Board of Revenue.]

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1. Re-determination of ceiling area. 22

2. Proceedings by higher authorities. 22

3. Re-determination of ceiling area--Appeal. 22

1. Re-determination of ceiling area.--A land cultivated by whether a State Tube-well or from a private irrigation arrangement, it will be taken as an irrigated land.2

2. Proceedings by higher authorities.--The discretionary power is not given to any petty official but to a high authority as Collector to take an action in conformity with the policy and principles laid in the Act. There is no presumption that the discretion will be abused and where it is abused the arms of higher authorities are long enough to strike down such abuse firmly.3

3. Re-determination of ceiling area--Appeal.--Where there was no cross-examination regarding age in sale deed and appellate Court relied thereon, such reliance upon admission not put to witness while she was under cross-examination is of not any purpose.4

1. Ins. by Act 22 of 1976.

2. Sant Singh v. A.D.J., 1996 (3) SCC 400: JT 1996 (3) SC 74.

3. H.C. Bihari v. Matajog Dubey, AIR 1966 SC 44.

4. Sita Ram v. Ram Chandra, AIR 1977 SC 1712.

4B. Validation :-

1[4-B. Validation.--

Notwithstanding anything to the contrary contained in any judgment, decree or order of any Court the determination of ceiling

area of any family with reference to the appointed day in any proceeding under this Act shall be deemed to be valid and effective.]

1. Ins. by Act 22 of 1976.

5. No Person To Hold Land In Excess Of The Ceiling Area :-

(1) (i) It shall not be lawful for any family to hold, except otherwise provided under this Act, land in excess of the family.

Explanation.--All lands owned or held individually by the members of a family or jointly by some or all of the members of such family shall be deemed to be owned or held by the family.

(ii) No land-holder holding land in excess of the ceiling area shall from the commencement of the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) (Amendment) Act, 1972 and till the publication of notification under Section 15, transfer any land held by him except with the previous permission in writing of the Collector, who may refuse to give such permission if he is satisfied for the reasons to be recorded in writing that the transfer is proposed to be made with a mala fide intention of defeating the object of this Act:

Provided that the transfer of any land made, with the previous permission of the Collector, shall be deemed to have been made from within the ceiling area admissible to the land-holder:

Provided also that the transfer of any land beyond the ceiling area admissible to the land-holder shall be deemed to have been made with the object of defeating the provisions of the Act.

(iii) Notwithstanding anything to the contrary contained in any judgment, decree or order of any Court or authority the Collector shall have power to make enquiries in respect of any transfer of land by a land-holder whether by a registered instrument or otherwise made after the 22nd day of October, 1959, and if he is satisfied that such transfer was made with the object of defeating, or in contravention of the provisions of this Act or for retaining, benami or farzi land in excess of the ceiling area, the Collector may after giving reasonable notice to the parties concerned to appear and be heard, annul such transfer and thereupon the land shall be deemed to be held by the transfer or for the purposes of determining the ceiling area he may hold under this section.

(iv) Land donated by a land-holder under the Bihar Bhoodan Yagna Act, 1954 (Bihar Act XXII of 1954), to the extent it subsequently

vests in the Bhoodan Yagna Committee constituted under the said Act before the date of the final publication of draft statement under Section 11 of this Act, shall not be taken into account in determining the area he may retain under this section.

(2) (i) Where the number of members in a family on the appointed day exceeds five the family may hold in addition to the ceiling area determined under Section 4, land not exceeding one-tenth of the ceiling area for that class of land for every such additional member: Provided that in no case the aggregate of the land held by the family shall exceed one and a half times the ceiling area.

(ii) Any land which a land-holder is allowed to hold under this section shall not be liable to be acquired by the State Government under this Act merely by reason of any subsequent improvement in the land or diminution in the number of persons referred to in clause (i):

Provided that the ceiling area shall be re-determined, where subsequently the classification of land improves as a result of irrigation work constructed, maintained, improved or controlled by the Central or the State Government or by a body corporate constituted under any law for the time being in force whether or not the land-holder actually draws water from the source.

Explanation.--For the purpose of this section, where the landholder is a company or association or body of individuals the number of persons entitled to be maintained under their personal law and dependent upon the land-holder shall be deemed to consist of not more than five.

(iii) For the purpose of this Act, except the Schedule, one acre of class I land shall be deemed to be equivalent to 1.20 acres of class II, 1.66 acres of class III, 2 acres of class IV, 2.50 acres of class V and 3 acres of class VI land.

(3) The ceiling area which a Co-operative Society, may hold in addition to such area as may be mortgaged or sublet to it under Section 20, shall be the aggregate of the land held by its individual members, subject to the ceiling area for each member.]

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 3. Validity of transfer.--A transfer made prior to attaining adulthood cannot be treated as land of land-holder because it is necessary for annulment of proceedings under Section 5(1)(iii) of the Act. Registered sale deed is accordingly annulled.4
 4. Restriction on transfer.--Where transfer took place under registered document alongwith fact that transferees name was mutated in the revenue records as well as in survey records, making transfer bona fide. Further the Collector has no authority to re-check validity of transfer made before sale deed.5
 5. Validity of gift of land.--Where in an earlier proceeding the gifted lands of the land-holder were excluded from lands of landlord by appropriate authority, then in absence of any contrary material on subsequent records, it will not be proper to arrive at a contrary finding regarding validity of gifts made by land- holder.6
 6. Gift deed for immoveable property.--Under Mohammedan Law a

gift deed is not complete in absence of factual evidence of delivery of possession, hence findings already arrived at, cannot be changed.⁷

7. Holding of land in excess.--"Hold" under Section 5(1) requires not only the subsisting title but also the holding of said land. Therefore, "hold" includes a two-fold idea of actual possession with a legally valid title, sometimes the expression is used only to mean actual possession.⁸

8. Proof of age.--School certificate of matriculation is not a wholly reliable evidence to verify exact age of concerned person. Ossification test is to be taken as more scientific and more correct.⁹

9. Transfer of land to wife living separately.--Where land is transferred to wife living separately such property cannot be claimed as separate from wife. Family is taken as a unit in land, it does not exclude the property held by members of family, when lands are transferred in name of wife shall be included in name of husband.¹⁰

10. Exemption from ceiling.--Whether applicable--Only provision under Section 2(j) are exempted--Purpose and use of land should not be changed--Where use and nature of land is changed the same cannot fall under exemption category--Certain situation given where exemption from ceiling is available.¹¹

11. "Family" includes minors also.--The Ceiling Act does not differentiate between caste, creed, culture and religion, while considering ceiling area of land-holder, the Act also does not envisage giving an additional unit to an adult son of land-holder whether governed by Mohammedan Law or Mitakshara Law.¹²

12. Determination of ceiling area.--Separate family or land-holder where clubbed together with parents, who were alive, such clubbing is valid, subsequent death will not result in cancellation of separate unit.¹³

Mitakshara Law or Mohammedan Law whether applicable where adult son is given land--Such giving will not amount to additional unit--Act does not differentiate between men and women on basis of religion, caste or culture unless there is separate distinction under any other law.¹⁴

Land in possession of wife of land-holder--Determination of ceiling area--Land held by wife shall also be included in name of husband.¹⁵

13. Classification of land.--Findings regarding classification of land arrived at by Anchal Adhikari cannot be challenged in absence of specific and sharp proceedings and also in pleadings contradictory

to such specific proceedings.¹⁶

As regards classification of land and a right to exercise option to select the land it cannot be allowed to be raised for first time in a writ Court, as the belated claims which were openly made were for delaying process such claims must be rejected straight away.¹⁷

14. Acquisition of surplus area.--Transferred land made part of surplus land--Order aggrieved purchasers--Granting such option found to be illegal --On basis of equity as well order not sustainable--Section 5(1)(ii) clearly violated --Transferred land cannot form part of surplus land--State cannot acquire such land.¹⁸

15. Grant of unit to land-holder.--When a matter of grant of order was already decided by Authority under Section 10(3), appellate Court affirmed the order, no revision filed then the order became final, it would be wrong when appellate authority disturbs this order and such order would be illegal.¹⁹

16. Grant of units.--Where units are already granted by Revenue Authority, appellate authority also confirmed it, making grant final, subsequent change in order has no validity because a final order cannot be changed by appellate authority.²⁰

17. Validity of gift deed.--A gift deed can be made ineffective only where there is any cogent evidence that the deeds of gift were inoperative or sham, where there is no evidence to show that gifts were inoperative this cannot be declared as ineffective. Fresh opportunity to be given to concerned party.²¹

18. Draft not substantiated by legal provisions.--An appeal against order for final publication got dismissed and final notification by Collector did not include land of land-holder then merger of the order will be annulled, authorities directed to proceed afresh, as per existing law.²²

19. Determination of surplus area.--Where objection against draft notification is rejected by Collector on ground of amended provisions, it is manifest that determination of surplus area as per newly amended provisions have to be disposed of afresh.²³

20. Draft statement not fully verified.--Once Collector passed order for abatement of appeal it was correct on part of Additional Collector to hold enquiry afresh after affording proper opportunity to petitioners, when amendment of 1982 did bring in structural changes yet not compliance makes the findings are not valid.²⁴

21. Holding land in limits.--Those proceedings that have not attained finality have to proceed from the stage of Section 10, all proceedings already taken place are wiped out and proceedings have to continue as per amended provisions, once appeal is abated

the authorities proceeded in the matter afresh, still material decided on pre-existing materials mandatory requirement of conducting enquiry not followed, matter remanded for a decision afresh.²⁵

22. Draft statement.--When draft statement is already published on verification of Collector it is natural that requirements under clauses C-1 to C-3 of Section 10 under draft had not been complied with.²⁶

23. Ceiling proceedings.--No opportunity granted for proving possession--No records seen by Collector--No spot verification--No opportunity given to adduce evidence--No reasonable ground given for such attitude--Order impugned along with notice under Section 15 set aside--Matter remitted to pass a fresh order on basis of legal and statutory provisions.²⁷

24. Quashing of resolution.--Where there is no appeal or exercise of appellate powers under provision of CPC to reverse findings of trial Court, it would not be proper to reverse the trial Court's order.²⁸

25. Declaration as surplus land.--Where no notice is given to transferees that their land could be declared as surplus land of transferors then the directions given for deletion of these lands as surplus land of transferors cannot be disturbed as being surplus land.²⁹

Where a land is declared to be surplus on ground that purchaser was shown as a cousin of land-holder in the notice of Anchal Adhikari, then if any objection is raised vide Section 45-B of the Act, the authorities must hold an enquiry vide Section 5(1)(iii) of the Act to find out whether such person was a bona fide purchaser.³⁰

26. Question of title in dispute.--Where complicated question of title arises for consideration, the aggrieved party should seek proper remedy by filing a civil suit for declaration of title, because this question of title cannot be decided by a writ Court.³¹

27. Reopening of proceeding.--Exercise of powers under Section 45-B of Act--Enquiry to be held in matter except in exceptional cases before proceeding under this section--Powers to be exercised in appropriate cases only--New material not essential for such purpose though may be relevant ground for re-opening of proceeding.³²

28. Creation of title in mortgage.--Where land is mortgaged but transferred only after appointed day, the authorities were not wrong holding the land as of land-holder under Section 9(2) and determine the remaining land for the purposes of the Act. Such a land that is mortgaged, cannot be excluded from total land.³³

29. Transfer of land.--Where a land is transferred by a landlord vide Section 5(1), it shall be treated to be a land selected by land-holder for retention within the ceiling area, land changes hands by acquisition only then a transfer is complete, yet if transfer is by the provision under Section 5(1) it shall not be a transfer because land-holder had no right on that land after its transfer.³⁴

Transfer of land--Relevancy of class of land--Matter prior to amendments --Land as existing on date of classification and transfer has to be considered --Subsequent classification will be acceptable if proper reasons are given to support such classification--Revision in absence of such reasons is not maintainable.³⁵

Where State and its ancillaries raise a dispute upon validity of classification report of earlier years, they shall be required to give reasons so that revisional authority could decide the issue.³⁶

30. Land acquisition not transfer of land.--Acquisition under Land Acquisition Act changes hands and transfer of land takes place, still it cannot be said to be a transfer under provisions of the Act on which land-holder has no control.³⁷

31. Consideration of land ceiling.--When available statutory option was not considered by ceiling authority, then the Additional Collector was directed to consider the case, no illegality committed.³⁸

32. Enquiry regarding transfer.--For the purpose of proceedings under Bihar Ceiling Act a mere mutation of land under the provisions in favour of a person is not a conclusive proof of his title over land. Prima facie mutation of land gives rise to presumption of ownership of land of person in whose name land is mutated, unless such presumption is rebutted.³⁹

33. Review of earlier order not permissible.--Review of own order by Board of Revenue and directing that the question of majority of son of land-holder on relevant time and date shall be considered afresh. Board of Revenue cannot review its own order, because a subsequent resolution shall be an error in law.⁴⁰

34. Exclusion of rejected land.--Before declaring a land to be surplus it is necessary to serve mandatory notice under Section 5(i). Order passed without seeing fulfilment of such mandatory provisions, the decision not sustainable and remanded to be considered afresh.⁴¹

35. Title not created by payment of rent.--Interest in land cannot be claimed on basis of order of mutation, merely by paying rent it does not create a title on land, and High Court will not interfere

with order rejecting objection under Section 10(3) in view of the fact that no objection petition under Section 37 was filed by objector.⁴²

36. Sale of agricultural land.--When all mandatory formalities for sale of land are complete on exact date, registration after said date, cannot be annulled because it was complete in all formalities. Section 16 shall not be applicable.⁴³

37. Validity of endowment.--Endowment created in favour of deities much before ceiling land came into existence--Power of Collector to enquire into validity of endowment--No such power available--Here authorities simply examined extent of area of land owned and possessed by land-holder--For this purpose they being quite competent.⁴⁴

38. Exemption of transaction.--Prior to amendment of Act, Collector had power to exempt operation of transactions made for limited purposes, to find out whether a transfer and a transaction was valid or not it will have to be adjudged on basis of operation effectiveness--Whether it was prior to amendment or subsequent to the Amendment Act.⁴⁵

39. Sale of land.--When landlord did not obtain any permission to sell disputed land in favour of petitioners he was not entitled to sell land, hearing of petitioners was necessary.⁴⁶

40. Excess land determination.--Determination of land in excess of ceiling area--Investigation under clause (iii) of Section 5(1) of Act--Transfer of land within clause (ii) even after 9.9.1970--Before transaction of transfer is held good or bad in eye of law investigation is necessary.⁴⁷

41. Genuineness of transferred land.--Enquiries into genuineness of transfer of land under Section 5(1)(iii) of Act--Sale made after 9.9.1970 without obtaining prior permission under Section 5(1)(ii) of Act--Power of Collector to enquire into genuineness of such sale--Collector entitled to make such enquiries.⁴⁸

42. Annulment of transfer.--Where annulment of transfer rests upon extraneous considerations, such an order has to be quashed as not sustainable.^{48a} Where transfer deed is annulled on ground that it was executed and registered before amendment cannot be held to be justified in light of irrelevant matters considered by authorities. Such annulment is not sustainable.⁴⁹

43. Enquiry regarding transfer of land.--Transfer of land cannot be annulled merely on basis that at the time of verification of spot the vendee was not present because no notice was served upon him, petitioners land to be released.⁵⁰

44. Change in classification of law.--Merely on grounds of subsequent report authorities cannot change classification of land on basis of subsequent report, it is necessary to submit a proper reason for discarding earlier report.⁵¹

45. Transfer of surplus land.--Truth in transfer of a deed of gift executed in year 1955 cannot be a subject-matter of inquiry in a ceiling proceeding and thereby the purchasers cannot be clubbed together as one owner.⁵²

46. Validity of transfer.--Where no notice was issued by concerned authorities to find out whether transfer were farzi or with a mala fide intention then such orders/annulling transfer are not sustainable being illegal.⁵³

Where there are several sale deeds on a single day, an under valuation cannot be a factor to annul such a transfer under Section 5(1)(ii) of the Act.⁵⁴

47. Validity of surplus land.--Surplus land--Absence of any notice to landlord--No enquiry--Principles of natural justice violated--Order impugned not sustainable being illegal.⁵⁵

48. Declaration of surplus land without giving notice--Property of.--Where an order is passed without giving any notice to the landholder and without holding enquiry, such impugned orders held to be illegal and quashed.⁵⁶

49. Enquiry against transfer.--Where transfers are found to be genuine then the concerned lands are to be excluded from ceiling proceedings but where such transfers are annulled concerned authority should find out where such lands can be retained by landholder vide Section 9, transfer after sale deed shall be ignored.⁵⁷

50. Benami transaction.--Whether or not--Land purchased by father of plaintiff in name of his wife--Money invested was earned by self--Transfer operative as beneficial interest and not mere benami--Such transaction will not be a benami transaction.⁵⁸

51. Modification of notification in view of finality.--Where land is denotified appellate Court confirmed the order it was final, Collector should have ordered for modification of order considering finality of order. Refusal to issue notification is erroneous, Section 45-B has no role to play in such a case.⁵⁹

52. Transfers made before 22nd October 1959--But registered thereafter--If may be annulled--Conditions for annulment.--It was contended that the transfers having been effected by registered sale-deeds which were executed and admitted for registration long before the 22nd October, 1959, the date mentioned in Section 5(1) (iii) of the Act, the sale could not be annulled, and the impugned

orders annulling the transfers, merely because the registration of sale-deeds were completed by copying them by the registration department in the relevant register after the 22nd October, 1959, is wholly without jurisdiction.

Held: On a reference to the provisions of Clause (iii) of Section 5(1) of the Act, it is apparent that a transfer made by a land-holder, whether by a registered instrument or otherwise, before the 22nd day of October, 1959, cannot be annulled. It is only the transfers made after that date, which are liable to annulment under the circumstances specified in the clause. The annulment is possible only on existence of certain specified circumstances and conditions they being:

- (a) Where the transfer is benami or farzi;
- (b) Where the transfer has been made with the intention of defeating the provisions of the Act, such intention must be present on the date of the transfer; and
- (c) Where the transfer is such as defeats the provisions of the Act.

It is only on the existence of any one of the aforesaid conditions that annulment is possible or permissible under the Act. In the instant case, the parties to the documents, the petitioners and the purchasers, did all that they could do in the matter before the 22nd October, 1959, namely, they executed the documents, paid the consideration in the presence of the Registrar, either by cheques or by Bank drafts or by cash, which fact has been noted in the sale-deeds by the Registrar, and the execution was admitted. In such a situation, so far as the parties were concerned, they could not resile from the position or back out from the transaction, and such completed transfers could not be defeated only on account of some delay that may have been caused by the registering authority in copying out the documents. The Transfer of Property Act deals with law relating to transfer of properties by acts of parties and the principle embodied in some of the provisions of the said Act have been applied to transfer by operation of law in some cases. From a reference to the aforesaid provisions of the Transfer of Property Act and the Indian Registration Act, it is manifest that the transfer is effected as between the transferor and the transferee on the date the document is executed and full consideration is paid, and the document is handed over to the purchaser or filed for registration and execution is admitted. The rest of the formalities are for the registering authority, in which the parties have no hand. Looked at from that point of view, the transfers in each of these writ applications must be held to have been made prior to the 22nd

October, 1959.60

53. Annuling deeds of sale.--An order annulling deed of sale prior to initiation of ceiling proceedings on the ground that sale price was too low and transfer was made to defeat provisions of the Act. Such order passed on basis of sketchy evidence and objections is not sustainable, such orders is accordingly set aside.61

54. Validity of recalling earlier order.--Once Additional Collector has disposed of the matter and directed for final order he is left with no option on matter, he cannot recall his own order where there is no material to justify re-opening of proceeding under Section 45-B, it could be done only by State Government. A circle officer is not a Collector and he has no jurisdiction to pass any notice when matter is finally disposed of.62

55. Transfer on gift stood quashed.--Where the land is transferred by gift and is duly registered, mutation also done in consolidation proceedings, then it cannot be said that it is of usual character defeating purpose of the Act, accordingly order of ceiling authorities, declaring gifted land to be surplus is quashed.63

56. Abatement of appeal.--Order under Section 5(1)(iii) pending on date of amendment--Whether appeal against will abate--Held--Yes, entire proceedings will be initiated afresh--Direction issued for a fresh inquiry and fresh issuance of draft statement--Legal issues discussed.64

57. Recall of order of Additional Collector.--Once Additional Collector has recorded his findings he cannot recall his own order if there is no sufficient reason to do so.65

58. Scope of bar.--When a person acquires land at his own risk, which can be declared surplus, due to bar of acquiring land after a limit of ceiling.66

59. Change of character of land.--Where due to constructions of irrigation canal, nature of land is changed and it is more productive. Such change in nature of said land is sustainable.67

60. Surplus land with land-holder.--Where no ceiling case is pending against land-holder, the bar provided under Section 5(1) or 16(1) shall not be applicable to land-holder, District Registrar cannot refuse to register any document on ground that permission has not been obtained under the Ceiling Act.68

61. Annulment like neutralisation.--Annulment and neutralisation are results of partition of family arrangement.69

Where sale deed is executed prior to transfer, even though registered after date of execution such transfer shall be hit by mischief of Section 5(iii).70

62. Mechanical annulment not sustainable.--Where Collector has passed annulment order even without considering that necessary conditions were fulfilled or not, such order cannot be sustained being not well assessed but being only a mechanical order.⁷¹

63. Validity of order.--Annulment of transfer order without finding out its particular date of passing cannot be found out. If it is post-amendment or ante-amendment, the validity will depend upon this information only.⁷²

64. Role of exception clause.--Execution of gift deed favouring sons.--Whether exception clause of Proviso II attracted.--Ceiling exemption valid only other requirements of gift deed are validly fulfilled.--An execution of gift deed favouring sons shall be excluded as it shall be under exceptional clause.⁷³

65. Annulment of transfer.--It is unfortunate that valuable rights of common man are left at the mercy of officers who do not seem to have any respect for provisions of the Act and the law laid down by Court. Petitioners objection should have been allowed by Sub-Divisional Officer but they were dragged in protracted litigation.⁷⁴

66. Annulment of transfer made after 22.10.1959.--Can be annulled only after giving opportunity of hearing to the parties.⁷⁵

