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**(2007) 01 PAT CK 0030**  
**In the Patna High Court**  
**Case No : LPA No. 28 of 1996**

Shree Ram Janki Jee

APPELLANT

Vs

State of Bihar and Others

RESPONDENT

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**Date of Decision :** 07-01-2007

**Acts Referred:**

Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961 — Section 10, 10(i), 11, 15, 6

**Citation :** (2007) 1 PLJR 621

**Hon'ble Judges :** Madhavendra Saran, J; Barin Ghosh, J

**Bench :** Division Bench

**Advocate :** S. K. Verma, Syed Wazir Ali and J. K. Verma, for the Appellant; Om Prakash Upadhyaya and Arun Kr. Pandey, for the Respondent

**Final Decision :** Dismissed

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## **Judgement**

Barin Ghosh and Madhavendra Saran, JJ.—A draft statement was prepared in relation to the land held by Shri Surya Narayan Das. He filed an objection. In that he stated that a part of the land shown in the draft statement has been dealt with by him much prior to the appointed date mentioned in the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961, a part thereof belongs to him and the remaining belongs to two Maths of the idol Shri Ram Janki Jee. It was also stated that the lands in question are neither class I land, nor class III and that he had no source of irrigation as on the appointed date either from the rest of the holders or from private resources. For the purpose of dealing with the objection a local enquiry was made and on the basis thereof it was held that the objector shall be entitled to land to the extent he is entitled to hold, as well as the lands for two of the Maths of the deity Shri Ram Janki Jee and that the land should be treated class IV land. After this objection was disposed of, the draft statement was finally published under sub-section 1 of Section 11 of the Act. Thereupon the State Government refused to publish the notification under sub