1. Subs. by Act 55 of 1982 and shall be deemed always to have been substituted.

2. Kamla Prasad Mishra v. State of Bihar, 1985 BLJR 164: AIR 1985 Pat 364:1985 BLJ 570.

3. Sanjay Kumar v. State, (1995) 6 SCC 99: JT 1995 (6) SC 364.

4. Mohan Choudhary v. State of Bihar, 2000 (3) PLJR 780.

5. Radha Kant Mishra v. State of Bihar, 2000 (4) PLJR 481.

6. Rajeshwari Devi (Smt.) v. State of Bihar, 1997 (2) PLJR 516:1997 (1) All PLR 315.

7. Aisha Shaukat v. State of Bihar, 1997 (1) PLJR 375.

8. Handique v. Agricultural Income Tax Board, Assam, AIR 1966 SC 1191.

9. Saraswati Devi v. State of Bihar, 1998 (3) PLJR 340.

10. Kamla Prasad Mishra v. State of Bihar, 1985 PLJR 1004.

11. Indumati Singh v. State of Bihar, (1993) 2 BLJR 836.

12. State of Bihar v. KM. Zuberi, 1996 (2) PLJR (SC) 55.

13. Haricharan Chamar v. State of Bihar, 1993 (2) PLJR 676.

14. State of Bihar v. K.M. Zuberi, (1996) 2 BLJR 1251.

15. Mahesh Jha v. State of Bihar, (1993) 2 BLJR 836.

16. Saraswati Devi v. State of Bihar, 1998 (3) PLJR 340.

17. Randhir Choudhary v. State of Bihar, 1998 (3) PLJR 330.

18. Mohammad Kajimuddin v. State of Bihar, 2005 (4) PLJR 718.

19. Rajeshwari Devi (Smt.) v. State of Bihar, 1997 (2) PLJR 516:1997 (1) All PLR 315.
20. Rajeshwari Devi (Smt.) v. State of Bihar, 1997 (2) PLJR 516:1997 (1) All PLR 315.
21. Kashi Singh v. State of Bihar, 1995 (1) PLJR 819.
22. Maheshwar Prasad v. Board of Revenue, 1996 (2) PLJR 538.
23. Shri Hanuman Sugar & Industries v. State of Bihar, 1997 (1) PLJR 497.
24. Shri Hanuman Sugar & Industries v. State of Bihar, 1997 (1) PLJR 497.
25. Mohan Chaudhary v. State of Bihar, 2000 (3) PLJR 780.
26. Shri Hanuman Sugar & Industries v. State of Bihar, 1997 (1) PLJR 497.
27. Manohar Prasnd Singh v. State of Bihar, (1994) 1 BLJR 421.
28. Bisheshwar Yadav v. State of Bihar, 1993 (2) PLJR 240.
29. Abdul Jabar Mian v. State of Bihar, 1992 (1) PLJR 379.
30. Ashok Kr. v. State of Bihar, 1999 (1) PLJR 906.
31. Illiazar Munda v. State of Bihar, 1993 (1) PLJR 488.
32. Harihar Singh v. State of Bihar, 1984 BLJR 151: AIR 1984 Pat 57: 1984 PLJR 60: 1984 BBCJ 105: 1984 BLT (Rep) 163.
33. Ashok Kumar Pandey v. State of Bihar, 1999 (1) PLJR 793.
34. State of Bihar v. Anardeyi Sethani, 1999 (1) PLJR 340.
35. Jagdamba Prasad v. State of Bihar, (1998) 3 BLJR 2125.
36. Jagdamba Prasad v. State of Bihar, 1998 (3) BLJR 2125.
37. State of Bihar v. Anardeyi Sethani, 1999 (1) PLJR 340 (Pat).
38. Lakshmi Bhagat v. State of Bihar, 1998 (3) BLJ 146 (Pat).
39. Mahboob Alam v. State of Bihar, 1996 (1) PLJR 176.
40. Dulahin Dhaneshara Kuer v. State of Bihar, 1996 (2) PLJR 603.
41. Indira Kala Devi (Smt.) v. State of Bihar, 1998 (3) PLJR 768.
42. Jiwach Prasad Singh v. State of Bihar, 1993 (2) PLJR 213.
43. Purtabpore Co. Ltd. (M/s.) v. State of Bihar, 1978 PLJR 130.
44. Kamla Prasad Mishra v. State of Bihar, 1985 BLJR164: AIR 1985 Pat 364:1985 BLJ 570.
45. Kamla Prasad Mishra v. State of Bihar, 1985 BLJR 1004.
46. Sumeshwar Prasad v. State of Bihar, 1998 (2) All PLR 637 (HC).
47. Deo Sagar Singh v. State of Bihar, 1979 BLJR 355.
48. Shiva Shankar Prasad Jaiswal v. State of Bihar, 1980 BLJR 104:1980 BLJ 211.
- 48a. Bachan Singh v. Sub-Divisional Officer, 1978 PLJR 375.
49. Nanhok Singh v. Additional Collector, 1978 PLJR 478.
50. Narayan Prasad Singh v. State of Bihar, 2000 (2) PLJR 515.

51. Jagdamba Prasad v. State of Bihar, 1998 (2) PLJR 465.
52. Deity Baba Bhut Nath v. State, 1999 (1) All PLR 234:1999 (1) BLJ 100 (Pat).
53. Jagdamba Prasad v. State of Bihar, 1998 (2) PLJR 465.
54. Jai Prakash Narain Mahto v. State of Bihar, 1999 (1) PLJR 782.
55. Bihar State Sunni Wakf Board and another v. Serwat Jahan @ Sarbat Jqbal, 2005 (3) PLJR 128.
56. Purtabpore Company Ltd. (M/s.) v. State of Bihar and others, AIR 1977 Pat 283.
57. Md. Salim Uddin v. State of Bihar, 1998 (1) PLJR 38.
58. Draupadi (Smt.) v. Rajendra Singh, (1998) 1 BLJR 478.
59. Upaneta Kuer (Mostt.) v. State of Bihar, 1999 (1) PLJR 810.
60. Purtabpore Company Ltd. (M/s.) v. State of Bihar and others, AIR 1977 Pat 283.
61. Kalimuddin v. State of Bihar, 1993 (2) PLJR 180.
62. Mahanth Onkar Giri Chela v. State of Bihar, 1998 (2) PLJR 164:1998 (2) BLJ 284.
63. Sonahula Devi (Smt.) v. State of Bihar, 1999 (3) PLJR 534.
64. Shri Hanuman Sugar Industries, Motihari v. State of Bihar, (1997) 2 BLJR 1063.
65. Mahanth Onkar Giri Chela v. State of Bihar, 1998 (2) Pat LJR 164:1998 (2) BLJ 284.
66. Dinesh Kumar Singh v. State of Bihar, 1999 (1) PLJR 45 (Pat).
67. Kumar Krishna Rastogi v. State of Bihar, 2000 (1) PLJR 1068.
68. Dinesh Kumar Singh v. State of Bihar, 1999 (1) PLJR 45.
69. Mahabir Prasnd v . State of Bihar, 1976 PLJR 134.
70. Prabhu Narain Singh v. State of Bihar, 1984 PLJR 842.
71. Prabhu Narain Singh v. State of Bihar, 1984 PLJR 842.
72. Deosagar Singh v. State of Bihar, 1979 PLJR 551.
73. Abdul Samad v. State of Bihar, (1993) 2 BLJR 757.
74. Lal Mohan Choudhary v. State of Bihar, 2007 (3) BBCJ 22 (Pat).
75. Sheikh Manir v. State of Bihar, 2002 (3) JCR 729 (Jhr): 2003 (1) JLJR 96 (Jhr).

6. Public Notice Upon Certain Land-Holders To Submit Returns :-

(1) 1[As soon as may be, after the commencement of Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) (Amendment) Act, 1972, the State Government shall cause to be published a notice in the manner laid down in sub-section (3)

calling upon all the land-holders of the State who hold land in excess of the ceiling area anywhere in the State to submit to the Collector of the district where they ordinarily reside, within thirty day to the date specified in the notice, a return containing the following particulars, namely]:--

- (i) the total area and description of land held by the land-holder anywhere in the State;
- (ii) if the land-holder is a raiyat, the names and descriptions of his under raiyats and the description of land held by them under him anywhere in the State;
- (iii) the particulars of legal proceedings, if any, in respect of the land held by the land-holder pending on the date of submission of the return;
- (iv) encumbrances on the land, if any, with their full particulars; and
- (v) any other particulars that may be prescribed:

2 [Provided that the Collector may, on an application made by landholder, extend the period specified in such notice for the submission of the return by a period not exceeding thirty days.]

(2) If the land-holder is a minor or a person of unsound mind, the return required under sub-section (1) shall be submitted by his guardian.

3[(3) The substances of the notice shall be published in the official Gazette and in not less than three issues of at least two newspapers having circulation in the State of Bihar.]

4[(4) Where the land-holder or the guardian mentioned in sub-section (2), as the case may be, fails to submit the return required under sub-section (1) without sufficient cause, the Collector may, after giving him a reasonable opportunity of being heard and adducing evidence, impose a fine which may extend to five hundred rupees.]

SYNOPSIS

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1. No local publication--Initiation of proceeding.--Land gifted by landlord to his sons and daughters, no case made out to initiate proceeding under against them even though no local publication is made in terms of section with respect to land gifted.5

2. Service of notice.--Service of notice to land-holder has to be made mandatorily as per provisions under Rule 3 and Section 6 of BLR Rules and BLR Act respectively.⁶
 3. Validity of draft statement.--Where a draft statement and final publication are made without calling for objections under legal provisions of BLR Act and BLR Rules, then such draft and final publication shall be not sustainable.⁷
 4. Determination of majority.--The exact date of publication of draft statement and final publications under Section 6 and not under Section 15 shall be relevant date for determination of majority.⁸
 5. Delayed sending of notice.--When land is pooled in a co-operative society and the ceiling area decided without any notice to society and such notice was filed delayed to set aside the order, then in such circumstances delay should have been condoned.⁹
 - 6 . Pre-emption claim.--A claim of pre-emption not sustainable where respondent was not impleaded as an opposite party before Court of first instance even though the fact of second transfer had already evidentially been shown.¹⁰
1. Subs. by Act 1 of 1973.
 2. Subs. by Act 1 of 1973.
 3. Ibid.
 4. Ibid.
 5. Kumari Kiran Chaudhary v. State of Bihar, 1997 (2) PLJR 12.
 6. Akhileshwar Mishra v. State of Bihar, 1993 (2) PLJR 119.
 7. Baijnath Kumar v. State of Bihar, 1976 PLJR 491.
 8. Nalini Ranjan Singh v. State of Bihar, 1977 PLJR 174.
 9. Shiv Singh v. State, AIR 2002 SC 2543.
 10. Sushil Kumar Choudhary v. State of Bihar, 1997 (2) BLJ 16.

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 1[Panchayat Raj Act, 1947 (Bihar Act VII of 1948)], or through such agency as he thinks proper.

1. Now see Panchayat Raj Act, 1993.

8. Penalty For Non-Submission Of Return In Compliance With Special Notice :-

1[(1) Whenever it comes to the notice of the Collector that a land-holder holds land in excess of the ceiling area or has not submitted the return within the period specified in the notice or the extended period, under Section 6 or has submitted a return containing incorrect particulars, the Collector shall cause a notice to be served on the land-holder or his guardian, if he is a minor or person of unsound mind, directing him to submit the return with the necessary or correct particulars within thirty days of the service of such notice.]

2[(2) (i) If any person fails without sufficient cause to submit return in compliance with the notice served under sub-section (1), within the period specified in this notice or within such extended period as may be allowed by the Collector in this behalf, the Collector may after giving the person concerned a reasonable opportunity of being heard and adducing evidence, if any, and after considering the same impose fine which may extend to fifty rupees for every day after the expiry of the said period or the extended period until the return is submitted.

(ii) If the said person does not submit the return after one month from the first date of imposition of fine he shall on conviction by a Magistrate of the first class be liable to be punished with simple imprisonment which may extend to six months or with a fine which may extend to two thousand rupees, or with both:

Provided that no Court shall take cognizance of any offence under this section without the previous sanction in writing of the District Magistrate.

(3) 3* * * * *].

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1. Validity of draft. 38

2. Scope for penalty on land-holder. 38

3. Confiscation of land. 38

4. Imposition of fine. 38

1. Validity of draft.--Where provisions under Section 8 and Rule 8 of the Act and Rules are not followed, it still does not invalidate the said draft.4

2. Scope for penalty on land-holder.--Where there is no material on record to show that necessary requirements under Section 8(2)(i) are fulfilled, no fine or penalty can be imposed upon land-holders for non-filing of return in given time.5

3. Confiscation of land.--Classification of land in ceiling proceeding--Right of petitioner to select his land--No such right exercised for more than 10 years after start of ceiling proceedings--Now no such

right can be availed on ground of delay and laches at this stage.⁶

4. Imposition of fine.--A Collector can impose fine under these statutory provisions when all these fulfilled with reliable evidence and proper consideration.⁷

1. Subs. by Act 1 of 1973.

2. Subs. by Act 1 of 1973.

3. Omitted by Act 22 of 1976.

4. Mahabir Prasad v. State of Bihar, 1976 PLJR134.

5. Sk. Manzoor Alam v. State of Bihar, 1999 (3) PLJR 538.

6. Randhir Chondhary v. State of Bihar, 1990 (1) BLJR 167.

7. Sk. Mansoor Alam v. State of Bihar, 1999 (3) BLJ 34:1999 (3) BLJR 1842 (Pat).

8A. Proceeding Not To Be Invalidated :-

No proceeding shall be invalid merely because of any irregularity in the publication of any notice under Section 6 or Section 8.]

1. Subs. by Act 22 of 1976.

9. Option Of Family To Select Its Ceiling Area :-

1[9. Option of family to select its ceiling area.--

(1) Where the area of land held by a family exceeds the ceiling area it shall have, subject to the provisions of sub-sections (2), (3) and (4) and other provisions of this Act the option to select, within the period prescribed in sub-section (3) of Section 10, the land which it desires to retain in accordance with the provisions of Section 5.

(2) Where the land held by the land-holder includes land transferred by him in accordance with or in contravention of the provisions of clause (ii) of sub-section (1) of Section 5, the land so transferred in accordance with or in contravention of clause (ii) of sub-section (1) of Section 5, shall to the extent of the ceiling area admissible to the land-holder, be deemed to have been selected by him for retention within the ceiling area; and where the total area of such land is less than the ceiling area admissible to him, the landholders shall select the balance of ceiling area from his remaining land:

Provided that where the land so transferred in accordance with or in contravention of clause (ii) of sub-section (1) of Section 5 is equal to or more than the ceiling area admissible to him and if because of the selection under sub-section (2) the land-holders homestead cannot be retained within his ceiling area, the land-holder may be

permitted to hold his homestead subject to a maximum limit of two acres only.

(3) Where the land held by the land-holder includes land where transfer has been annulled under clause (iii) of sub-section (1) of Section 5 but does not include any land transferred in accordance with or in contravention of the provisions of clause (ii) of sub-section (1) of Section 5 the land-holder shall select, to the extent of fifty percent of his ceiling area from land where transfer has been annulled under clause (iii) of sub-section (1) and shall select the balance of the ceiling area from other lands held by him.

(4) Where, however, the land held by the land-holder includes land transferred by him in accordance with or in contravention of the provisions of clause (ii) of sub-section (1) of Section 5 as well as land whose transfer has been annulled under clause (iii) thereof, the land transferred in accordance with or in contravention of clause (ii) of sub-section (1) of Section 5 shall, to the extent not exceeding the ceiling area, be deemed to have been selected by him within his ceiling area first and if this land is less than ceiling area admissible to him, he will select the remaining land to be retained by him within the ceiling area firstly from the land whose transfer has been annulled under clause (iii) of sub-section (1) of Section 5 to the extent of fifty percent of the remaining ceiling area only and the balance will be selected by him from out of the remaining lands:

Provided further that where the land-holder fails to select land within the stipulated time, it shall be lawful for the Collector to allot to the land-holder land equal to the ceiling area to be retained by him under Section 5 keeping in accordance with this section.]

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3. Declaration of surplus land. 41
4. Right of landlord an absolute one. 41
5. Retention of land. 41
6. Transfer without permission. 41
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8. Transaction not genuine, such land cannot be retained. 41
9. Validity of transfer. 41
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12. Making of options. 42
13. Proof of age. 42

14. Scope for doctrine of "Generalia specialibus non derogant. 42

15. Purchase of land being sold by vendor. 42

16. Option contrary to provisions not sustainable. 42

17. Sale in units retainable. 43

18. Substantiation of individual cases. 43

19. Enquiry by State Government. 43

20. Jurisdiction of Collector. 43

1. Right of landlord.--Absolute right of landlord to give offer under--Death of respondent No. 15 in whose favour percha distributed in ceiling proceedings--His heirs not substituted--Writ petition abated against that respondent--Lands stand distributed--Petitioner has no right to give any offer in respect of such lands.2

2. Ceiling area, auction sale.--An auction shall be void if taken place during continuance of surplus area proceeding, therefore an auction sale has to be conducted seriously and validly.3

3. Declaration of surplus land.--Where there was any doubt regarding age, or any other qualification, the State authority should have preferred to carry out medical examination by a Medical Board made for the purpose, when it is not done, all proceedings shall stand initiated.4

4. Right of landlord an absolute one.--Rights of landlord to give offer under Section 9 of Act--Has absolute right--Exercise of--There being material alterations in notification under Section 15(1) and order passed for re-opening of case under Section 45-B--Even thereafter said right of offer can be availed.5

5. Retention of land.--When a prayer for release of land is rejected, Collector should have issued necessary order or notification after complying with requirements of Section 9(2) of the Act so that he could be allowed such an area in favour of him as it was already in his name.6

6. Transfer without permission.--Transfer of land through registered sale deed--No permission taken--Such land to be considered as land opted by land-holder in his own unit--Such land wrongly held surplus--Land-holder to retain the land.7

7. Nature of land.--Declaration of land as surplus land--Draft statement showing land of respondent as of surplus land--No such mentioning in return--Instead left upon discretion of law to take its own course--Application for correction and re-opening of proceedings under Section 45-B--Court ignored considering said fact--Direction issued to consider the fact and pass order afresh.8

8. Transaction not genuine, such land cannot be retained.--Where transfers are not found to be genuine such lands cannot be

included in category of lands to be retained by land-holder vide Section 9, if it is included, then final publication and notice cannot be included in lands, where transfer to vendee is found to be correct such land shall be excluded from ceiling proceedings.⁹

9. Validity of transfer.--Where transfers are found to be valid then only the lands are to be excluded but if such transfers are annulled then the authorities can include lands under Section 9, and retain to landlord, ceiling authority has only to consider whether on date of transferor holding lands in excess of ceiling area or not then transfer can be ignored with regards to Section 9(2).¹⁰

10. Settlement of units.--An opportunity to exercise option during litigation for settlement of units is not sufficient, it is not barred to give proper opportunities in such a case. Option can be made only after attainment of finality.¹¹

11. Holding land in excess.--A Collector has to get fully satisfied that petitioner land-holder does not hold any land in excess of ceiling area either individually or with family members.¹²

12. Making of options.--Options can be made only when the landholder knows at what position he is and what area he is allowed to retain. Opportunity to exercise option during litigation for settlement of units is not sufficient, in such situation it is necessary to give proper opportunities.¹³

13. Proof of age.--School leaving certificate given as a proof of age, in support. Verification report of Anchal Adhikari also attached, but concerned authorities did not consider this certificate in absence of school certificate proof of age not established.¹⁴

14. Scope for doctrine of "Generalia specialibus non derogant".--Where permission is not obtained by landlord the transfer so made will not only be deemed to have been made for the purpose of defeating the purpose of Act, but also deemed to have been taken by the land-holder, such transfer still cannot be excluded from purview of computation of ceiling area.¹⁵

15. Purchase of land being sold by vendor.--Where lands are transferred by vendor either under statutory provisions or in accordance with or in contravention of provision provided under Section 5(1) Class (ii) it should not exceed ceiling area. It can be declared to have been selected by him for being retained with ceiling area.¹⁶

In ceiling proceedings against daughter if it is found that land within ceiling area at time of sale was excluded from ceiling proceedings, said transfer has to be ignored by considering only question in terms of Section 9(2) of the Act.¹⁷

16. Option contrary to provisions not sustainable.--In a matter that best suits his own interest and prayer is made for declaration of such lands as surplus that is already sold, land-holder cannot be allowed to exercise his option contrary to provisions under Section 9(2).¹⁸

17. Sale in units retainable.--Where any land is sold after order of Collector it should normally be given in units only because such full units are allowed to be held by land-holder.¹⁹

18. Substantiation of individual cases.--Where proceedings are initiated under Section 10(2) although the aggrieved persons being purchaser the proceedings under Section 10 should have been initiated. Resultantly proceedings under Section 10(2) by aggrieved persons will not substantiate their cases before concerned authorities. Accordingly proceedings under Section 15(1) are not sustainable.²⁰

19. Enquiry by State Government.--Under Section 9(2) Court is empowered to ascertain for what purpose such fiction has been created at the time of construing these provisions. Power of re-opening under Section 45-B to be exercised not as a matter of right or as a matter of course but only when some illegality is pointed out in the earlier proceedings already concluded.²¹

Where classification of land is challenged and during proceedings original land-holder died and got substituted by his wife she again disputed classification, where proper opportunity is not provided it is directed to submit application under Section 45-B.²²

20. Jurisdiction of Collector.--Direction to invoke by filing application within a period of two weeks--Application presented after lapse of 7 years--Inordinate delay--Rejection of--Legality of--To meet the ends of justice one more chance to file application extended--Collector directed to consider the matter--Rejection order set aside subject to payment of cost of Rs. 10,000/-.²³

1. Subs. by Act 55 of 1982 and shall always be deemed to have been substituted.

2. Kumar Vijay Vikram Sah v. State of Bihar, 1988 BLJR 437.

3. Sanjay Kumar v. State, (1995) 6 SCC 99: JT 1995 (6) SC 364.

4. Indu Kumari v. State of Bihar, 1999 (1) PLJR 875:1999 (1) BLJ 734 (Pat).

5. Kumar Vijay Vikram Sah v. State of Bihar, 1988 BLJR 437.

6. Bisheshwar Prasad Yadav v. State of Bihar, (1999) 2 BBCJ 311:1999 (3) BLJ 765 (Pat).

7. Bihar State Sunni Wakf Board v. State of Bihar, 2005 (3) PLJR 129.

8. Arun Kumar v. State of Bihar, (1997) 1 BLJR 790.
9. Md. Salim Uddin v. State of Bihar, 1998 (1) PLJR 38.
10. Lakshmi Bhagat v. State of Bihar, 1998 (1) PLJR 348.
11. Lilian Prasad Singh v. State of Bihar, 1992 (2) PLJR 631.
12. Jagannath Yadav v. State of Bihar, 1989 PLJR 818.
13. Ramjee Mishra v. State of Bihar, 1992 (2) PLJR 674.
14. Indu Kumari v. State of Bihar, 1999 (1) PLJR 875.
15. Sib Narain Roy v. State of Bihar, 1994 (1) PLJR 294.
16. Bisheshwar Prasad Yadav v. State of Bihar, 1999 (3) PLJR 117.
17. Md. Salam Uddin v. State of Bihar, 1998 (1) PLJR 38.
18. Arun Kumar v. State of Bihar, 1997 (1) PLJR 657.
19. Arun Kumar v. State of Bihar, 1997 (1) PLJR 657.
20. Saryug Thakur v. State of Bihar, 1999 (2) PLJR 1.
21. Sk. Taslim v. State of Bihar, 1994 (2) PLJR 455.
22. Arun Kumar v. State of Bihar, 1997 (1) PLJR 657.
23. Lok Nath Yadav v. State of Jharkhand, 2004 (4) JCR 400 (Jhr): 2004 (4) JLJR 716.

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 and 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 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 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 land-holder under Section 5;

(c) the area 1[* * *] 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 surplus land);

2[(c-1) 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;

(c-2) the substance of findings of the Collector under clause (iii) of sub-section (1) of Section 5;

(c-3) the substance of the recommendation and order regarding exemption under Section 29; and]

(d) any other particular which may be prescribed.

3[(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 guardians, as the case may be, by registered post with acknowledgement due which shall be conclusive evidence of the service of such notice.]

4[(3) Any objection to the draft statement in respect of the matters specified in clauses (a), (b), (c) and (d) of sub-section (1) received within 30 days of 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 an application made by the land-holder or person having claim or interest in the land, extend the period of filing objection by another fifteen days.]

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36. Interest of land. 51
37. Validity of allotment. 51
38. Possession of land. 51
39. Re-opening of ceiling proceeding. 51
40. Issuance of fresh order. 51
41. Claim for share. 51
42. Abatement of proceedings. 51
43. Writ Jurisdiction--Involving of. 52
1. Proof of age.--Where concurrent finding regarding age of petitioner, classification of land, and quantity of surplus land duly owned cannot be interfered with unless it is shown to be perverse or caused grave failure of justice.⁵
Where there is no specific proof of age, a medical evidence relating to age on X-ray or ossification test should be taken to be an authentic and legal proof to determine age of concerned person. Discarding such medical proof without any reason is not sustainable.⁶
2. Date of birth.--A final arriving about determination of age can be reached only by evaluation of all relevant evidence available on record and not automatically accepting date of birth as shown in school records. On satisfactory proof of age four units can be granted.⁷

3 . Admissibility of classification report.--Admissibility of report submitted by Anchal Adhikari--Whether admissible--Similar classification of land based on report of Anchal Adhikari--Shall be admissible under proceedings vide Section 10 of the Act.8

4 . Classification of land.--A medical opinion regarding age is an expert opinion to be considered as opinion only and not as a final decision. Rejection of school leaving certificate is not erroneous in this matter, classification of land on basis of report of Anchal Adhikari under Section 8, regarding irrigation facility cannot be treated as improper.9

5. Surplus land.--Declaration of surplus land disputed--Wrong inclusion of lands objected--Direction issued to lodge complaint before Collector--Collector to re-examine whole matter and then pass appropriate orders.10

6. Justification of equal sharing.--Parents and land owner son allowed equal share--Remand--Consideration afresh--Mother gets one unit, petitioner refused to have any unit--Such denial of second unit not proper--Considering illegal steps the order impugned not sustainable--Petitioner to be allowed two units.11

7. Annulment of transfer of land.--Where there is no material to hold that gift was made in order to defeat the Ceiling Act, it is right time to get controversy at rest.12

8. Scope of res judicata.--When State Government has failed to consider case as specific nature when final order has already been filed, as such proceedings are abated--Scope and power of Collector or Government under Section 45-B makes it clear that principles of res judicata can have no application, where State Government has provided sufficient reasons for re-opening of proceedings. Reopening can be interfered by High Court.13

9. Legality of Section 15.--Legal status of Section 15 prior and after Amendment Act 55 of 1982--Pendency of appeal/revision--Can there be any issuance of notification under Section 15(1)--Whether authorities can take possession of land--Held--Such question will arise only if acquisition of land was made under sub-section (1) of Section 11--Collector and revisional authority committed a mistake by publishing notification under Section 15(1)--Such notification being illegal quashed.14

10. Appeal not sustainable order set aside.--Where in appeal entire order is set aside and case is re-opened afresh, order passed is wholly without jurisdiction because by doing so surplus took its finality and no appeal or revision was filed by any party, only a restricted power to appeal and revision was available but not

exercised.15

11. Quashing of notice.--Quashing of notice issued under Section 15(1) of Act--Validity--Where enquiry made under Section 10 of Act or land surrendered or surplus, publication of final list under Section 11 of Act essential--In present case no land surrendered or declared as surplus nor any final publication of list made--Issue of notice under Section 15(1) to petitioner quashed.16

12. Ceiling area cost.--Ceiling area determination--Proceedings initiated under the Act--Not sent under registered covered--No acknowledgement due sent--Rule 3 of Rules ignored--No justified reason given for inflicting cost of Rs. 500/- order impugned liable to be quashed--However subject land not to be disturbed till final decision.17

13. Sno motu appeal.--Ceiling proceeding, suo motu jurisdiction of appellate Court--Land ceiling proceedings abated--No notice issued under Section 11(1)--Serious legal mistake committed--Appeal directed to be transferred to Additional Collector (Ceiling)--Fresh proceedings initiated from Section 10.18

14. Heirs--Substitution.--Whether permissible during pendency of proceedings--Where land-holder died prior to publication under Section 45(c) --Publication under Section 45(c) and proceedings became null and void--Reasons given not found to be sustainable.19

15. Surplus land--Determination of.--Execution of gift deed after three months of order--Section 13(2) of Amended Act not attracted--Situation for saving of land ceiling in gift deed clarified.20

16. Declaration of surplus land.--Where lands are declared surplus and purchase in favour of settlees were also granted, cannot be ignored from documents, that are already on records.21

Where effect of transfer of land is not discussed nor saw the title of land even classification of land has not been discussed, therefore matter is remanded for hearing afresh.22

Where order is passed ex parte and no objection was preferred by land-holder under Section 10(3) of the Act, no fresh proceeding initiated even after amendment of Section 32-B, in such circumstances Court can set aside order passed in land ceiling case.23

Where a land is declared surplus without hearing some of the petitioners it is a wrong procedure and case deserves to be remitted back to Additional Collector (Ceiling).24

17. Publication of draft statement.--After amendment of the Act no

draft statement can be published unless and until Collector gives his findings and a fresh enquiry is held. Right to appeal is not taken away by the amendment of 1982.²⁵

18. Appellate Court to consider case.--Where ceiling proceeding prefuctuarily disposed of by Ceiling Authority and a notification under Section 10 contains factual errors, the appellate authority is bound to take actual aspects in its consideration as per law. High Courts order to give necessary correction in notification under Section 10 cannot be held erroneous.²⁶

After amendment of Act, a fresh draft statement is to be submitted under Section 10(1), on basis of information given by or on behalf of land-holder under Sections 8, 6 and 9 of the Act, after verification it will be published in Gazette. Vide Section 10(2), unless necessary formalities are observed no loss will be effected.²⁷

19. Matter of genuineness to be heard properly.--Such issues revealing facts and allegation of mala fide can be considered with large evidencing and hearing. In absence of a detailed enquiry in respect of lands belonging to the family and sold by the family to outsiders is necessary for determination of lands in surplus.²⁸

20. Abatement in terms of Section 32-A.--Where surplus area is to be determined in all provisions of the Act, and also considering Amendment Act, the legislative mandate is for a fresh decision except those proceedings where publication under sub-section (1) of Section 11 had already been made in official Gazette. Fresh order to be made with open mind.²⁹

21. Re-opening of proceedings.--Provisions under Order XLI, CPC to be followed--Appeal worth dismissal for default only if appellant did not appear on being called for hearing--Collector has sufficient jurisdiction to drop proceedings.³⁰

22. Re-opening of order.--Order under Section 10--Following of proper procedure--Land declaration as surplus--Application by person claiming to be major--No notice given to him regarding ceiling proceedings--Order set aside by Additional Sub-Divisional Officer--Jurisdiction omission committed--Neither Section 45-B nor any other power available to Additional Sub-Divisional Officer--Order under, can be re-opened only under Section 45-B.³¹

23. Validity of notification.--Intestate death of daughter of person with equal inherent rights--No proof by alive share holders that they were in physical possession of properties in question--Co-sharer can claim exclusive title not only just by having physical possession for 12 years--Claim should have been considered on merits--Order impugned cannot be sustained.³²

24. Validity of ceiling with reference to Mohammedan Law.--Benefit of gift deed can be derived under only if it is valid under law. To constitute the deed of gift not only acceptance thereof by donee but also delivery of possession of gifted properties is necessary. Such validity is to be decided by Collector only after affording opportunity by Collector only after affording proper opportunity to land-holder to show that deeds of gifts are valid.³³

25. Proceeding under--Against land-holder.--Where original landholder requested to decide on draft publication in a gift of land to son and daughter, the decision of surplus land on basis of other land-holder shall not be justified. There should be a local publication under Section 6 regarding son and daughter, accordingly initiation of ceiling proceeding shall be illegal.³⁴

26. Validity of proceedings.--After insertion of Section 32-B no proceeding were initiated. Order passed and consequent notification under Section 11(1) with Section 15(1) the matter remanded for fresh consideration.³⁵

27. Grant of unit to deity.--Under law, deity is a juristic person, duly entitled to grant of units, any denial will vitiate order of Revenue Authority in land ceiling proceedings. Direction issued to pass a speaking order.³⁶

28. Vitiating of allotment.--Once notification declaring land as surplus and allotment automatically comes to an end the settlee acquires right by virtue of vesting of land with State and when such vesting is set aside allotment vitiated by allowing appeal.³⁷

29. Allotment of surplus land.--When a land has been declared as surplus and got allotted to other person, but at the same time due to certain valid reasons the order was set aside, then the allottees shall not be entitled to retain said land anymore.³⁸

30. Right to appeal.--Settlees have no right to question the validity of order that no surplus land remained with them. State Government is entitled to maintain such appeal.³⁹

31. Cancellation of parcha.--Where only State was authorised to prefer appeal and no such appeal was preferred, order of Sub-Divisional Magistrate cannot be questioned in such a situation.⁴⁰

32. Condonation of delay.--Appeal under Section 30--Land ceiling proceedings--Rejection of objection of draft statement under Section 10(2) amended provisions substantial--Filing of appeal under Section 10(3) nowhere related to final publication of draft statement under Section 11(1)--Cannot be said that appeal filed was within time and was fully competent--Direction to condone delay on hearing case on merits.⁴¹

33. Publication of draft statement.--After expiry of limitation period--Result of appeal or revision must be included before its publication in official Gazette under Section 15(1)--Any matter if objected to in remand must have been included in consideration--Objection was wrongly rejected--It has to be included--Matter remanded for a fresh consideration.⁴²

34. Inappropriate action not sustainable.--Where there are clear lacunas in entire proceedings because of non-compliance in its proper aspect of Sections 10, 11 and 30 and Rules 11 and 12, the exemplary cost of Rs. 5,000/- awarded with recovery of this cost from the person of concerned official.⁴³

35. Benami transaction.--Where benami transactions were most common, lack of proof of motive shall not be a reason sufficient to reject claim straight away.⁴⁴

36. Interest of land.--On death of father land-holder his interest in land would also get devolved into his five daughters as such they being Class I heir, they have lawful shares in the land kept behind by the deceased father.⁴⁵

37. Validity of allotment.--Objection for declaring land as surplus land by notification under Section 15(1)--Allotment of land to major or minor--Petitioners have to prove that they attained majority prior to date of publication of notice in Gazette--Necessary opportunity to be given to so establish--Petitioner allowed to file application under Section 45-B to be decided on merits.⁴⁶

38. Possession of land.--Final statement for publication--Surplus land --On death of father, interest will devolve into sons as well as daughters--All are Class I heir--Disallowing units to daughters--Serious illegality committed --Claim to be decided as partition.⁴⁷

39. Re-opening of ceiling proceeding.--Where any material has been omitted from being considered, and which was so substantial as to lead a different conclusion, the power under the section can be exercised and the proceedings re-opened-⁴⁸

40. Issuance of fresh order.--Draft statement under Section 10(3)--Objections rejected by S.D.O.--Whole order taking reference of earlier order--Provisions for passing a fresh order not followed--Order impugned set aside --Fresh hearing and thereafter fresh order to be passed.⁴⁹

41. Claim for share.--Where in a fresh proceeding verification report was received supporting the case of petitioner and case was re-allowed only in favour of two units--Leaving share of other two, the claim of rest could be registered in a civil proceeding only.⁵⁰

42. Abatement of proceedings.--All those proceedings other than

appeal, revision, review or reference, etc. had to abate after the insertion of Section 32-B. In accordance with the provisions of Section 32-B, authorities had no choice but to proceed afresh in accordance with Section 10.51

43. Writ Jurisdiction--Involving of.--Against Concurrent finding of fact recorded by the three Courts below that land holder executed sham sale deeds for the purpose of defeating the provisions of the Act just on the next day of the appointed day in favour of her daughters, grand sons and grand daughters--Based on relevant materials on record--No interference warranted--Petition dismissed with cost of Rs. 5,000/- payable to the State of Legal Services Authorities.52

1. Omitted by Act 55 of 1982.
2. Ins. by Act 55 of 1982.
3. Ins. by Act 55 of 1982.
4. Ins. by Act 55 of 1982.
5. Bindeshwar Prasad Singh v. State of Bihar, 1996 (1) PLJR 195.
6. Chandeshwnr Prasad v. State of Bihar, 1998 (3) PLJR 783.
7. Balmukund Mandal v. State of Bihar, 1997 (2) PLJR 477.
8. Deokinandan Singh v. State of Bihar, (1997) 1 BLJR 349.
9. Deokinandan Singh v. State of Bihar, 1996 (2) PLJR 776.
10. Jiwan Jha @ Jivnath Jha v. State of Bihar, 2005 (4) PLJR 72.
11. Jiwan Jha @ Jivnath Jha v. State of Bihar, 2005 (4) PLJR 72.
12. Sonahula Devi v. State of Bihar, 1999 (3) PLJR 534:1999 (3) BLJR 1946 (Pat).
13. Choudhary Azizul Hassan v. State of Bihar, 1996 (2) PLJR 784.
14. Ram Kishore Narain Singh v. State of Bihar, (1994) 1 BLJR 443.
15. Babban Prasad Singh v. State of Bihar, 1997 (2) PLJR 113.
16. Thakur Umanath Mahadeo v. State of Bihar, 1980 BLJR 106: AIR 1980 Pat 200:1980 BLJ 338:1980 BBCJ 167.
17. Ram Chandra Chaudhary v. State of Bihar, (1992) 2 BLJR 1177.
18. Shiva Nandan Mishra v. State of Bihar, (1993) 2 BLJR 1025.
19. Prabhavati Devi v. State of Bihar, (1993) 2 BLJR 823.
20. Sk. Ibrahim v. State of Bihar, (1993) 1 BLJR 630.
21. Surendra Chaudhary v. State of Bihar, 1999 (3) All PLR 37 (Pat).
22. Laleshameshwar Prasad Singh v. State of Bihar, 1998 (2) BLJ 729.
23. Jailal Yadav v. State of Bihar, 1999 (1) PLJR 785 (Pat).
24. Indra Kala Devi v. State of Bihar, 1999(1) BLJ-24 (Pat).
25. Hanuman Sugar and Industries Motihari v. State of Bihar, 1997

- (1) All PLR 315.
26. Abu Sufiyan v. Additional Collector, 1995 (1) PLJR 23.
27. Ram Ratan Roy v. State of Bihar, 1999 (3) PLJR 218.
28. Jadu Nandan Pd. Sahu v. State of Bihar, 1985 PLJR 743.
29. Prakash Kumar Jha v. State of Bihar, 1995 (1) PLJR 781.
30. Sheikh Siddeque v. Collector Saharsa, (1992) 1 BLJR 53.
31. Hari Chandra Thakur v. Anchal Adhikari, (1996) 2 BLJR 997.
32. Tapeshwari Devi v. State of Bihar, (1993) 2 BLJR 1028.
33. Abdus Samad v. State of Bihar, 1993 (2) PLJR 451.
34. Kumari Kiran Choudhary v. State of Bihar, 1997 BBCJ 163.
35. Jailal Yadav v. State of Bihar, 1999 (1) PLJR 785.
36. NarbadesInvar Mahade v Mandir v. State of Bihar, 1994 (1) PLJR 832.
37. Dharnidhar Thakur v. State of Bihar, 1998 (1) PLJR 344:1998 (3) BLJ 138 (Pat).
38. Dharnidhar Thakur v. State of Bihar, 1998 (1) PLJR 344:1998 (3) BLJ 138 (Pat).
39. Chandra Shekhar Bhattacharya v. State of Bihar, 1999 (3) PLJR 341:1999 (3) BLJR 2137: 1999 (3) BLJ 210 (Pat).
40. Chandra Shekhar Bhattacharya v. State of Bihar, 1999 (3) PLJR 341:1999 (3) BLJR 2137: 1999 (3) BLJ 210 (Pat).
41. Shiv Chandra Pandey v. State of Bihar, 1995 (2) BLJR 1267.
42. Indira Devi and others v. State of Bihar, 2006 (1) PLJR 171.
43. Akhileshwar Mishra v. State of Bihar, 1993 (2) PLJR 119.
44. Dhrub Prasad Singh v. State of Bihar, 1996 (2) PLJR 47.
45. Pramod Prasad Singh v. State of Bihar, 1998 (2) PLJR 689.
46. Ramjee Mishra v. State of Bihar, (1992) 2 BLJR 1001.
47. Pramod Prasad Singh v. State of Bihar, (1998) 3 BLJR 1646.
48. Amarnath Choudhary v. State of Bihar, 1999 (2) All PLR 398 (Pat).
49. Kashi Nath Singh and another v. State of Bihar and others, 2006 (2) PLJR 223.
50. Pramod Prasad Singh v. State of Bihar, 1999 BBCJ 47 (Pat).
51. Lakhraj Devi v. State of Bihar, 2001 (2) JLJR 370:2001 (4) PLJR 41 (SC).
52. Anita Kumari v. State of Bihar (Now Jharkhand), 2006 (3) JCR 206 (Jhr).

11. Final Publication Of Draft Statement :-

1[(1) When the objection or claim, if any, preferred under sub-section (3) of Section 10 has been disposed of, the Collector shall,

whether there is any surplus land or not make such alteration in the draft statement as may be necessary to give effect to any order passed on the objection or claim and shall cause the said statement with the alteration, if any, to be finally published in the Official Gazette of the district and in such place and in such manner as may be prescribed and a copy thereof duly certified by the Collector in the prescribed manner, shall be sent to the land-holder by registered post with acknowledgment due.]

2[(2) Copies of such statement duly authenticated in the prescribed manner shall be sent by the Collector within such period to such authority or authorities, as may be prescribed.]

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3. Re-opening of case. 53
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7. Deed of gift. 53
8. Transfer of gift deed. 53
9. Illegal action set aside. 53
10. Disowning claim on land. 54
11. Validity of transfer. 54
12. Issuance of notification. 54
13. Appeal absent against order. 54
14. Order to be published. 54

1. Second appeal.--Once units are granted in family of land-holder and that decision is final, appeal against is also rejected then second appeal shall not be allowed.³

2. Non-holding of surplus land.--Where proceedings are re-opened by another Additional Collector without any order to re-open, such re-opening set aside whole proceeding of land-holder, such order is bad at law, matter remanded to be reconsidered accordingly to law.⁴

3. Re-opening of case.--State Government under Section 45-A of the Act has no power to order re-opening of case. Even if petitioner participates in proceedings for which authorities had no jurisdiction the petitioner cannot be estopped from challenging jurisdiction.⁵

4. Surplus land of waqf.--Where a person is not satisfied with the order declaring his land as surplus he can challenge it before appellate authority.⁶

5. Publication of notification.--Publication of notification under

Section 15 in Official Gazette is subject to any appeal or revision filed by the landholder, under the present schemes of the Act after amendment the filing of appeal against order of rejection of objection under Section 10(3) has nothing to do with final publication of draft vide Section 11(1) of the Act.⁷

6. Declaration of surplus land.--Where land-holder is able to satisfy the authorities that these lands were already acquired by different persons and their names were recorded in revenue records, such lands cannot be shown in possession of land-holder.⁸

7. Deed of gift.--In a deed of gift by land-holder to his heirs, without initiation of separate proceeding shall be illegal and void. Further a separate proceeding can be initiated under provisions of the Act.⁹

8. Transfer of gift deed.--Where there was no separate proceeding under the Act having been initiated against individual land-holders. In such a situation authorities had no jurisdiction to decide matter relating to their lands as in land ceiling the proceedings were initiated against original land-holder.¹⁰

9. Illegal action set aside.--The ceiling authorities cannot set aside subsequent notification and restore earlier notification without resorting to proceedings vide Section 45-B, or without giving sufficient opportunity to affected party. Accordingly, all subsequent action taken after annulment of subsequent order are quashed.¹¹

10. Disowning claim on land.--Where land-holder disowns claim on some of his land, it is correct for Additional Collector or Anchal Adhikari to get it duly verified. The petitioner whose name appeared on revenue records should have been heard and proper findings given.¹²

11. Validity of transfer.--Where a transfer is made judiciously during grace period, then the authorities shall have jurisdiction to look into the transfer case.¹³

12. Issuance of notification.--Validity of--Publication of notification not under said Rules--Acquisition permissible only after said notification--Order passed in violation thereof not sustainable--All parchas cancelled--Direction to put back petitioners.¹⁴

13. Appeal absent against order.--Where Collector set aside order passed in ceiling proceedings and no appeal preferred, then vide Section 32-B appellate Court cannot exercise any suo motu jurisdiction like that of a revisional authority under Section 32, however land ceiling proceedings abated as no notification under Section 11(1) was issued.¹⁵

14. Order to be published.--Sub-Divisional Officer and Additional

Collector are not authorised persons under the Act to transfer and re-decide case of re-opening on merits because such jurisdiction fully rests with Collector only.¹⁶

1. Subs. by Act 55 of 1982.

2. Sub-section (2) omitted and (3) renumbered as (2) thereof by *ibid*.

3. *Rajeshwari Devi v. State of Bihar*, 1998 BBCJ 155 :1998 (1) BLJ 240.

4. *Babban Prasad Singh v. State of Bihar*, 1997 (2) PLJR 113.

5. *Gopaljee Singh v. State of Bihar*, 1985 PLJR (NOC) 57.

6. *Mohammad Raza v. State of Bihar*, 1999 (2) PLJR 241:1999 (2) All PLR 234:1999 (2) BLJR 1421 (Pat) (DB).

7. *Shiv Chandra Pandey v. State of Bihar*, 1995 (2) PLJR 127.

8. *Sangita Devi v. State of Bihar*, 1999 (2) BLJ 503 (Pat).

9. *Kumari Kiran Choudhary v. State of Bihar*, 1997 (2) PLJR 12.

10. *Kumari Kiran Choudhary v. State of Bihar*, 1997 (2) PLJR 12.

11. *Dhurab Prasad Singh v. State of Bihar*, 1996 (2) PLJR 47.

12. *Surendra Choudhary v. State of Bihar*, 2000 (1) PLJR 540.

13. *Md. Fakhre Alam v. State of Bihar*, 1999 (1) BLJ 93 (Pat).

14. *Akhileshwar Mishra v. State of Bihar*, (1994) 1 BLJR 362.

15. *Shiv Nandan Mishra v. State of Bihar*, 1993 (2) PLJR 311.

16. *Ramji Ram v. State of Bihar*, 1998 (3) BLJ 444 (Pat).

CHAPTER 3 Resumption of land by raiyat from under-raiyat

12. Raiyat May Resume Land From Under-Raiyat :-

If within the ceiling area, as specified in the statement finally published under Section 11, of any raiyat, who held land in excess of the ceiling area on the date of the commencement of this Act, there be any land in possession of a non-occupancy under-raiyat the raiyat shall subject to the other provisions of this Act, be entitled to resume for personal cultivation, in the manner prescribed in Section 13, any such land.

Provided that if the total area of all under-raiyat lands which the under-raiyat holds under that raiyat and all other lands if any, held by him as a raiyat anywhere in the State, is ten acres or more, the area resumable by that raiyat shall not exceed such limit as to leave less than five acres of land to the under-raiyat and if such total area is less than ten acres the area resumable shall not exceed half of such total area:

Provided further that under-raiyat shall, at his option, be entitled to retain one area in all including his raiyati land besides his

homestead or the entire areas of such land held by him if it is less than one acre.

SYNOPSIS

1. Pre-emption claim--Maintainability of. 55

2. Inheritance of land by daughters. 55

1. Pre-emption claim--Maintainability of.--Under-raiyat has certain pre-existing rights of land, because right of pre-emption is a weak kind of right it can be defeated by an under-raiyat of adjacent plot by the virtue of such pre-existing right possessed by an under-raiyat.1

2 . Inheritance of land by daughters.--Where daughters had inherited land in equal proportion with their brothers and shares were allowed then subsequent notification under Section 15(1) declaring land as surplus is bad because it was issued without issuance of notice to petitioner, such bad order is not sustainable.2

1. Dulhin Basmatia (Smt.) v. State of Bihar, 1995 (1) PLJR 357: (1995) 2 BLJR 813:1995 (1) BLJ 624.

2. Shanti Devi v. State of Bihar, 1999 (3) PLJR 431.

13. Procedure In Case Of Resumption :-

(1) Where a raiyat desires to resume under Section 12 any land from his under-raiyat, not having right of occupancy therein he shall, within ninety days of the final publication of the statement under Section 11, send by registered post with acknowledgement due, a notice to the under-raiyat, of his intention to resume the required land.

(2) (i) The raiyat shall, within sixty days of the service of the notice on the under-raiyat make an application to the Collector in the prescribed manner for the restoration of the land to him after ejecting the under-raiyat therefrom:

Provided that if the raiyat is a person serving in the Army, Navy or Air Force of the Union of India, or a person suffering from mental or physical disability, he may make the application within two years of the cessation of his service or of his attaining majority or of the cessation of the disability as the case may be, and where such raiyat has sub-let the land for a term of years, he may make the application within two years of the expiry of the term.

(ii) The application shall be accompanied with a notice in the prescribed form in triplicate and with the prescribed fee for service of the notice on the under-raiyat.

(3) On receipt of such application the Collector shall cause the

notice to be served on the under-raiyat and after giving the parties a reasonable opportunity of being heard and adducing evidence and after making such enquiry as he considers necessary, decide whether the raiyat is entitled to resume for personal cultivation of the land in respect of which the application is made or any portion thereof, and if so which particular piece of land the raiyat may resume on payment of compensation in accordance with provisions of Section 14.

(4) The order of the Collector under sub-section (3) shall be in writing and shall state the ground on which it is made and where the application is allowed in whole or the part, it shall direct that the order shall take effect from the 15th May of the year next following the date of the order.

(5) If the under-raiyat or his legal representative refuses or fails to put the raiyat in possession of the land in accordance with the order of the Collector under sub-section (3) the Collector shall, on application of the raiyat made within the prescribed period and subject to any order on appeal or revision, eject the under-raiyat or his legal representative, as the case may be and put the landholder in possession of the land and may for that purpose, use such force as may be necessary.

(6) If the raiyat fails to bring the land under personal cultivation the land restored to him under sub-section (5) within one year of the restoration, the Collector shall either on application made by the ejected under-raiyat or of his own motion, restore the land to the possession of the under-raiyat and thereupon the provisions of Section 21 shall apply thereto.

14. Payment Of Compensation To Under-Raiyat Ejected By Raiyat :-

(1) Where any land by an under-raiyat is permitted to be resumed by the raiyat under Section 13 the raiyat shall pay, in accordance with the provision of sub-section (3), such compensation, in addition to the compensation which may be determined under sub-section (2) as is specified in this behalf in the Schedule.

(2) (i) An under-raiyat who is ejected from any land under Section 13 shall be entitled to receive in addition to any compensation payable under sub-section (1), such compensation as may be determined by the Collector in the prescribed manner for any improvement made by him of the land from which he is ejected.

(ii) In determining compensation under clause (i) the following

matters shall be taken into consideration, namely:--

- (a) the enhancement of the value of the land due to the improvement;
- (b) probable duration of the improvement;
- (c) labour and capital spent by the tenant on the improvement;
- (d) any advantage allowed to the under-raiyat by the raiyat in consideration of the improvement; and
- (e) any matter which the Collector considers fit.

Explanation.--(i) For the purpose of this section, the term improvement used with reference to a raiyats holding shall mean any work which adds to the value of the holding which is suitable to the holding and consistent with the purpose for which it was let and which, if not executed on the holding, is either executed directly for its benefit or is after execution, made directly beneficial to it.

(ii) Until the contrary is shown, the following shall be presumed to be improvements within the meaning of this section:--

- (a) construction of wells, tanks, water channels and other works for the storage, supply or distribution of water for the purposes of agriculture, or for the use of men and cattle employed in agriculture;
- (b) preparation of land for irrigation;
- (c) drainage, reclamation from rivers or other waters, or protection from floods or from erosion or other damage by water, or land used for agricultural purposes or waste land which is culturable;
- (d) reclamation, clearance, enclosure or permanent improvement of land for agricultural purposes;
- (e) renewal or re-construction of any of the foregoing works, or alterations therein or additions thereto;
- (f) erection of a suitable dwelling house for tenant and his family together with all necessary out-offices; and
- (g) trees growing on the land for the domestic use of the tenant and his family.

(iii) But no work executed by the tenant of a holding shall be deemed to be an improvement for the purposes of this Act if it substantially diminishes the value of the raiyats property.

(3) The entire amount of compensation payable to the under-raiyat under sub-sections (1) and (2) shall be deposited by the raiyat with the Collector to the credit of under-raiyat in the prescribed manner in one lump-sum or in such instalments as may be allowed by the Collector.

(4) Notwithstanding anything contained in Section 12 or Section 13 or in the preceding sub-sections, the raiyat shall not be entitled or

permitted to resume the land until the entire amount payable under sub-sections (1) and (2) has been paid in accordance with the provisions of sub-section (3).

CHAPTER 4 Acquisition of Surplus Land

15. Acquisition Of Surplus Land :-

1[(1) The State Government or the Collector of the district specially so empowered in this behalf shall after the statement under sub-section (1) of Section 11 has been finally published and subject to appeal or revision, if any, acquire, the surplus land by publishing in the Official Gazette of the District, a notification to the effect that such land is required for a public purpose and such publication shall be conclusive evidence of the notice of the acquisition to the person or persons concerned:

Provided that without awaiting the result of appeal or revision the State Government or the Collector of the district specially so empowered in this behalf may proceed to acquire such of the surplus land of the land-holder in respect of which there is no claim or dispute or which is admitted by the land-holder to be surplus:

Provided further that a copy of the notification shall also be sent to the land-holder concerned by registered post with acknowledgement due.]

2[(2) On the publication of the notification under sub-section (1), the land specified in the notification shall, subject to the provisions of this Act, be deemed to have been acquired for the purposes of this Act and vested in the State free from all encumbrances with effect from the date of the notification and all right, title and interest of all persons claiming interest therein shall, with effect from that date, be deemed to have been extinguished.

3[(3) Subject to 4[* * * * *] any order made on appeal or revision, the Collector may at any time after the publication of the notification under sub-section (1) take possession of any land specified in the said notification and may for that purposes use such force as may be necessary]

4[(4) If the mortgagor becomes entitled to recover possession of his mortgaged land under Section 12 of the Bihar Money Lenders Act, 1974 (Bihar Act XXII of 1975) and the area of such mortgaged land, together with the land, if any, held by him anywhere in the State, exceeds the ceiling area, then the provisions of Section 18 shall apply thereto as if such mortgaged lands were an acquisition under that section and thereafter the land which the mortgagor is

not entitled to retain shall be deemed to have been acquired for the purposes of this Act and vested in the State in accordance with sub-section (2).]

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23. Surplus land--Declaration of--Legality. 63
24. Notifications under--Whether sustainable. 63
25. Order of re-opening of the case. 63
26. Publication under--Sustainability of. 63

1. Wakf property in ceiling.--Where authorities had held that wakf property comes under the Act, and none challenged it, after 13 years a writ gets filed, it shall not be maintainable because of laches and delay. Such a long delay cannot be condoned on ground that an application was lying with Government.⁵

2. Rejection of benami claim.--Merely because some of benami are close relatives the concerned authorities cannot reject claim of benami transaction. Earlier, such benami transactions were quite common in the country, any paucity of motive is not sufficient to reject claim straight away.⁶

3. Re-opening of land ceiling proceedings.--Where huge area of land was concealed in draft statement, the Additional Collector

accepted the same even without applying any legal procedure such re-opening on basis of a draft, not legally supported, is bad in law and cannot be accepted. Land ceiling proceeding not valid.⁷

4. Dismissal of appeal.--An appeal can be dismissed for default if appellant fails to appear at time of calling for hearing. Appeal can be dismissed if appellant not appears at the time of being called for hearing.⁸

5. Issuance of notification.--A notification under Section 15(1) can be issued during pendency of appeal or revision regarding such land for which there is no dispute of claim or dispute over surplusness, even after publication of notification the same will be subject to an order passed in appeal or revision.⁹

6. Surplus land of wakf.--When a person is aggrieved by any order he must report it to proper authorities. A notification under the Act is merely a consequence that follows substantive order of publication of final statement, if such a substantive order is set aside the consequential order passed thereupon automatically falls down.¹⁰

7. Acquisition of land.--No land can be acquired or distributed when there is an appeal or revision before Court.¹¹

8. Unconsidered order is vitiated.--Where ceiling authorities did not consider various documents filed by land-holder such order stands vitiated. High Court directed to give a fresh consideration in case of each individual of landlords family.¹²

9. Absence of notice.--When a land is declared as surplus no ceiling procedures even initiated against vendor, authorities wrong in clubbing land of vendee having regard to Civil Court decree, khatiyani entry already got set aside, purchaser got his name mutated, it was easy for authorities to find out who was real owner but still no notice was given to the concerned party at any stage, proceedings are accordingly quashed.¹³

10. Validity of parcha distribution of land.--Distribution of acquired land amongst parcha-holders--No publication in Gazette--Section 15(1) not followed--Land-holders had to be duly informed--Such distribution of acquired land illegal in eyes of law.¹⁴

11. Notice, a mandatory requirement.--Where petitioners inherited the lands in equal shares, then considering the order of DCLR under Section 10(2) without any mandatory notice shall be void, order passed to reconsider case as per law and pass appropriate order.¹⁵

12. Holding of excess land.--Notification for holding excess lands--Area under provisions of Section 5--Consideration of facts as on date--Landholder a "family" including husband, wife and minor

children--Violation of Section 5--Order impugned not sustainable--
Direction to pass a fresh order.16

13. Distribution of land.--Rejection of petition under Section 37 of the Act is not justified when it was filed for withdrawal of parchas. Collector directed to withdraw such provisional parchas.17

14. Claim to compensation.--Issuance of Gazette Notification--Collector set aside notification after visit to place--Such action nowhere supported by law--Section 45-B not followed--No alteration allowable--Order of cancellation set aside--Petitioner free to proceed for claiming appropriate compensation.18

15. Re-opening of validity of proceeding.--Land under ceiling proceeding exempted from proceedings--Objection by land-holder--Validity cannot be questioned by respondent--Such validity case cannot be re-opened after lapse of so many years--An order if not objected or challenged becomes final--Such finality has to be respected.19

16. Classification of land.--Non-compliance of procedures prescribed under Rule 8--Verification report not supplied to petitioner--Classification done in his absence--Prejudice caused to petitioner--Other members of his family be also made parties in proceedings--Case remanded.20

17. Absence of explanation.--When purchaser had purchased the land from khatiyani holder and they were recorded owner and there is no explanation as to how these lands of person were so shown, notification quashed, matter remanded for a fresh decision.21

18. Quashing of notification.--Where land belongs to petitioner by virtue of decree in a partition suit in a notification, but no opportunity was afforded before such publication, such notification not sustainable accordingly quashed.22

19. Acquisition of surplus land.--In acquisition proceedings final publication of draft statement and notification already published, the aggrieved party has remedy to approach Collector speaking its grievance with reference to correction to be made in final publication. A direct approach to writ Court by leaving Collector not permissible.23

20. Settlee of surplus land.--Where right of State is extinguished by order of appeal, then the settlee of State cannot claim right over land settled to him. An acquisition of land and distribution thereof is subject to the order passed in appeal.24

21. Right to title and interest as well as possession.--The appellant approached the Writ Court after 9 years from the date of publication of the notification under Section 15(1) of the Act. If the

appellant has not been able to protect his right, title and interest as well as possession in a property for 12 years, he loses his right, title and interest therein. The notification under Section 11(1) preceded the notification under Section 15(1) of the Act. If it has preceded three years before, then as on the date of approaching the Writ Court, the appellant could not save his alleged title in the land in question. Mere assertion without anything to support the same that the appellant is in possession of the land in question will not suffice. Furthermore, having regard to the nature of the transaction depicted by the 1964 suit followed by 1972 suit, the logical conclusion would be as has been held by the Writ Court that the said suit as well as the decree passed thereon on compromise are collusive.²⁵

22. Sale deed--Claim on the basis--Legal heirs of whether to be ignored on the ground that land holder did not disclose that the disputed land were sold, in his return--Whether the transaction falls within the purview of paper transaction--Held, before any transaction is branded as paper transaction, it has to be found whether it is without any substance--Possession overland in dispute admitted--Absence of finding of effectiveness of the transaction--Order itself appears to be a paper enquiry--Willful repetition of same reasonings which were quashed--Enquiry did not touch the aspects of possession, passing of consideration and effectiveness of transfer--Order passed ignoring the spirit of Section 5(1)(iii) of the Act--Notification relating to the disputed land with order are quashed.²⁶

23. Surplus land--Declaration of--Legality--Registered sale-deed of 1973 before registration of ceiling case against land holder--Mutated in the name of vendee--Rent receipt granted by State of Bihar--Neither inquiry nor notice or opportunity of hearing given to vendee--Enquiry under Section 5(1)(iii) of the Act necessary to find out fraudulent transaction--Action declaring surplus land illegal arbitrary--Notification under Section 5(1) regarding disputed plots quashed.²⁷

24. Notifications under--Whether sustainable--Neither objection dealt with nor option exercised taken into consideration--Procedure engrafted under Sections 10, 11 and 15 of the Act not followed--Authorities not only acted mechanically but also acted in violation of the provisions of the Act--Final publication under Section 15(1) unsustainable--Quashed--Matter remitted for consideration of objections along with the options exercised and thereafter to proceed under the provisions of Sections 11 and 15(1) of the

Act.28

25. Order of re-opening of the case.--Party appeared and submitted to the jurisdiction of the Court, participated in the proceedings and raised all the objections, though no notice was issued before re-opening--Not open to challenge the order of re-opening and the subsequent orders passed on account of non-service of notice--More so earlier proceedings was wrongly dropped by holding that grandson of land lord was major, in fact he was minor evident from the earlier report--Non-disclosure of purchase of additional lands--Purported sale of the lands were or the purpose of defeating the provisions of the Act--No interferences warranted.²⁹

26. Publication under--Sustainability of.--Declaration of land as of landlord/land holder--No material produced to show that in regular return procedure mutation was allowed in respect of the disputed land in favour of the alleged raiyat and rent receipts were issued--Plots in dispute never recorded in the name of raiyat--Publication made by authorities declaring land as surplus land in the name of ex-landlord not illegal--Sustainable--Petition dismissed.³⁰

1. Subs. by Act 55 of 1982.

2. Subs. by Act 1 of 1973.

3. Existing sub-sections (3) to (5) omitted and sub-sections (6) and (7) renumbered as (3) and (4) thereof by Act 7 of 1978.

4. Omitted by *ibid*.

5. *Mohammad Raza v. State of Bihar*, 1999 (2) PLJR 241:1999 (2) All PLR 234:1999 (2) BLJR 1421 (Pat) (DB).

6. *Ram Ratan Roy v. State of Bihar*, 1999 (3) PLJR 218.

7. *Choudhary Azizul Hassan v. State of Bihar*, 1997 (1) BLJR 297.

8. *Sheikh Sadique v. Collector*, 1991 (2) PLJR 439.

9. *Ram Kishore Narain Singh v. State of Bihar*, 1993 (2) PLJR 295.

10. *Mohammad Raza v. State of Bihar*, 1999 (2) PLJR 241:1999 (2) All PLR 234:1999 (2) BLJR 1421 (Pat) (DB).

11. *Ramchandra Choudhary v. State of Bihar*, 1993 (1) PLJR 66.

12. *Kailash Kuer (Smt.) v. State of Bihar*, 1993 (1) PLJR 376.

13. *Darogi Mandal v. State of Bihar*, 1999 (1) PLJR 672.

14. *Kedar Nath Singh and others v. State of Bihar and others*, 2005 (1) PLJR 614.

15. *Shanti Devi v. State*, 1999 (3) PLJR 431 (Pat).

16. *Numi Devi v. State of Bihar*, (1993) 2 BLJR 1022.

17. *Gajendra Narain Singh v. State of Bihar*, 1999 (2) BLJ 744 (Pat).

18. *Dhrub Prasad Singh v. State of Bihar*, (1996) 2 BLJR 1607.

19. *Narsingh Lal Daga and others v. State of Bihar and others*,

2005 (2) PLJR 570 (Pat).

20. Ganesh Bharti v. State of Bihar, 1976 BLJR 606: AIR1977 (NOC) 179 (Pat): 1977 BBCJ 384.

21. Ganesh Sharma v. State of Bihar, 1999 (3) PLJR 377.

22. Rameshwar Prasad Dubey v. State of Bihar, 1999 (3) PLJR 530.

23. Mone Lal Goswami v. State of Bihar, 2000 (3) PLJR 125.

24. Jugeshwar Safi v. State of Bihar, 2000(4) PLJR 518.

25. Ainul Haque v. State of Bihar, 2007 (3) BBCJ 326 (Pat).

26. Mosamat Sundnr Mahtawnin v. State of Bihar, (Now Jharkhand), 2004 (3) JCR 112 (Jhr): 2004 (3) JLJR 133.

27. Sheikh Manir v. State of Bihar, 2002 (3) JCR 729 (Jhr): 2003 (1) JLJR 96 (Jhr).

28. Chandra Kishore Devi (Smt.) v. State of Bihar, 2003 (2) JCR 562 (Jhr).

29. Bhikhari Pandey v. State of Bihar, 2006 (3) JCR 214 (Jhr).

30. Krishna Chandra Sahu v. State of Bihar, 2005 (3) JCR 165:2005 (3) JLJR 206 (Jhr).

15A. Voluntary Declaration Of Surplus Land :-

(1) Notwithstanding anything contained in Section 15 or any other provisions of this Act, where a notification under Section 6 has been published, the State Government may, pending final publication of the statement under sub-section (1) of Section 11 issue notice to any land-holder or to all land-holders generally, calling upon him or them to surrender to the State such area which according to him or them is owned or held in excess of the ceiling area prescribed under Section 4.

(2) The land-holder to whom such notice is issued under sub-section (1) may thereupon make an application to the Collector in the prescribed form offering to make such surrender.

(3) If the land-holder is a minor or of unsound mind, the offer of surrender shall be made by his guardian.

(4) Where the land-holder or his guardian, as the case may be, makes an application to the Collector offering to surrender his surplus land the State Government shall on the recommendation of the Collector acquire the surplus land specified in the application or any part thereof by publishing a notice in the manner provided in sub-section (1) of Section 15 and thereupon such land shall be deemed to have vested in the State Government under sub-section (2) of Section 15 of the Act.

(5) The order passed under sub-section (4) shall be subject to provision contained in Section 11 relating to the final publication of

the draft statement and the Collector shall, at the time of making final publication of draft statement under Section 11, make such alteration or modification in the order passed under sub-section (4) as may be necessary.]

SYNOPSIS

1. Validity of transfer of land 64

2. Proof of surplus land 64

1. Validity of transfer of land.--Where petitioner is asked to appear in connection with implementation of twenty-point programme and on his appearance made to surrender land as surplus vide Section 15-A then in absence of Form LC-1-A effect and validity of such transfer shall have to be proved with proper evidence.²

2. Proof of surplus land.--An acquisition of land and the Gazette notification etc. for distribution without publication of any notice under Form LC-1-A to the land-holder for surrender of the land voluntarily in excess of ceiling area is illegal.³

1. Ins. by Act 12 of 1976.

2. Jitin Jha v. State of Bihar, 1984 PLJR 148.

3. Faguni Ram v. State of Bihar, 2000(2) PLJR 507.

CHAPTER 5 Restriction of Future Acquisition

16. Restriction On Future Acquisition By Transfer Etc. :-

(1) No person shall, after commencement of this Act, either by himself or through any other person, acquire or possess by transfer, exchange, lease, mortgage, agreement or settlement any land which together with the land, if any, already held by him exceeds in the aggregate of the ceiling area.

Explanation.--For the purposes of this section "transfer" does not include inheritance, bequest or gift.

(2) (i) After the commencement of this Act, no document incorporating any transaction for acquisition or possession of any land by way of transfer, exchange, lease, mortgage, agreement or settlement shall be registered unless a declaration in writing duly verified is made and filed by the transferee before the registering authority under the Indian Registration Act, 1908 (XVI of 1908), as to the total area of land by himself or through any other person any where in the State.

(ii) No such registering authority shall register any document evidencing any transaction if, from the declaration made under clause (i), it appears that the transaction has been effected in

contravention of the provision of sub-section (1).

(iii) No land shall be transferred, exchanged, leased, mortgaged, bequeathed or gifted without a document registered in accordance with the provisions of the Indian Registration Act, 1908 (XVI of 1908).

Explanation.--Nothing in this sub-section shall be deemed to have any effect on the provisions of the Tenancy Law of the area relating to transfer, exchange, lease, mortgage, agreement or settlement.

(3) (i) When any transfer of land is made after the commencement of this Act to any person other than a co-sharer or a raiyat of adjoining land, any co-sharer of the transferor or any raiyat holding land adjoining the land transferred, shall be entitled, within three months of the date of registration of the document of the transfer, to make an application before the Collector in the prescribed manner for the transfer of the land to him on the terms and conditions contained in the said deed:

Provided that no such application shall be entertained by the Collector unless the purchase money together with a sum equal to ten percent thereof is deposited in the prescribed manner within the said period.

(ii) On such deposit being made, the co-sharer or the raiyat shall be entitled to be put in possession of the land irrespective of the fact that the application under clause (i) is pending for decision:

Provided that where the application is rejected, the co-sharer or the raiyat as the case may be, shall be evicted, from land and possession thereof shall be restored to the transferee and the transferee shall be entitled to be paid a sum equal to ten percent of the purchase money out of the deposit made under clause (i).

(iii) If the application is allowed, the Collector shall by an order direct the transferee to convey the land in favour of the applicant by executing and registering a document of transfer within a period to be specified in the order and, if he neglects or refuses to comply with the direction, the procedure, prescribed in Order XXI, Rule 34 of the Code of Civil Procedure, 1908 (V of 1908), shall be, so far as may be, followed.

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1. Revisional order not to be interfered with.--A right to obtain possession upon deposit or the requisite amount in view of Section 16(3) and Rule 19 of Rules is not automatic, High Court would not like to interfere with revisional order passed by Board of Revenue.¹

2. Transfer of land.--When competent authority who inquired into matter has accepted its own mistake and recommended for cancellation of purchase then it was wholly justified for Collector to have cancelled such order.²

Where some land within ceiling limit is transferred, red cards were also distributed and mistake was known, recommendation for cancellation passed, Collector directed to issue necessary notifications for cancellation of red cards.³

3. Maintainability of application.--Application under--Maintainability --Such application maintainable only after registration of sale deed is complete.⁴

4. Application for pre-emption.--Order passed by S.D.O. before completion of registration of transfer document--Validity--Held, order being premature not tenable.⁵

State of affairs as on date of application to be considered--Subsequent development not to be taken into account.⁶

In respect of land whose gift deed was executed and registered--Maintainability--Held, not maintainable as "transfer" does not include gift.⁷

Maintainability--Concurrent finding held alleged transaction as farzi--Moreover property not belonging to alleged purchaser on date of application for pre-emption--Application not maintainable.⁸

Application for pre-emption under Section 16(3)(1) of Act by respondent --Objected by petitioner claiming to be adjacent raiyat on basis of oral purchase of a portion of land--Claim of petitioner not maintainable as his purchase was not registered as required under Section 16(3)(1) of Act.⁹

A claim for pre-emption cannot be allowed because unless and until the record of rights are altered, it shall be binding on the authorities, the report of Additional Collector telling the land as agricultural land is of no utility.¹⁰

Requisites--Transfer of land must be valid and lawful--Mere registration of transfer deed not enough--Transferor must be made party in pre-emption proceedings and passing of consideration money proved.¹¹

Filed accompanied with certified copy of sale deed--Application being proper and valid.¹²

Validity for maintainability of such application transfer of land must be valid and legal transfer--Held, transfer being illegal application not maintainable.¹³

Limitation--Filed after three months of date of execution of sale deed but within three months of registration of sale deed--Limitation starts from date of execution of sale deed--Held, application time barred and quashed.¹⁴

Where subsequent sale was not registered till then a subsequent sale was with concurrent findings that it was sham transaction therefore application for pre-emption shall be maintainable.¹⁵

Nature of transfer of adjoining land not clear whether being sale--Plea of benami taken--Application rejected.¹⁶

Applicant claiming to be co-sharer and adjoining raiyat in respect of land transferred, but sale deed not registered--Held, claim for pre-emption before registration of sale deed not maintainable--Cognizance taken by Collector for pre-emption being without jurisdiction.¹⁷

Subsequent sale deed of same land which remained unregistered on date of application--Subsequent purchasers already made parties--Pre-emption application in respect of subsequent sale deed not necessary as subsequent purchasers already being parties and no prejudice would be caused to them.¹⁸

5. Pre-emption claim.--Claim of pre-emption by O.P. No. 1--Application for, made

after registration of sale deed of land on favour of petitioner--Held, O.P. No. 1 cannot claim pre-emption.19

Two pre-emptors in respect of three plots of land--Authority to take up applications together and not one after another--Claim of one cannot be ignored as his application was filed later, though within time.20

In a case where pre-conditions for claiming pre-emption are fulfilled the claimant becomes entitled for pre-emption, High Court mistaken by dismissing the writ filed against said wrong order passed by Collector.21

A claim of pre-emption shall not be maintainable where second transferee was not brought on the record on being impleaded as one of opposite parties.22

To be decided upto date of filing of application--After consolidating proceedings respondents ceased to be adjacent raiyats--Allotted chaks at different areas--Petitioner instead became adjacent raiyat of vendor--Claim for adjacent raiyat cannot be disputed.23

On behalf of minors--Maintainability of--Application refused at writ stage --Not found entertainable--Wrong decision--Reasons must be given for rejection of petition.24

Where two adjacent plots are purchased and get registered same day, with a better title than adjoining raiyats of two adjacent plots, in order shall defeat the claim of pre-emption.25

No sale of land--Claim lodged pre-maturely--Sufficient ground for rejecting the claim--Prior to sale of disputed land no claim can be made in advance.26

Transfer made subject to disputed one--Application still pending--Pre-emption claimed by second transferee as well--Both got impleaded--Order passed regarding pre-emption shall be binding on both parties equally.27

Where subsequent transaction is meted out and subsequent transferee is impleaded as a regular party at appellate stage and duly noticed by appellate authority the subsequent transferee does not appear then it is for Court to investigate about him.28

On basis of being adjoining raiyat on basis of oral gift made by his father--Pre-emptor being Mohammadan having no interest in property of his father during his life time--Such oral gift not operative and legal--Held, thus claim for pre-emption on that basis not maintainable--Revenue authorities committed serious and apparent error of law in allowing claim.29

Non-agricultural land--Situated within municipal area--So many houses constructed--Claim rejected--Ground--Different nature of land--No illegality in order.30

Land purchased as agricultural lands--Being used for commercial purposes --Claim not sustainable due to change in nature of land.31

6. Proceeding for pre-emption.--Application for pre-emption filed before registration of sale deed completed--Held, proceedings taken void as without jurisdiction.32

7. Pre-emption.--Challenge to order after becoming final--No revision preferred--No scope for raising any plea regarding validity of order--Objection regarding execution of order after about two decades can be filed before Collector --Writ application only after order of Collector shall be sustained.33

Joint application for same--Admissibility--Application by more than one co-sharer or adjoining raiyat--Held, joint application admissible.34

Subsequent purchase by respondent from joining raiyat--Whether he can become a raiyat to claim defeat of petitioners--Deed has to be registered at a subsequent date--Right of pre-emptor a weak right--Title and interest stand transferred from date of registration--Board of Revenue correct in holding respondent also became raiyat by reason of registered deed.35

Proceeding involving multiplicity of pre-emption applications or vended plots--Pre-emptor must establish to the satisfaction of the Court that each and every pre-emptor is either co-sharer or an adjoining raiyat.36

8. Question of benami.--Jurisdiction of Revenue Authorities--Revenue Authorities being competent to go into such question if raised before them--Jurisdiction of Civil Court is barred in view of Section 43 of Act.37

9. Right of pre-emption.--Claim for pre-emption on payment of part of total consideration money in respect of some portion of transferred land--Authority of Collector to allow it--Held, Collector not authorised under Act to split up consideration money and grant pre-emption.³⁸

This right created by statute is a clog on right of a person to acquire land, a landless person accordingly cannot be allowed not to become an owner. He can always be in an unjust and inequitable position for not being in a status to resist the right of co- sharers or adjacent, raiyats.³⁹

Where a land purchaser is not allowed the protection, it may mean that he cannot acquire any land, because if a claim is made by a co-sharer or adjacent raiyat of land transferred he cannot resist the claim as in terms of provisions, only those persons can resist the claim who are either co-sharer or adjacent raiyats-⁴⁰

The claim of pre-emption cannot be allowed where pre-emptor fails to show that he is a co-sharer/adjoining raiyat of all plots and transferee is shown to be a co-sharer/adjoining raiyat in some of total plots as part of transaction.⁴¹

Where a co-operative society claiming pre-emption on basis of adjoining raiyat, the memorandum and bye-laws of the co-operative if not providing for cultivation activities, such co-operative can also claim right of pre-emption.⁴²

Two adjacent plots purchased--Became adjacent raiyat--Right of pre-emption cannot be allowed in case of other adjoining raiyats.⁴³

Right of pre-emption is for pre-emptor to prove his case wholly, this right is however a very weak right.⁴⁴

Where a petitioner wants to succeed in his right as a pre-emptor, he shall have to make out a fool-proof case in given period of time.⁴⁵

Nature of--A weak right defeatable by all means--On basis of claimants --Objects on Ceiling Act--These objects to determine area of Ceiling Act--An under-raiyat if held no raiyat by virtue of pre-existing right has to be held entitled to claim pre-emption--Order dismissing appeal justified.⁴⁶

It is necessary that pre-emptor has continued interest in the adjoining land till the final disposal of case by Board of Revenue.⁴⁷

10. Right of pre-emptor.--Where original vendee has transferred land in dispute to a third person on the very same day when application for preemption under section was filed, such right of pre-emptor being weak cannot be allowed to gain ascendancy over title of such third person.⁴⁸

Under personal law an oral gift may satisfy requirements of a valid gift, but provided it is not effected by a registered instrument, once the claim of pre-emptor, oral gift vanishes then claim on grounds of adjacency no more is sustainable.⁴⁹

11. Right to conveyance.--When pre-emption application was filed much before registration of sale deed the pre-emptor had no right to conveyance on date of filing of application, certain ingredients under Rule 19 and Form 13 are only directory in nature on full compliance application for preemption can be validly entertained.⁵⁰

12. Scope of Mohammedan Law.--Making an oral gift by a Muslim under occupancy holding is not restricted by provisions of Section 16(2)(ii) of Bihar Land Reforms Act.⁵¹

13. Claim for adjacent raiyat.--Requirement of registration under provisions of Registration Act as specified in Section 16(2)(iii) of Act of 1961, is mandatory irrespective of question as to whether such transfer needed to be registered or not. Rule of harmonious construction of different provisions to be followed.⁵²

14. Registration of wills.--Any "will that refers to an agricultural land has necessarily to be registered, because all letters of administration relating to such unregistered will shall be taken to be as invalid.⁵³

15. Absence of repugnancy.--The Act is a legislation, cannot be enforced with, if forbids unregistered will thereby depriving a person from taking out probate. Article 254(2) of Constitution of India cannot be invoked in this connection because there is no repugnancy between the Act and Indian Succession Act.⁵⁴

16. Grant of probate.--Grant of probate or letters of administration in case of unregistered will cannot be granted under Section 16(2)(iii) of Act--In view of

Section 3 of Act provisions of this Act, prevail over other laws.⁵⁵

17. Applicability and scope of.--When application is disallowed on ground that Section 16(3) of the Ceiling Act shall not be applicable in case of gifts, the Board of Revenue and High Court were right in doing so.⁵⁶

18. Limitation in filing pre-emption.--When period of limitation was three months and application under was well in time then there was a right decision of not cancelling the proceedings.⁵⁷

19. Application under Section 16(3) made and cognizance taken before registration of the sale-deed--Application was not maintainable.--Held: Where an application under Section 16(3) and cognizance thereof was taken before registration of the sale-deed, the application of the petitioner was not maintainable at all and, therefore, the Sub-divisional Magistrate, as well as the appellate Court, had no jurisdiction to entertain the application of petitioner. If the petitioner had no legal right, he has no legal right even today to press the application on the High Court under Articles 226 and 227 of the Constitution of India.⁵⁸

20. Applications under Section 16(3)--Maintainability of.--The ladies in the instant case had not proved that they were either co-sharers of the vended lands or that they were raiyats of the adjoining lands and, therefore, the Additional Member of the Board of Revenue had erred in reversing the orders passed by the authorities subordinate to him. So far as the present petitioners are concerned, the Commissioner had found that they were raiyats of the adjoining lands and the Additional Member of the Board of Revenue has not held otherwise. Thus the order of re-conveyance passed in favour of the petitioners had rightly been made under Section 16(3)(iii) of the Act.⁵⁹

21. Exchange of land--It would give rise to a right of pre-emption.-- The word transfer in sub-section (3)(i) has to be read in the same sense as the word transfer has been used in sub-sections (1) and (2) of Section 16 of the Act. A plain reading of sub-section (3)(i) of Section 16 shows that the only transaction of land which is covered by that sub-section is "transfer of land" as distinguished from "exchange of land", "lease of land", "mortgage of land" and "agreement or settlement of land". It is, therefore, clear that the intention of the Legislature was to exclude the other transactions, such as exchange, lease, mortgage, agreement or settlement from the ambit of sub-section (3) of Section 16. The expression "purchase-money" used in the proviso to sub-section (3)(i) of Section 16 also indicates that the transaction to which sub-section (3)(i) of Section 16 is applicable is a transaction of sale simpliciter and not any other transactions, referred to above, including the transaction of exchange of land. It may be mentioned here that in the proviso to Section 16(3)(ii) also, the expression "purchase-money" has been used.

It will be noticed that the acquisition of land by exchange, lease, mortgage, agreement or settlement have been used as distinct acquisitions and not covered by the acquisition of land by inheritance, bequest or gift has been excluded from the definition of the word "transfer". In sub-section (2) of Section 16 also transactions of land by exchange, lease, mortgage, agreement or settlement have been used as distinct transactions from the transaction of transfer simpliciter.⁶⁰

22. Pre-emption--Limitation not applicable.--Where purchaser had not re-transferred the land to anybody else, a direction shall have to be given to him alone to execute transfer deed failing which provision of Order XXI, Rule 34, CPC shall be applicable.⁶¹

23. Application for pre-emption filed before Collector.--Requisites--Application should be accompanied with copy of registered transfer deed--This requisite is only directory.⁶²

24. Transfer of land by vendor.--Claim of pre-emption shall not be maintainable because second transferee/donee not impleaded before Court of first instance even though the fact of second transfer/gift had become visible, orders so passed by Additional Member Board of Revenue shall not be sustainable thus claim for pre-emption is also rejected.⁶³

25. Application under Section 16(3)--Who and when can file--Court--If can decide disputed questions of fact relating to the nature of the transaction.--A person claiming to pre-empt has got a right to file an application only when the

registration of a document of transfer was complete.

It was contended in the instant case, that a Tribunal or an authority, acting under a special statute, derived his power to so act within the four corners of that statute. If the provisions of the statute were violated and specially in regard to the condition which conferred jurisdiction and power on the Tribunal or Authority to exercise it, then the order was without jurisdiction. If a proceeding was commenced by taking action on an application of registration of the sale-deed, then cognizance of such a proceeding was without jurisdiction and void. That being so, the final order made in such a proceeding was also without jurisdiction. The point could be taken at any stage if it did not involve investigation of new and fresh facts.

Held: An application under Section 16(3) of the Act was allowed under Clause (iii), it would be binding on the real owner if the question of benami was not raised by the ostensible owner, or if raised, it was decided against him or the real owner, such a decision being binding on the real owner, it appeared that if the question was raised, then it was a question which was by or under the Act, required to be settled, decided and dealt with by the Board of Revenue, the appellate authority, or the Collector within the meaning of Section 43 of the Act, which barred the jurisdiction of the Civil Court in regard to a question which fell to be decided by the Revenue authorities. The language of sub-section (2) of Section 17 would also indicate that the real owner in occupation of the land was also liable to be ejected by the Collector if action was taken under Section 17 of the Act. If this procedure was comprehensive enough, as undoubtedly it was, to go into disputed questions of fact as to who was the co-sharer and who was the adjacent raiyat, it was wide enough to take within its sweep the question of benami if it was raised before the Collector. On such evidence as might be produced before him or as might be permitted by him to be produced, he was competent to decide that question. In that view of the matter Section 43 of the Act bars the jurisdiction of the Civil Court. In fact, the question whether it was sham transaction or not ought to have been decided by the authority under the Act under Section 17(2).⁶⁴

26. Cultivation of homestead land--If a condition for being a landholder.--Held: It cannot be said that respondent No. 1 would be considered as land-holder only if he cultivated the lands contained under the homestead land in plots Nos. 1847 and 1862. He can very well be termed as land-holder if he cultivates land on other plots.⁶⁵

27. Pre-emption by co-sharer.--Where a landless person is not allowed protection, then he cannot acquire any land since he is neither a co-sharer nor a raiyat. Such a position would be very unjust and inequitable for a landless person, right of pre-emption however created by a statute is a clog on the right of a person to acquire land.⁶⁶

28. Pre-emption by adjacent raiyat.--When on the date on which application under Section 16(3) exercising right of pre-emption was lodged, the purchaser had already acquired the status of an adjacent raiyat and had become an owner of an adjacent plot purchased under sale deed accordingly application allowed.⁶⁷

29. Rejection of pre-emption.--To succeed in an application pre-emptor has to show not only that the transferee is neither a co-sharer nor raiyat of adjoining land but also that he is either co-sharer of transferor or adjacent raiyat, it is necessary to see whether the pre-emptor is co-sharer of transferor and not whether he is co-sharer of land so transferred.⁶⁸

Where all pre-emptors were co-sharer of land and adjacent raiyat, subsequent withdrawal of a respondent from pre-emption and claim for refund of share money, shall have no effect on rights of remaining claimants. Revisional order rejected and matter remanded for a fresh consideration according to law.⁶⁹

30. Transfer of land on payments.--Where parties intended to transfer land on making payments then inspite of recital to contrary in transferring documents, it was open to transferor to say that consideration money was not paid and hence either factually or legally there was no transfer of land, preemption cannot therefore be allowed.⁷⁰

31. Pre-emption for reconveyance.--Where it is contended that land had changed

its nature and it was no more an agricultural land as such, law of pre-emption was not applicable but unable to bring anything on record to substantiate claim, no error found in writ order.⁷¹

32. Pre-emption--No error.--Where a person purchases two plots on same day and acquires a better title over other adjoining "raiyat" of two plots, the concerned authorities did not consider the question as to whether the purchaser himself became the adjoining raiyat to one another, the revisional order needs to be reconsidered.⁷²

33. Pending pre-emption proceedings.--Where a purchaser transfers the land to another person prior to pre-emption proceedings then the right of latter cannot be taken away.⁷³

34. Delay in proceedings.--When a purchaser takes adjournments the original Court had all rights to enforce pre-emptory right by interim order, vide Section 16 sub-section (3) but because it was not done so, hence parties stood with same status and there was no scope to pass order of pre-emption.⁷⁴

35. Execution of sale deed.--Where execution of a sale deed is not of a registered sale deed which is not valid in legal perspective then such registration is merely a formality because after registration sale always refers to date of execution and not from date of registration.⁷⁵

When the proviso of Section 16(3) has not been enforced by giving possession to the pre-emptor on the date of application or immediately after and during the course of adjudication the vendee had acquired the equal right

as that of the pre-emptor then there is no scope for enforcing right of preemption.⁷⁶

36. Scope of Limitation Act.--When a person is aggrieved by the order of pre-emption on grounds of limitation under Section 5 of Limitation Act it shall have no application in a petition filed under Section 16(3) of Act of 1961.⁷⁷

37. Transfer of gift.--When a transfer is by way of gift provisions of Section 16, sub-section (3) shall not be applicable in such a transfer.⁷⁸

38. Addition of party.--Where in a pre-emption proceeding the pre-emptor filing a petition for addition of party that was itself time-barred yet addition was allowed without effecting service of mandatory notice to effective party, such order of addition and its confirmatory order is not sustainable and accordingly set aside.⁷⁹

39. Limitation for filing pre-emption application.--An application for filing pre-emption application is three months it cannot be dismissed by treating it as period of limitation of 90 days only, where original authority had dismissed pre-emption application in 90 days only, matter to be re-heard as per law.⁸⁰

40. Constitutionality of.--Constitutionally valid.⁸¹

41. Scope for private laws.--Two applications under Section 16(3) of Act--Applicants being of same class--They entitled to equal shares of property as per rule in Mohammedan Law as Act is silent on this subject.⁸²

42. Objection on pre-emption application.--Pre-emption application allowed--Raised objections--Onus on pre-emptor to prove case beyond reasonable doubts--Petitioners claim as being a pre-emptor and co-sharer has to prove his case--Courts below did not record any categorical findings--Allowing pre-emptor application wholly wrong--Only being an adjoining raiyat such allowing was wrong--Description of land had to be clarified first--Order impugned not sustainable.⁸³

43. Remand to lower Court.--Power to order remand to inferior Court--Boards revisional jurisdiction--Appellate authority not took up whole case--Board of Revenue still entitled to examine the matter--No illegality when Revenue Board examined case from both sides and their evidence.

44. Non-impleadment of proper party.--Where first transferee made a second transfer by executing sale deed before filing pre-emption application, the claim of pre-emption would not be maintainable if second transferee was not brought on record being impleaded as one of opposite party.⁸⁴

45. Delay in filing pre-emption application must be explained.--Where application for substitution filed after prescribed period of 90 days, and delay in submission is based on conjectures and surmises and not on facts then in absence of proper reason behind so much delay Court cannot exercise discretion in favour of

petitioner. Application rejected.⁸⁵

46. Maintenance of application filed by adjacent raiyat.--The right of pre-emption cannot be claimed by an adjacent raiyat or co-sharer against another adjacent raiyat or co-sharer because under Section 16(3) purchaser is entitled for right of adjacent raiyat. Order impugned not sustainable.⁸⁶

47. Second sale deed prior to application of presumption.--Where second transferee made party in pre-emption proceedings in execution of second sale deed much before filing application, pre-emption application shall* not be necessary, claim of second transferee being sham is rejected.⁸⁷

48. Pre-emption claim under Mohammedan Law.--An application for pre-emption is not sustainable in law where necessary party, a trespasser is not added as a necessary party, prayer to remand matter to Board of Revenue also not sustainable.⁸⁸

49. Entitlement to pre-emption.--Appellant shall be entitled to preemption of land where appellant raiyats holding adjoining land, sold it to respondents by a registered sale deed and conditions prescribed under Section 16(3)(i) are fulfilled-⁸⁹

50. Maintainability of claim for pre-emption.--An application for preemption by adjacent raiyat is generally maintainable but if on or before such application purchaser gets status of a co-sharer then right of applicant gets defeated when purchaser has already acquired status of adjacent raiyat and had become owner of adjacent plot, claim for pre-emption is defeated.⁹⁰

51. Restriction on transfer of land.--Where pre-emption application is allowed on order of Board of Revenue duly affirmed by appellate order, the prayer by purchaser to dismiss application of pre-emption by adjoining raiyat, cannot be given any legal protection.⁹¹

52. Pre-emption claim rightly allowed.--Where property is vended in ladies who were neither co-sharer nor raiyats of adjoining lands although their husbands were raiyats of adjoining lands therefore the claim of pre-emption as raiyats of adjoining lands was rightly allowed.⁹²

53. Purchaser as raiyat.--Where purchaser has become a raiyat of adjoining land subsequent to date of his purchase, he cannot defeat the right of pre-emption vide Section 16(3) even though he might have been in possession of adjoining land on relevant date of sale.⁹³

54. Non-compliance of Rules.--Provisions under Rule 19 are of mandatory nature, in absence of notice being given to transferor, whole proceedings under Section 16(3) get vitiated in law, when transferor is brought at stage on mid way it will not cure the defect of non-compliance of mandatory provisions.⁹⁴

55. "Benami" not raised as issue.--Where question of benami has not been raised as an issue before Additional Collector, in such circumstances Commissioner can also not be allowed to raise this issue at writ Court.⁹⁵

56. Adjoining lands in closer proximity.--Where findings arrived at are that adjoining lands were in closer proximity the application could be allowed on said grounds also.⁹⁶

57. Scope of.--A co-sharer cannot claim right of pre-emption against transferee adjacent raiyat, no apportionment is allowed.⁹⁷

Where pre-emptor claims on transfer of adjoining land on plea that vendor benamidar of vendee and instead of executing deed of relinquishment deed of sale executed the vendee in possession for past 11 years in such circumstances claim of pre-emption shall be maintainable.⁹⁸

58. Dismissal without jurisdiction.--Where Dy. Collector realised that he took steps without having power to so decide, he recalled his order and restored it in pre-emption application, on basis of natural justice Dy. Collector was correct and competent to take such step.⁹⁹

59. Joint application for pre-emption--Where two applicants are holding two different plots duly inherited by them, then even if they belong to same family cannot present a joint application for pre-emption for two different plots.¹⁰⁰

60. Condonation of delay in pre-emption.--The LRDC or Board of Revenue are not Courts as under Article 235 of Constitution, therefore they cannot condone delay

under Section 5 of Limitation Act.101

61. Transfer should be legal.--Court has full jurisdiction to consider the intention of parties and their conduct to decide whether it was their intention to transfer title to vendee even without passing of consideration.102

62. Reconveyance on ground of adjacent boundary.--Where purchasers are not boundary raiyats, that means they are not persons who have right to hold lands and include successor-in-interest, family did not have any partition dispute purchasers are accordingly co-sharers.103

63. Delay in filing application.--Whether delay in filing application for pre-emption should be condoned or not is to be within jurisdiction of Collector, who under Section 29 of Limitation Act condones delay, proper authority will decide case on merits.104

64. Adjudication of rights of parties.--Where an appeal had abated no need for further action, further the provisions under Section 32-A get declared ultra vires during pendency of writ application, an automatic revival of pending appeal before Collector will not disentitle aggrieved party from invoking writ jurisdiction.105

65. Pre-emption claim as co-sharer.--Language used in Section 16(3) does not indicate that a proceeding without jurisdiction and void becomes a good proceeding as soon as registration is complete during pendency of application which had been filed permanently.106

66. Allowing pre-emption.--Where second transferee has been im-pleaded, an order passed in proceedings shall be binding on it and in so far as it directs conveyance of land to the pre-emptor for redressal of loss the second transferee can take steps as may be available to it in law against transferor.107

67. Pre-emption claim on ground of adjacent land.--The purchasers not being adjacent raiyats on date of filing of pre-emption application or having become adjacent raiyats within three months of date of execution and also registration of document of transfer, the right of pre-emption cannot be defeated.108

68. Pre-emptor giving full description.--It is necessary for a party claiming pre-emption to give full description of land in question in Form LC-13, non-mentioning of nature of land in the form tracks away the claimant of pre-emption due to lack of sufficient compliance.109

69. Better title of pre-emptor.--Where two owners purchased joint plots by a single sale deed, and pre-emption application is filed by one person the pre-emptor in this case shall have a better title.110

70. Pre-emption on adjoining land.--Where it is asserted that land was in possession much prior the date of registration of documents it cannot be taken in aid to defeat pre-emption claimed by another adjoining raiyat.111

71. Pre-emption of raiyat holding.--Section 43 of the Act bars jurisdiction of Civil Courts to settle, decide or even deal with any question which is by or under the Act required to be settled, decided or dealt with by the Board of Revenue, the Appellate Authority or Collector. Revenue authorities themselves can go to question of title.112

72. Interference in title.--A title that is valid can be taken into consideration for all purposes also including application for pre-emption vide Section 16(3) of Bihar Tenancy Act, 1885. In such an order even High Court would not interfere with.113

An order passed by LRDC being appealable has to be a speaking order finding of facts in such an order must be based on reliable evidence available on record, order impugned is vitiated for non-compliance of statutory mandate of affording opportunity of hearing to concerned parties.114

Simply a failure of under-raiyat for filing application under Section 22 of the Ceiling Act cannot disentitle him from making a claim of bataidhari rights under Section 48-E of B.T. Act because provisions under B.T. Act 1885 are not applicable.115

73. Pre-emption right is weak.--Right of pre-emption is a weak type of right, that is easily defeatable by legitimate means, specially at the instance of those who themselves claim equal rights.116

74. Pre-emption and adjoining raiyat.--Where a pre-emptor seeks to succeed in his claim he must prove that he is either co-sharer of the transferor or adjoining raiyat of all plots transferred, but claim of pre-emption cannot meet success where

transferee himself holds land adjacent to the plots that are transferred.117

75. Pre-emption claim on adjoining raiyat.--Where two sale deeds are executed on same date, the purchaser could hardly thwart the claim of preemption of an adjoining raiyat to the vended pieces of land.118

76. Pre-emption and reconveyance.--Merely because the purchasers through separate sale deeds are not shown to have been prejudiced by filing of a single application for pre-emption cannot make such application for preemption maintainable, accordingly order of Board of Revenue is quashed and earlier order dismissed.119

77. Pre-emption on subsequent sale.--Where pre-emptor got second transferee impleaded as opposite party in pre-emption proceedings and this fact was well under knowledge, the revenue authorities found such second transfer as sham, in fact it is not necessary to file pre-emption application regarding subsequent sale deed that was not registered on date of filing of pre-emption application.120

78. Non-impleadment of transferor.--The proceedings cannot fail for non-impleadment of transferor or cannot be said to have abated against the heirs and legal representatives for non-substitution in place of deceased vendor, hence writ shall be maintainable.121

79. Single joint application for pre-emption.--Withdrawal of one or more of pre-emptors shall have no effect on right of remaining pre-emptors because they would still continue to be co-sharers and hence have right to press their claim for pre-emption.122

80. Second transfer not sham.--In a matter of second transfer by first purchaser the pre-emptor is required to file his pre-emption application within the period of limitation adding second transferee in proceeding and fulfilling all conditions laid down in the Act, period of limitation will be calculated from date of registration of second transfer deed.123

81. Impleadment of owner.--Where there is an investigation under Section 16(3) against ostensible owner the real owner may not necessarily be impleaded.124

82. Maintainability of pre-emption application.--Where both sale deeds are for different amounts, the amount against second sale deed having not been departed by pre-emptor such pre-emption fails against both purchasers.125

83. Preferential pre-emption.--In a pre-emption application duly filed, way back at proper time cannot have preference over claimant having wider interest in adjoining area, such right of appeal and revision are statutory and cannot be taken away.126

84. Adjacent--Raiyat.--Where petitioner acquired status of adjacent raiyat and executed documents, get it registered after pre-emptor filed his application, in such a situation objection by petitioners cannot be allowed.127

85. Waiver not applicable.--Where petitioners are not raising any objection at time of vendors application seeking permission to transfer his land, the present application after actual transfer shall not be barred even though question of waiver shall not be applicable.128

86. Delay in filing application.--Where there is 18 years of delay in final disposal of pre-emption application, application shall not be rejected because pre-emptor is in no way responsible for so much of delay.129

87. Pre-emption in part.--Application for pre-emption rightly rejected when pre-emptor did not hold land adjacent to plot in question, but this single ground is not sufficient to reject application, it is necessary to be seen that land was sold in whole block and was adjacent to the said block.130

88. Scope of res judicata.--Where decision is taken under Section 16(3) by authorities without impleading real owner it shall be binding on real owner.131

89. Sustainability of writ.--Where petitioner is made opposite party in writ proceedings and a favorable order is secured by opposite party then writ lies by petitioner.132

90. Quashing of order.--An order that is passed without sufficient jurisdiction shall be quashed in writ jurisdiction.133

91. Scope to be strictly construed.--Section 16(3) has to be complied with strictly, where an application is lodged before the process of registration was complete such

application shall not be maintainable.134

92. Impleadment of subsequent transferee.--Whether petitioner can be allowed to be impleaded the subsequent transferee will depend upon the fact as to whether such execution was genuine or whether it was deliberately antedated etc.135

93. Pre-registration application.--An application filed much before completion of registration cannot be entertained by Sub-Divisional Officer.136

94. Non-impleadment of transferee.--Where pre-emptor did not implead transferee from original transferee within the statutory limit even though he was aware of such transfer and still not seeking to do so after so many years, such application shall not be maintainable.137

95. Maintainability of application.--An application under, much prior to copying of sale deed in register then such sale deed and application shall not be maintainable.138

96. Only pre-emption on whole land.--A pre-emption has to be sought regarding whole of land that is conveyed.139

97. Defeated right of pre-emptor.--A right of pre-emption can be defeated if prior to date of application vide Section 16(3) the transferee acquires equal status as that of applicant.140

98. Partial pre-emption not allowable.--A pre-emptor if seeking a partial pre-emption, law does not allow to grant such semi pre-emption.141

99. Partial pre-emption.--A pre-emptor cannot nullify rights of a third person equally, a pre-emptor cannot be allowed to have a partial pre-emption.142

100. Status of pre-emptor.--A pre-emptor has no higher status than the original transferee, the original transferee executing bonafide sale deed favouring third person before pre-emptors application under Section 16(3) the pre-emptor cannot nullify the rights of such a third person.143

101. Degree of adjacency.--The Act nowhere specifies that it contains provisions authorising revenue authorities to decide degree of adjacency for the purpose of recognising right of pre-emption.144

102. Pre-registration action.--Where action is taken on an application before completion of registration it is without jurisdiction and also void.145

103. Completion of registration.--Mere by filing an application thereunder completion of registration is not decisive on question of maturity. Vendor must show, the onus being on him that Collector started proceedings before completion.146

104. Status of co-sharer.--Partition in joint family property--Status as co-sharer of member in different branches no more co-sharer--Such status is lost once family property is divided.147

105. Benami transaction.--Pre-emption against benami transactions--Holding of excess land prohibited under ceiling laws--Benami holding not ousted --Permissible limits do not oust law--Claim of benami not to defeat provisions of Ceiling Act.148
The nature of a benami transaction is triangular, there must be a vendor, a vendee and ostensible owner.149

106. Nature of land.--Pre-emption--Nature of land--Agricultural or homestead--Necessary to hold enquiry first--Pre-emption application is maintainable only after decision on nature of land--Consideration of application without deciding nature of land is not maintainable.150

107. Scope for pre-emption.--Pre-emption--Adjacency of land--Purchasers claim of being ostensible owner of vended property decided after enquiry--Purchaser ostensible owner not holding land beyond ceiling limit--Real purchaser not holding beyond ceiling limit--Once claim for ostensible ownership is decided pre-emption application by respondent will not be maintainable.151

108. Validity of pre-emption.--Pre-emption--Purchasers filed replies--Land gifted to X--X not impleaded--Application for pre-emption whether maintainable--Held--No--Findings that alleged gift was farzi shall have no legal effect when there is no donee.152

Pre-emption application--Rejected by Member, Revenue Board--Whether a valid order--Right of pre-emption a weak right--Can be defeated by vendee contending he has better claim over land due to being a co-sharer on adjoining raiyat of his

vendor--Board of Revenue mistaken while passing order--Case remanded for fresh consideration.153

109. Scope for Central Act.--Pre-emption--Whether any Central Act covers the jurisdiction under BLR Act--Held--In normal case involving any Statematters no such involvement applicable--In cases where there is no involvement of a central agency, the law enacted by State Legislature shall prevail.154

110. Sikmidar an under-raiyat.--A sikmidar is an under-raiyat he holds and possesses land for agricultural purpose, but no pre-emption application shall be maintainable because raiyat is not available against an under-raiyat.155

111. Single application for two pre-emptions.--Where there is no evidence that both the purchasers belong to a Hindu unified family and the lands though bought in their individual name belong to H.U.F., single application shall not be maintainable.156

112. Joint claim of pre-emption.--Where two or more persons want to join hands in filing an application under Section 16(3) of the Act, it is necessary for all applicants to prove that all of them are either co-sharer or adjoining raiyats of all vended plots.157

113. Applicability on Khata.--A purchaser of more than one plot cannot resist the claim of pre-emptor who happens to be an adjoining raiyat or co-sharer of all plots on grounds that the purchaser is co-sharer adjoining raiyat of one of plots.158

114. Transaction of gift deed.--High Court in its writ jurisdiction cannot construe evidence and go behind the concurrent findings arrived on a question of fact after appraisal of evidence.159

115. Objection on pre-emption.--Construction of some structure on agricultural land does not make it homestead so as to defeat the purpose of the Act.160

116. Adjacent plot--Pre-emption sought.--Where a purchaser purchases two plots adjacent to each other same day he gets a better title over other adjoining raiyat of two plots, purchaser becomes himself holder of raiyat to defeat pre-emption application.161

117. Unambiguous provision.--Where Legislature has knowingly put some restrictions then the person who wants to get benefit he must accept it in same form.162

118. Bonafide gift.--Where transaction of gift is found to be bonafide by the original transferee prior to filing of pre-emption application can get affected and defeated as a tenuous claim to pre-emption.163

119. Operation of sale deed.--A sale deed is not operational from date of its registration but from date of its execution.164

120. Reference of pre-emption.--Where land is in fact not transferred actually, it cannot be allowed for pre-emption as it is actually not transferred.165

121. Utility and scope of.--Where there is no relevant evidence, plea of party that nature of land has altered, cannot be accepted, nor any error can be foreseen in the impugned decision.166

122. Doctrine of pre-emption.--Pre-emption--Applicability of "doctrine of pre-emption"--Registered sale deed executed--Lis on respondents would be deemed to be pending from institution of proceedings before Collector--Deed when hit by lis-pendens shall not be interfered with.167

123. Adjoining--Meaning of.--Word "adjoining" in Section 16(3) of Act --It means lying next, when used as adjective.168

124. Applicability of Act.--Lands situate in Bazar area or even in Municipal area--Act applicable to such lands.169

125. Validity of application.--Pre-mature application under--Filed three months before completion of sale deed--Held, being pre-mature applicants not entitled to any relief.170

126. Pre-emption proceedings.--Question of benami raised--Revenue Court being quite competent to decide such question--Civil Court can decide such question only when orders of Revenue Courts are without jurisdiction or orders not passed under the Act.171

Impleadment of real owner when ostensible owner already a party--Court or pre-emptor not bound to compel impleadment of real owner--Real owner would be

bound by any order or decree passed against ostensible owner despite his absence.172

Where a pre-emption proceeding is initiated, requisite amount is deposited in name of Collector of area concerned the pre-emptors application cannot be faulted on that account only.173

Powers of review--Can be exercised only when statutorily provided--Court cannot exercise such power under its inherent power--If there is inherent lack of jurisdiction in a Court or authority, then no amount of consent can create jurisdiction in it.174

Where there is withdrawal of one of the pre-emptors the remaining would still continue to be co-sharers and would have the sight of pressing their claim for pre-emption.175

127. Entitlement to pre-emption under.--Co-sharer applicant being in possession of land in excess of ceiling area not entitled to pre-emption.176

128. Restoration of application.--Restoration of pre-emption application dismissed in defaults--Application for restoration rejected for want of power to review under Act--Validity--Held, power of restoration being inherent power of Court for sake of justice to parties, case remanded to trial Court for disposal.177

129. Joint application.--Joint application for pre-emption under--Maintainability--Maintainable only when all applicants are either co-sharers or adjoining raiyats of all vended plots of land.178

130. Co-sharer pre-emptor.--Pre-emptor when can be co-sharer or adjoining raiyat--When applicant made no transaction subsequent to transfer of pre-empted land--He is entitled to be co-sharer or adjoining raiyat in respect of that land.179

131. Entertainability of application.--Where there is sufficient compliance of prescribed directory instructions, an application under Section 16(3) can be validly entertained by Collector merely because sale deed was not included in pre-emption application it shall not be fatal to applicant.180

132. Maintainability of application.--Where there are different sale deeds in names of different persons but a single vendor but there is no material to show that purchase was for the benefit of joint family such an application shall not be maintainable.181

133. Purpose of.--Non-compliance of Section 16(3) and Rule 19 shall not be fatal because these provisions are only directory and not mandatory.182

134. "Purchase money".--This expression is used and interpreted with legislative intention to pay price.183

135. Claim filed late.--Provision under is mandatory and emphatic, depriving Collector of his jurisdiction to entertain application if said deposit is not made within prescribed time.184

136. "Under-raiyat" not defined.--The Act has not defined "under-raiyat", its purpose is same as is of raiyat.185

137. Applicant for pre-emption.--He must prove that he being raiyat of land for agricultural operations.186

138. Sham and farzi transaction.--An application for pre-emption filed after limitation period cannot be allowed merely on ground that title of subsequent transferee has become perfect.187

139. Period for pre-emption.--An application for pre-emption has to be filed within three months from date of registration with challan of deposit money equal to 50% of total amount, an application filed with other requirements filed within prescribed period is also maintainable.188

140. Partial pre-emption.--A partial pre-emption is not allowable only exemption is available in a case where two applications are filed in accordance with law.189

141. Delivery of possession.--The concerned authority has responsibility to satisfy the prima facie case and balance of convenience before passing the order for delivery of possession no right is available to claim possession by mere filing of pre-emption and departing necessary fees.190

142. Transferred land not a homestead land.--An application under Section 16(3) cannot be allowed where transferred land is not proved to be the homestead land of a land-holder and where applicant is not a raiyat of an adjoining land.191

143. Homestead land.--An application under Section 16(3) shall not be sustainable where homestead is not described as contemplated under Section 2(f) of the Act.192
144. Raiyat and under-raiyat, no distinction.--The legal provisions under the Act nowhere make a difference between a raiyat and under-raiyat because the dominant object is to discourage fragmentation of holding and to encourage total quantum of productivity.193
145. Law of pre-emption.--When pre-emptors application and transfer by purchaser being filed on same day, in such a situation a pre-emptor cannot be allowed to a right of priority over transferee.194
146. Pre-emption under.--Plot faced subsequent changes--Claimant can be offered some other land--Order of pre-emption has to be given favouring pre-emptor--Proceeding under Ceiling Act have high hand over proceedings under Consolidation Act.195
147. Object of pre-emption.--Enforcement and objects, regarding preemption--Enforcement of scheme of the Act--Wider aspect told regarding objectives and enforcements.196
148. Benami ownership.--A declaration under Section 16(2)(1) can be given by benamidar, inspite of his having a means with some anomaly.197
149. Revenue Courts whether to decide "Benanti" transaction.--A benami or sham transaction has to be decided if it is raised as a question during proceeding, but if question are not raised it will vitiate the order.198
150. Transferor not impleaded.--Right of pre-emption is a very weak right and pre-emptor has to follow each and every mandate of law.199
151. Benami pre-emption.--Allowing pre-emption by affecting one party in transaction--Becoming a landless person such a transaction if accepted then transferee will get lesser land after partition of family and he will become a landless person, pre-emption application cannot be sustained.200
152. Abatement of pending appeals.--Where appeals are pending before Additional Collector, by notification, it shall abate unless they are re-notified for the purpose.201
153. Transfer of trial of pre-emption.--Challenge to absolute jurisdiction on ground that there could be no waiver as regards jurisdiction, the same cannot be raised for first time in writ jurisdiction.202
154. Passing of title.--A title shall be passed after making payment of consideration or not, it will depend upon intention of parties concerned and none else.203
155. Transfer under, is a valid transfer.--It is open to a party to contend that irrespective of a recital in deeds of sale, a party to a document was invalid in law as none of any consideration was received, hence suspicion howsoever grave it may be, cannot be a substitute of proof of fact.204
156. Scope of civil jurisdiction.--Revenue authorities have jurisdiction to decide question of benamidar, such an issue cannot be challenged in Civil Court considering provisions of Section 43.205
157. Pre-emption denied.--Where right of pre-emption claimed against raiyat of adjoining land such claim shall not be tenable.206
158. No conflict between provisions.--Provisions under Section 5 of Limitation Act and Section 16 of Act of 1961 have no conflict between. Collector is duly empowered to order. Section 16 will not abrogate Section 5 of Consolidation Act as well.207
159. Pre-emption--A weak right.--Raiyat being a person acquiring right to hold land for cultivation--Obtaining possession only after depositing requisite amount vide Section 16(3)--Rule 19 also to be followed--Where both the Courts below refused to interfere, no interference can be made at this stage.208
160. Pre-emption--Claim on adjacency ground.--When any transfer of land is made after commencement of Act to any person other than a raiyat or co-share of adjoining land transferred shall be entitled within three months of date of registration of document, of transfer to make an application before collector in prescribed manner for transfer of land to him. Adjacency does play an important role.209

161. Pre-emption--Claim of.--Found not maintainable by LRDC--Appeal allowed--Claim accepted--Revision against--Allowed--Order of LRDC restored--Legality of--Land recorded as agricultural but has been purchased for making construction and in fact construction is made, the application for pre-emption is liable to be rejected--finding of Board of Revenue--Neither perverse nor illegal--No justification to arrive at a different conclusion--Writ Court could not sit as an appellate Court and reverse such finding--Finding of fact--Need no interference.210

162. Pre-emption--Restoration of possession.--Where there was no order delivering possession and consequently no further proceeding in that regard. DCLR was right to restore status as emanating on date he passed the order delivering possession. Any interference by any authority in that order would have been contemptuous. The order is without jurisdiction uncalled for and verging on contempts.211

163. Order of pre-emption.--Direction to execute after 15 years--Whether barred by limitation--Objection regarding, filed--Could not be brushed aside on the ground that in view of Section 16(3)(ii) the possession will be deemed and thus there is no question of limitation/adverse possession--Order unsustainable--Set aside--Petition allowed--Execution application clearly barred by limitation.212

164. Right under.--Not a common law right--Only a right conferred by Section 16(3) of the Act.213

165. Right of pre-emption and Mohammedan Law.--Under, personal Mohammedan Law, during lifetime of father the son has no right in property. The moment it is established that the person is not landlord but landless then the question of right to exercise pre-emption would not come into fray.214

166. Pre-emption amount--Deposited.--Land conveyed in favour of pre-emptor--Amount deposited not allowed to withdraw--Additional Collector forwarded the withdrawal application for necessary guidelines before Secretary Revenue and Land Reforms--Legality of--Wholly illegal and misconceived action--Guidelines would not override the statutory provisions of Bihar Land Ceiling Rules--Command issued to allow the withdrawal of the amount deposited.215

167. Applicability of.--Section 16(3) cannot be applied to cases of gift. In the present case, respondent alleged the deeds of gift to be sham and farzi transaction but not such allegation made in this pre-emption application. When such point is taken, the same must be proved by cogent evidence. Thus, when such point was not proved, case for pre-emption does not stand.216

168. Cancellation of sale deed.--Revenue authority under the Act is empowered to pass orders vide Section 16 of the Act. Re-transfer and cancellation of purchase sought to be done on promise that petitioner are adjoining land owners and raiyat purchasing land. The Deputy Collector granted relief. The Court found that concurrent findings of Court below were set aside illegally. Petitioners being adjoining raiyat of land are entitled to claim cancellation of sale- deed favouring respondent.217

169. Pre-emption suit--Spot enquiry by LRDC--Title--Question of.--To resolve the disputes of land the LRDC ought to have held a spot enquiry. If necessary, the authority could have asked for oral evidence on the limited question but surely while holding such enquiry it will not go into the question of title between the parties.218

170. Limitation.--Application to enforce right of pre-emption to be moved within 3 months--Sale deed of adjoining land registered on 30.1.1988--Application moved on 30.4.1988--Within limitation--For computing limitation to make application of pre-emption provisions of Limitation Act shall be taken into account.219

171. Pre-emption on doctrine of existence.--The Act does not contain any provision authorizing revenue authority to determine degree of adjacency for the purpose of recognizing the right of pre-emption. Once it is found that a portion of the transferee-raiyatees land touches a corner of purchased land no right of pre-emption can be claimed against him.220

172. Application under--Rejected by LRDC.--Affirmed in appeal and revision--Petitioners contention of being adjoining raiyat of land and having right of pre-emption--Contention rejected by concurrent findings of fact three Courts--Held,

concurrent findings cannot be disputed--Application under Articles 226 and 227 of Constitution dismissed.221

173. Right of pre-emption.--Claim of being a co-share or raiyat of an adjacent land--Jurisdiction of civil Court barred by Section 43 of the Act--Rights under--Nature of--Requires to be settled by Collector--Such question cannot be agitated in civil Court--Suit not maintainable--Rightly dismissed.222

174. Right of pre-emption--A weak right.--Merely because registration is beyond the date of making application for pre-emption does not necessarily mean that the right to be an adjoining raiyat or adjacent owner is lost against the right of pre-emption which is very weak.223

175. Conjoint reading of three sale deed--Read with compromise decree.--Revealing that respondent Nos. 5 to 9 are not adjoining raiyats with respect to each and every plot of land--Pre-emption application fails--Finding to the contrary recorded by the Board of Revenue perverse and militates against the documentary evidence on record.224

176. Right of pre-emption.--It is well settled that a right of pre-emption is a weak right and the bona fide purchaser can defeat the said right by all legitimate means. The order does not suffer from any ambiguity. No interference required.225

177. Application for pre-emption--Maintainability.--An owner of land--Executed sale-deed in favour of P on 10.8.1983 which was registered on 14.6.1984--P executed sale-deed of same land on 12.10.1983, registered on 31.8.1984 in favour of G--C filed application for pre-emption claiming to be a raiyat of adjoining lands on 17.7.1984--Sale deed executed by - in favour of G prior to registration of the first sale-deed cannot negate the right of pre-emptor to proceed against P.226

178. Proceedings under.--Neither original vendor nor the subsequent vendor impleaded in the proceedings before the two Courts below--Non-compliance of mandate envisaged under Rule 19 of the Bihar Land Ceiling Rules 1963--Impleadment for the first time in the revision--Defect would not be cured--Remand of case by revisional authority unsustainable--Set aside--Orders passed by two Courts below also set-aside.227

179. Pre-emption--Benami transaction.--Law is well settled that prior to the enforcement of Benami Transaction Act benami transaction was a lawful and valid method of acquisition of right, title and interest in immovable property.228

180. Pre-emption application.--Can be filed three months from the date of registration of the document of transfer--Application for pre-emption filed prior to the registration of sale-deed--Whole proceeding would be at intro void.229

181. Supplementary pre-emption application.--Not permissible in law.--No prayer made to treat as second fresh application--When the first application was premature and void--No withdrawal of previous application sought--Second/supplementary application cannot be treated as a fresh proceeding independent of the first proceeding.230

182. Sustainability of pre-emption application.--The three pre-emptors do not have any right, title and interest in each and every plot of land purchased. Court misread the compromise decree as well as three registered sale-deeds in favour of pre-emptors, this is an error apparent on the face of order.231

183. Pre-emption involving multiple proceedings.--Law is well settled that in a proceeding involving multiplicity of vended plots, the pre-emptor must establish to the satisfaction of Court that each and every pre-emption is either a co-sharer or an adjoining raiyat with respect to each other.232

184. Restriction on acquisition by transfer.--Board of Revenue is the final authority on question of facts and once it has come to the conclusion that vendor has made an offer to the petitioner to purchase land which offer had not been taken up by petitioner and thus he is disentitled from making a claim for pre-emption, then same is not open to be challenged before writ Court.233

185. Benami transaction.--Deed of disclaimer executed and registered prior to enforcement of the Act--Provisions of the Act have no bearing whatsoever on the registered deed of disclaimer.234

186. Pre-emption transfer of case.--Section 32 after amendment creates a new revisional forum of Divisional Commissioner from the orders of Collector or

Additional Collector. This being a new forum shall apply only to orders having been passed by Collector Additional Collector. It will not be applicable to cases that are already filed and are pending before Board of Revenue as revision before amendment came into being.²³⁵

187. Right of pre-emption.--Raiyat having larger adjoining area than the purchaser--Has no preferential right of pre-emption over the purchaser--Corner of land of purchaser adjacent to vended land--Neither raiyat having more adjacent area nor co-sharer can claim right of pre-emption.²³⁶

188. Multiple pre-emption proceedings.--It is not allowable for the LPA Court to go to other question to decide the claim of pre-emption. In a proceeding involving multiplicity of pre-emption applications the pre-emptor must establish to the satisfaction of Court that each and every pre-emptor is either a co-sharer or an adjoining raiyat with respect to each and every vended plot.²³⁷

189. Pre-emption--Application for--Maintainability.--Transferor of land a necessary party to a pre-emption proceeding--Application for pre-emption not maintainable in absence of the transfer.²³⁸

190. Scope of right of pre-emption.--Section 16(3) of the Act, is special provisions in the Act. It primarily deals with imposition of ceiling in respect of agricultural holdings and necessary provisions in respect thereof. Section 16(3) of the Act has nothing to do with the ceiling proceedings. It is a law with regard to the right of pre-emption of an adjacent raiyat or co-sharer in respect of agricultural land.²³⁹

191. Pre-emption--Cancellation of sale-deed.--Clause (1) of sub-section 3 of Section 16 of the Act provides clear statutory restriction that when any transfer of land is made after the commencement of the Act to any person other than a co-sharer or a raiyat of adjoining land and co-sharer of transferor or any raiyat holding land transferred shall be entitled within specified period only.²⁴⁰

192. Right of exercise of pre-emption.--Section 2(g) and 2(f) together express that purchase by petitioner is of homestead land. If he is holding the land as land holder then homestead land will be covered within the definition of land but the moment it is established that person is not land-holder but landless, then question of right to exercise pre-emption would not come into fray.²⁴¹

193. Homestead land is not land within Act.--Where petitioner is holding the land as "land holder" then homestead land will be covered within the definition of "land" but at the moment it is established that the person is not land holder but landless then question of right or pre-emption will not arise.²⁴²

194. Aims and objects of--Pre-emptor.--The Act is a piece of social legislation for agrarian reforms and its object is to break up the concentration of ownership of control of material resources of the community and to distribute the land as best to subserve the common good as enshrined under Article 39(b) of Constitution.²⁴³

195. Ceiling on agricultural holdings.--The ceiling on agricultural holdings once fixed cannot be allowed to remain static and unalterable for all times. The provisions have been made to make suitable changes in view of the changing social needs and circumstances merely because registration is beyond date of making an application for pre-emption does not necessarily mean that the right to be an adjoining raiyat is lost.²⁴⁴

196. Application for pre-emption--Acceptability of.--The application for pre-emption under Section 16(3) of the Act of 1961 came to be made by respondent Nos. 4 to 7 on 19.8.1982, whereas, the petitioner purchased the adjoining property by sale deed on 31.8.1982. Obviously, therefore, on the date on which the pre-emption application was filed, there was no question of joining the petitioner as party as he had not acquired right, title and interest in the property. It is not the case of the petitioner that he made any attempt to be impleaded as a party which was rejected. Again, while keeping in mind the celebrated principles of jurisprudence, when no adverse order is passed against a party, such contention becomes lame as he had not been visited with any civil or evil consequences.²⁴⁵

197. Validity of appeal.--Pre-emption--Single appeal by transferee--Pre-emption application decided--Pre-emptor not objected any issue--Single appeal not sustainable when no object is raised.²⁴⁶

198. Validity of pre-emption.--Pre-emption application filed--No plea for condoning

delay--Transferor not included as party--Rule 19, read with Section 16(3) violated--Pre-emption application not sustainable in absence of proper compliance of Rule 19--Pre-emption right being a weak right can always be rejected when there is a comparatively strong reason in hand--Order impugned upholding pre-emption accordingly quashed.247

199. Validity of plea of raiyat.--Pre-emptors plea to be an adjacent raiyat--Ground--Gift deed--Such deed not existed on date of filing pre-emption application--No valid title possessed--Not a valid adjacent raiyat--Subsequent status as boundary raiyat not challengeable--Allowing of claim as pre-emptor not a just order--Accordingly set aside.248

Where applicants are raiyats holding adjoining land and sale of land by registered sale deed the application also filed within statutory period, then after fulfilment by two necessary conditions the appellant shall be entitled to pre-emption of said land.249

200. Validity of proceedings.--Proceedings under Section 16(3) of Act pending--In meantime petitioner comes in possession of some of plots under dispute and proceedings under Section 145, Cr PC initiated--Effect--Magistrates should cancel preliminary order of attachment under Section 146, Cr PC and drop further proceedings as no bona fide dispute relating to that land exists having been finally decided by competent Revenue Court.250

201. Validity of order of transfer.--Order of transfer in favour of pre-emptor--Such order of Collector not abrogated by Section 5 of Act of 1956--However such order would be subject to scheme of consolidation going on in that area.251

202. Valuation of stamp duty--Statutory provisions to be taken into account.--The rights of parties crystallised in the year, 1980-81 and the delay, if any, was because of official procedure. Petitioner had nothing to do with it. The matter was adjudged before one Court or the other ending with the judgment of the Honble Supreme Court in the year 2004 in favour of the petitioner. The right to get the document registered was vested in the petitioner in the year, 1980-81 and he exercised that option but it was delayed for other considerations. Once an order favourable to him was passed it automatically relates back to the date when the right was crystallised which, as indicated above, was prior to the amendment of the Stamp Act. That being so for the purposes of valuation, the statutory provisions as indicated above, was prior to the amendment of the Stamp Act. That being so for the purposes of valuation, the statutory provisions as standing on the day when the right and crystallised would be taken into account and not the provisions or the value thereafter. Moreover, it can not be lost sight of that the decree of the competent Court is to convey the land on the same terms and conditions as in the original deed. The effect in law is that the original sale deed as between the vendor and the vendee would stand substituted by sale deed as between the vendor and the pre-emptor and apart from substitution of names, there would be no material change. Thus, for the purposes of valuation for the stamp duty, the value as on the date of transaction as ordered by the Court would be taken into account.252

203. Pre-emption--Claim of--Amenability.--Where pieces of lands were dwelling units and belonged to a person who was not a raiyat within the meaning of the Act, and the properties were not covered by the definition of "land", such properties are not amenable to pre-emption.253

204. Scope of issuance of writ under Article 226.--Find any flaw or infirmity in their orders. Let it be mentioned that scope of issuance of a writ under Article 226 of the Constitution of India is circumscribed to the effect that this Court is not sitting in appeal over the decision of the revenue authority treating it as appeal nor the Court is required to consider the quality of the order. Until and unless it is, successfully, shown to the satisfaction of the Court under Article 226 of the Constitution the impugned order or decision is illegal, unjust, unreasonable, without evidence or is patently, causing great injustice to the party the Court would be at loath to interfere in exercise of powers under Article 226 of the Constitution of India.254

205. Right of pre-emption is a weak right--Rights of parties have to be balanced.--By the order of Board of Revenue it is clear that the ground given is that by the

two purchases, the purchaser had himself become a boundary raiyat because the land that was sought to be purchased is in one block of 2.22 acres. In Courts view there is no legal infirmity in the order of the Board of Revenue. It is well established that right of pre-emption, as granted under Section 16(3) of the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act is a very weak right. Rights of parties have to be balanced. Here the purchaser had intended to purchase 2.22 acres of land. If 1.11 acres is allowed to be pre-empted, then he may not be interested in the other 1.11 acres of land but he is stuck with it because that sale-deed cannot be annulled that surely is not to be permitted. The very fact that two sale deeds were executed on the same day and got registered on the same day simultaneously, shows that it was for some reason convenient to get the two sale deeds registered instead of one and the intention of the purchaser was to buy a large area of land. If pre-emption is to be allowed the entire transaction would become onerous for the purchaser.²⁵⁵

1. Managing Committee of P.M. School v. State of Bihar, 1993 (2) PLJR 455.
2. Ekbal Devi v. Collector, 1999 (3) PLJR 527:1999 (3) All PLR 144.
3. Ekbal Devi v. Collector, 1999 (3) PLJR 527:1999 (3) All PLR 144.
4. Jawahar Lal v. Add. Member, Board of Revenue, 1974 BLJR 20:1973 PLJR 383: AIR 1973 Pat 479.
5. Narendra Prasad v. Rajendra Sah, 1969 BLJR 33 (Rev).
6. Ram Baran Singh v. Sukhram Singh, 1971 BLJR 17 (Rev).
7. Ram Nath Giri v. Ram Sunder Giri, 1971 BLJR 3 (Rev).
8. Jagtaran Kuer v. Bengali Singh, 1974 BLJR 3 (Rev).
9. Basudeo Rai v. Allan Rai, 1984 BLJR 531: AIR 1984 Pat 241:1984 PLJR 349:1984 BBCJ 302:1984 BLJ 565.
10. Sahdeo Pd. Yadav v. State of Bihar, (1999) 2 PLJR 460.
11. Gudan Yadav v. Sitaram Choudhary, 1973 BLJR 734.
12. Keshav Ternary v. Additional Member, Board of Revenue, 1972 BLJR 203.
13. Kamaladhari Rai v. State of Bihar, 1979 BLJR 132:1978 BBCJ 179.
14. Chandradip Singh v. Additional Member, Board of Revenue, 1978 BLJR 277: AIR 1978 Pat 148:1978 BBCJ 34.
15. Ganesh Prasad v. State of Bihar, 1985 PLJR 254.
16. Rama Devi v. State of Bihar, 1981 BLJR 449.
17. Kauleshwar Singh v. Pnrmanand, 1972 BLJR 694.
18. Ganesh Prasad v. State of Bihar, 1985 BLJR 87: AIR 1985 Pat 309: 1985 PLJR 254: 1985 BRLJ 69.
19. Md. Rafique v. Sayed Mohammad Ahsan, 1971 BLJR 18 (Rev).
20. Basudeo Chaudhary v. State of Bihar, 1984 BLJR 248: AIR 1984 Pat 178: 1984 PLJR 40: 1984 BBCJ 45:1984 BLJ 84.
21. Sheoji Mahto v. Additional Member, Board of Revenue, 1997 (1) PLJR (SC) 46.
22. Arjim Prasad Yadav v. State of Bihar, 1997 (1) PLJR 951. See also Bibi Rabia Khaloon v. State of Bihar, 2007 (3) BLJR 2388 (Pat).
23. Surendra Narayan Yadav v. State of Bihar, (1993) 2 BLJR 902.
24. Surendra Narayan Yadav v. State of Bihar, (1993) 2 BLJR 902.
25. SImshi Prabha Devi v. State of Bihar, 1998 (3) PLJR 796.
26. Hari Narmjan Pandey v. State of Bihar, (1994) 2 BLJR 774.
27. Fauzdari Chandhary v. Additional Member, Board of Revenue, (1993) 1 BLJR 566.
28. Ram Roop Yadav v. Additional Member, 1984 PLJR 128.
29. Dtmrnlnh Sao v. Additional Member, BOR, 1985 BLJR 274:1985 BBCJ 78:1985 BLT (Rep.) 310.
30. Urmila Devi v. State of Bihar, (1998) 2 BLJR 801.
31. Hari Namyan Pandey v. State of Bihar, (1994) 2 BLJR 774. See also Siya Devi v. Addl. Member, Board of Revenue, 2007 (3) BLJR 2361 (Pat).
32. Kameshwar Singh v. Tapeswar Sharma, 1973 BLJR 4 (Rev).
33. Bachan Singh and others v. State of Bihar and others, 2005 (2) PLJR 462.
34. Rajendra Singh v. Jadu Singh, 1971 BLJR 20 (Rev).
35. Shakuntala Devi (Mostt.) v. State of Bihar, (1993) 2 BLJR 987.
36. Manti Devi v. State of Bihar, 2007 (1) JCR 355 (Pat).

37. Narendra Kumar Ghose v. Sheodent Ram, 1971 BLJR 528: AIR 1972 Pat 434.
38. Sayed Md. Naimuddin v. Zainul Haque Khan, 1974 BLJR 6 (Rev).
39. Nathuni Singh Yadav v. State of Bihar, 1997 (1) PLJR 848.
40. Nathuni Singh v. State of Bihar, 1997 (2) PLJR 287.
41. Ram Pravesh Singh v. Additional Member, 1995 (1) PLJR 764.
42. Gajadhar Prasad Choudhary v. State of Bihar, 1983 PLJ R 662. 10. Ramawati Devi v. State of Bihar, 2005 (2) PLJR 721.
43. Ramawati Devi v. State of Bihar, 2005(2) PLJR 721.
44. Dhaka Singh v. Baleshzvar Prasad Singh, 1987 PLJR (NOC) 22.
45. Rudal Singh v. Additional Member, Board of Revenue, 1998 (2) All PLR 183: 1998 (2) PLJR 497.
46. Dulhin Basmatia v. State of Bihar, 1995 (1) PLJR 357: (1995) 2 BLJR813: 1995 (1) BLJ 624.
47. Ishaque Hajam v. Additional Member, 1985 PLJR 323.
48. Mir Rafique v. Additional Member, 1980 PLJR 432.
49. Dasrath Sao v. Additional Member, 1985 PLJR 653.
50. Ram Paras Choudhary v. State of Bihar, 1993 (2) PLJR 260.
51. Bibi Rehana Khatoon v. Bibi Jabrunissa, 1987 PLJR 934.
52. Basudeo Rai v. Altan Rai, 1984 PLJR 349.
53. Dil Kuer (Smt.) v. Hari Chandra Prasad, 1976 PLJR 259.
54. Koshila Devi v. Parvnti Devi, 1979 PLJR 49.
55. Dil Kuer (Smt.) v. Hari Chander Prasad, 1975 BLJR 619:1976 BBCJ 27AIR 1976 Pat 193: 1976 PLJR 259.
56. Gokul Mahto v. State of Bihar, 1999 (1) PLJR 73 (SC).
57. Lal Muni Devi v. State of Bihar, 1999 (2) PLJR 356:1999 (2) All PLR 349:1999 (2) BBCJ 46 (Pat) (DB).
58. Nand Kumar Singh v. Murat Nath Singh, AIR 1975 Pat 270.
59. Ram Jiwan Singh and others v. State of Bihar and others, AIR 1970 Pat 253.
60. Sheo Nath Singh v. Abralum, AIR 1973 Pat 242.
61. Chakru Ram v. State of Bihar, 1999 BBCJ 116: (1999) 1 BLJ 164: (1999) BLJR 87 (Pat).
62. Hiralal Agarwal v. Ram Padarath Singh, 1969 BLJR 186: AIR 1969 SC244:1968 PLJR (SC) 68-A: (1969) 1 SCJ 748.
63. Sushil Kumar Choudhary v. State of Bihar, 1997 (1) PLJR 857.
64. Ram Bahal Singh v. Chhote Namin Singh, AIR 1975 Pat 241.
65. Uma Devi v. Raktu Thakur and others, AIR 1977 Pat 311.
66. Nathuni Singh Yadav v. State of Bihar, 1997 (2) PLJR 287.
67. Ram Chandra Yadav v. Additional Member, Board of Revenue, 1997 (2) PLJR 413.
68. Rudal Singh v. Additional Member, 1998 (2) PLJR 497.
69. Ramji Ram v. Member, Board of Revenue, 1997 (1) All PLR 227.
70. Amarendra Kumar Singh v. Additional Member, Board of Revenue, 1998 (3) PLJR 192.
71. Pawan Kumar Rai v. State of Bihar, 1998 (3) PLJR 373.
72. Rabindra Kumar Singh v. State of Bihar, 1998 (3) PLJR 337.
73. Charku Ram v. State of Bihar, 1998 (3) PLR 796.
74. Ram Kishun Sao v. State of Bihar, 1999 (1) PLJR 835.
75. Ram Kishun Sao v. State of Bihar, 1999 (1) PLJR 835.
76. Ram Kishun Sao v. State of Bihar, 1999 (1) PLJR 835.
77. Nabijan Mian v. State of Bihar, 1999 (2) PLJR 52.
78. Gokul Mahto v. State of Bihar, 1999 (2) PLJR (SC) 73.
79. Nabijan Mian v. State of Bihar, 1999 (2) PLJR 52.
80. Lal Muni Devi (Mostt.) v. State of Bihar, 1999 (2) PLJR 356.
81. Raj Kishore Singh v. Bhuvaneshwari Singh, 1968 BLJR 33.
82. Basudeo Choudhary v. State of Bihar, 1984 BLJR 248: AIR 1984 Pat 178:1984 PLJR 40: 1984 BBCJ 45:1984 BLJ 84.
83. Satya Bhama Chaudharain (Smt.) v. State of Bihar and others, 2006 (2) PLJR 592.
84. Yado Singh v. State of Bihar and others, 2005 (3) PLJR 231.

85. Arjun Prasad Yadav @ Arjun Yadav v. State of Bihar, 1997 (1) PLJR 951:1997 (2) BLJ 107.
86. Suresh Singh v. Additional Member, Board of Revenue Bihar, 1997 (2) BLJ 415.
87. Ram Chandra Yadav v. A. Wati, A.O. Additional Member, Board of Revenue, 1997 (2) BLJ 412.
88. Rabindra Kumar Singh v. State of Bihar, 1997 (1) PLJR 980.
89. Arjun Prasad Yadav @ Arjun Yadav v. State of Bihar, 1997 (1) PLJR 951:1997 (2) BLJ 107.
90. Sheoji Mahto v. Additional Member, Board of Revenue, 1997 (1) All PLR 52: JT 1996 (1) SC 685:1996 (9) Scale 724:1997 (1) Supreme 207:1997(1) PLJR 46:1997 BBCJ 93 (SC).
91. Ram Chandra Yadav v. Additional Member, Board of Revenue, 1997 (2) PLJR 413.
92. Udaykant Singh v. Additional Member, Board of Revenue, 1997 (2) All PLR 622.
93. Ram jiwan Singh v. State of Bihar, 1969 PLJR 517.
94. Ptlulena Prasad v. Jagdish Choudhanj, 1969 PLJR 418.
95. Ram Chandra Singh v. Sub-Divisional Officer, 1989 PLJR 103.
96. Ram Jhuan Singh v. State of Bihar, 1969 PLJR 517.
97. Ram Jiwan Singh v. State of Bihar, 1969 PLJR 517.
98. Ram Chabila Singh v. Ram Sagar Singh, 1979 PLJR 279.
99. Rama Devi (Smt.) v. State of Bihar, 1982 PLJR (NOC) 13.
100. Chandrika Sah v. Additional Member, 1981 PLJR 124.
101. Rajrani Asha Devi (Mostt.) v. State of Bihar, 1989 PLJR 889.
102. Narayan Mahto v. State of Bihar, 1989 PLJR 958.
103. Ram Chandra Singh v. Sub-Divisional Officer, 1989 PLJR 103.
104. Ram Prasad Yadav v. State of Bihar, 1990 (2) PLJR 3.
105. Krishna Kumar Chondhary v. Alliance Agro Industries (P) Ltd., 1991 (1) PLJR (SC) 3.
106. Nathuni Sao v. Jagar Nath Prasad Pathak, 1992 (1) PLJR 83.
107. Nathuni Sao v. Jagar Nath Prasad Pathak, 1992 (1) PLJR 83.
108. Fanzdari Choudhary v. Additional Member, 1993 (1) PLJR 250.
109. Ram Saran Mahto v. Additional Member, 1993 (1) PLJR 458.
110. Sona Devi v. Paras Nath Singh, 1989 PLJR 301.
111. Md. Nabi Karim v. Additional Member, 1989 PLJR 283.
112. Sona Devi v. Paras Nath Singh, 1989 PLJR 301.
113. Bhagirath Mandal v. State of Bihar, 1993 (2) PLJR 369.
114. Ram Naresh Sharma v. Vijay Sharma, 1993 (2) PLJR 364.
115. Lal Mohan Bej v. State of Bihar, 1990 (1) PLJR 750.
116. Kailash Prasad v. State of Bihar, 1995 (1) PLJR 478.
117. Dulhin Basmatia (Smt.) v. State of Bihar, 1995 (1) PLJR 357: (1995) 2 BLJR 813:1995 (1) BLJ 624.
118. Ram Pravesh Singh v. Additional Member, 1995 (1) PLJR 764.
119. Mohammad Shafique Ahmad v. State of Bihar, 1995 (1) PLJR 851.
120. Ramdeo Sharma v. State of Bihar, 1996 (2) PLJR 694.
121. Rabindra Kumar Singh v. State of Bihar, 1997 (1) PLJR 980.
122. Arjun Prasad Yadav v. State of Bihar, 1997 (1) PLJR 951.
123. Ramji Ram v. Member, Board of Revenue, 1997 (1) PLJR 888.
124. Priyambada Devi (Smt.) v. Additional Member, 1985 PLJR 662.
125. Yugal Kishore Singh v. State of Bihar, 1985 PLJR 554 (FB).
126. Radhey Shyam Singh v. Sanju Singh, 1985 PLJR (NOC) 55.
127. Basudeo Choudhary v. State of Bihar, 1984 PLJR 40.
128. Sheo Kumar Yadav v. Additional Member, 1983 PLJR 639.
129. Guru Charan Sanjar v. State of Bihar, 1984 PLJR 365.
130. Abdul Gafoor v. Additional Member, 1984 PLJR 771.
131. Abdul Gafoor v. Additional Member, 1984 PLJR 771.
132. K. Halaluddin v. Nabi Hasan, 1983 PLJR 17.
133. Ram Bahal Singh v. Chhote Narain Singh, 1975 PLJR 438.
134. Ram Bahal Singh v. Chhote Narain Singh, 1975 PLJR 438.
135. Hira Lal Agrawal v. Ram Padarath Singh, 1968 PLJ R 384.

136. Kadam Lal Yadav v. Additional Member, 1978 PLJR 642.
137. Jawahar Lal v. Additional Member, 1973 PLJR 383.
138. Abdullah Mian v. Jodha Raut, 1977 PLJR 371.
139. Jawahar Lal. v. Additional Member, 1974 PLJR 360.
140. Ram Chandra Srivastava v. Prasidh Narain Singh, 1970 PLJR 579.
141. Ram Chandra Srivastava v. Prasidh Narain Singh, 1970 PLJR 579.
142. Sudama Devi (Smt.) v. Rajendra Singh, 1973 PLJR 534.
143. Sudama Devi (Smt.) v. Rajendra Singh, 1973 PLJR 534.
144. Sudama Devi (Smt.) v. Rajendra Singh, 1973 PLJR 534.
145. Dukho Devi (Mostt.) v. Uchit Lal Mandal, 1968 PLJR 1.
146. Kauleshwar Singh v. Permanand, 1972 PLJR 321.
147. Jagdish Singh v. Rameshwar Singh, 1980 PLJR 425.
148. Ramawati Devi v. State of Bihar, 2005 (2) PLJR 721.
149. Shanti Devi v. State of Bihar, 2005 (2) PLJR 631.
150. Kamleshwar Yadav v. State of Bihar, 1986 PLJR (NOC) 24.
151. Shanti Devi v. State of Bihar, 2005 (2) PLJR 631.
152. Shanti Devi v. State of Bihar, 2005 (2) PLJR 631.
153. Sushil Kumar Chaudhary v. State of Bihar, (1997) 2 BLJR 1641.
154. Mohan Rai v. State of Bihar, (1993) 2 BLJR 1140.
155. Mohd. Abdul Ghani v. State of Bihar, 1991 (1) BLJR 627.
156. Raja Ram Singh v. State of Bihar, 1985 PLJR (NOC) 42.
157. Md. Jainul Abdin v. Additional Member, 1985 PLJR (NOC) 46.
158. Ram Shankar Prasad Singh v. Additional Member, 1985 PLJR 680.
159. Punit Rai v. Additional Member, 1985 PLJR 910.
160. Dhumiklal Mahto v. Additional Member, 1985 PLJR (NOC) 82.
161. Sarjug Mahto v. Additional Member, 1985 PLJR (NOC) 82.
162. Ram Roop Yadav v. State of Bihar, 1987 PLJR 455.
163. Krishna Kumari Choudhary v. Alliance Agro Industries (P) Ltd., 1986 PLJR 832.
164. Dhaniklal Mahto v. Additional Member, 1985 PLJR (NOC) 82.
165. Pawan Kumar Rai v. State of Bihar, 1998 (3) PLJR 373.
166. Amarendra Kr. Singh v. Additional Member, Board of Revenue, 1998 (3) PLJR 192.
167. Rabindra Kumar Singh v. State of Bihar, 1998 (3) PLJR 337.
168. Suresh Singh v. State of Bihar, (1993) 2 BLJR 1098.
169. Lalji Ram Bhagat v. Nand Lal Singh, 1969 BLJR 740.
170. Chandrika Sah v. Additional Member, BOR, 1981 BLJR 305.
171. Noor Hassan v. State of Bihar, 1974 BLJR 327.
172. Dhaka Singh v. Balishwar Prasad Singh, 1987 BLJR 426:1987 BBCJ 157.
173. Jugal Kishore Singh v. State of Bihar, 1985 BLJR 383.
174. Saraswati Devi (Smt.) v. (Smt.) Kausalya Devi, 1984 PLJR 656.
175. Chandrika Sah v. Additional Member, BOR, 1981 BLJR 305.
176. Ramji Ram v. Member, Board of Revenue, 1997 (1) PLJR 888.
177. Bindeshzvari Prasad Bhagat v. Ramautar Sahu, 1970 BLJR 403.
178. Deo Narain Mahto v. Kalisorait, 1973 BLJR 19 (Rev).
179. Ram Shankar Prasad Singh v. Additional Member, BOR, 1985 BLJR 595.
180. Garib Sah v. Surji Devi, 1974 BLJR 15 (Rev).
181. Hiralal Agrawal v. Ram Padarath Singh, 1968 PLJR 68 (SC).
182. Saryug Mishra v. Kummari Devi, 1977 PLJR 290.
183. Abdul Gafoor v. Additional Member, 1984 PLJR 771.
184. Saryug Prasad v. State of Bihar, 1984 PLJR 799.
185. Krishna Kumari Chaudhary v. Alliance Agro Industries (P) Ltd., 1986 PLJR 832.
186. Raja Ram Singh v. State of Bihar, 1985 PLJR (NOC) 42.
187. Md. Yusuf v. Member, BOR, 1973 BLJR 12.
188. Parmeshwar Singh v. Sukhdeo Mahto, 1985 PLJR 397.
189. Moti Mandal v. State of Bihar, 1984 PLJR 918.
190. Moti Mandal v. State of Bihar, 1984 PLJR 918.
191. Shambhu Prasad Singh v. Gautam Pandey, 1986 PLJR 306.

192. Md. Yusuf v. Member, Board of Revenue, 1973 PLJR 44.
193. Ganesh Prasad v. Jogeshwar Tiwari, 1969 PLJR 284.
194. Raja Ram Singh v. State of Bihar, 1985 PLJR (NOC) 42.
195. Raju Kumar Prasad v. Additional Member, 1985 PLJR 215.
196. Md. Osman v. State of Bihar, (1996) 2 BLJR 1194.
197. Ram Kishore Narain Singh v. State of Bihar, 1994 (1) BLJR 443.
10. Yugal Kishore Singh v. State of Bihar, 1985 PLJR 554 (FB).
198. Ram Bahal Singh v. Chhote Narain Singh, 1975 PLJR 438.
199. Raja Ram Singh v. State of Bihar, 1985 PLJR (NOC) 42.
200. Bharat Prasad and another v. State of Bihar and others, 2005 (2) PLJR 24.
201. Bibi Ma Khatoon v. State of Bihar, 1982 PLJR 40.
202. Chandeshwar Singh v. Dahu Mahto, 1983 PLJR 443 (FB).
203. Savitri Devi (Mostt.) v. State of Bihar, 1989 PLJR 772.
204. Savitri Devi (Mostt.) v. State of Bihar, 1989 PLJR 772.
205. Sk. Halaluddin v. Nabi Hassan, 1983 PLJR 17.
206. Dukho Devi (Mostt.) v. Uchit Lal Mandal, 1968 PLJR 1.
207. Sunania Devi (Smt.) v. Additional Member, 1981 PLJR 136.
208. Managing Committee of Proposed High School, Rehuwa v. State of Bihar, (1993) 2 BLJR 1126.
209. Laxman Mishra v. State of Bihar, 2007 (2) BLJR 959: 2007 (2) BBCJ 297 (Pat).
210. Shyamapado Gorain v. State of Bihar, 2004 (3) JCR 256 (Jhr).
211. Harigend Choubey v. State, 2007 (2) BBCJ 195 (Pat).
212. Dharam Gope @ Dharam Mahto v. State of Bihar, 2004 (1) JCR 365 (Jhr): 2004 (1) JLJR 231.
213. Bhairab Mahto v. Dalo Ram Mahto, 2004 (3) JCR 117 (Jhr): 2004 (2) JLJR 556.
214. Md. Alam v. Addl. Member Board of Revenue, 2007 (2) BBCJ 462 (Pat).
215. Bhim Sen Mahato v. State of Jharkhand, 2005 (3) JCR 163: 2005 (3) JLJR 193 (Jhr).
216. Dinanath Singh v. State of Bihar, 2001 (3) PLJR 469: 2001 (2) BLJR 1082: 2001 (2) BLJ 560 (Pat).
217. Laxman Mishra v. State of Bihar, 2007 (2) BLJR 959: 2007 (2) BBCJ 297 (Pat).
218. Sheo Narayan Yadav v. State of Bihar, 2001 (1) PLJR 150 (Pat).
219. Bibi Salma Khatoon v. State of Bihar, 2001 (3) JCR 304: 2001 (3) BLJR 2096 (SC).
220. Bibi Ambeya Khatoon v. State of Bihar, 2007 (2) BBCJ 485 (Pat).
221. Dukhilal Sao v. The State of Bihar, 2004 (2) JCR 190 (Jhr): 2004 (2) JLJR 251 (Jhr).
222. Bhaimb Mahto v. Dalo Ram Mahto, 2004 (3) JCR 117 (Jhr): 2004 (2) JLJR 556 (Jhr).
223. Shobhit Mahto v. State of Bihar, 2007 (2) BBCJ 491 (Pat).
224. Manti Devi v. State of Bihar, 2007 (1) JCR 355 (Pat).
225. Bhuban Mahto v. State of Jharkhand, 2007 (1) JCR 339 (Jhr).
226. Chandrika Singh (Dead) Thr. LRs. v. Arvind Kumar Singh (Dead) by LRs., 2006 (3) JCR 250 (SC).
227. Raghunath Ram @ Raghubir Ram v. State of Jharkhand, 2006 (4) JCR 439 (Jhr).
228. Manti Devi v. State of Bihar, 2007 (1) JCR 355 (Pat).
229. Bandhiyn Devi (Smt.) v. Mahadeo Ram, 2006 (1) JCR 314 (Jhr).
230. Bandhiya Devi (Smt.) v. Mahadeo Ram, 2006 (1) JCR 314 (Jhr).
231. Manti Devi v. State of Bihar, 2007 (1) JCR 355 (Pat).
232. Manti Devi v. State of Bihar, 2007 (1) JCR 355 (Pat).
233. Ram Eqbal Singh v. State of Bihar, 2007 (1) PLJR 203.
234. Manti Devi v. State of Bihar, 2007 (1) JCR 355 (Pat).
235. Rajeev Singh v. State of Bihar, 2007 (2) BLJ 207 (Pat).
236. Bhuban Mahto v. State of Jharkhand, 2007 (1) JCR 339 (Jhr).
237. Jai Narain Thakur v. State of Bihar, 2007 (3) PLJR 95.
238. Surendra Sao v. Sumitra Devi, 2002 (2) JCR 41 (Jhr).
239. Rajeev Singh v. State of Bihar, 2007 (2) PLJR 763.

240. Md. Alam v. Addl. Member Board of Revenue, 2007 (2) PLJR 205.
241. Md. Alam v. Addl. Member Board of Revenue, 2007 (2) PLJR 207. See also Shyam Bihari Mistri v. State of Bihar, 2007 (3) BLJR 2387 (Pat).
242. Md. Alam v. Addl. Member Board of Revenue, 2007 (2) BLJR 1730 (Pat).
243. Shobhit Mahto v. State of Bihar, 2007 (2) PLJR 484.
244. Shobhit Mahto v. State of Bihar, 2007 (2) PLJR 484.
245. Dharmendra Singh v. Additional Member, Board of Revenue, 2007 (3) BBCJ 271 (Pat).
246. Jugeshwar Singh @ Sinha v. State of Bihar and others, 2005 (2) PLJR 43.
247. Siyawati Devi v. State of Bihar and others, 2005 (3) PLJR 352.
248. Ramawati Devi v. State of Bihar, 2005 (2) PLJR 721.
249. Sheoji Mahto v. Additional Member, Board of Revenue, 1997 (1) PLJR 46:1997 BBCJ 93: JT 1996 (1) SC 685:1996 (9) Scale 724:1997 (1) All PLR 52.
250. Surendra Singh v. Jang Bahadur Singh, 1980 BLJR 676:1980 BLJ 317:1980 BBCJ 653.
251. Sunnanta Devi v. Additional Member, Board of Revenue, 1981 BLJR 344: AIR 1981 Pat 273: 1981 BLJ 259:1981 PLJR 136.
252. Baidya Nath Prasad Singh v. State of Bihar, 2007 (3) PLJR 393 (Pat);sec also Baiju Singh v. State of Bihar, 2004 (2) PLJR 743 (Pat).
253. Syed Jamal Ashraf v. State of Bihar, 2007 (2) BLJ 241 (Pat).
254. Dharmendra Singh v. Additional Member, Board of Revenue, 2007 (3) BBCJ 271 (Pat).
255. Vijay Kumar Yadav v. State, 2007 (3) BBCJ 350 (Pat).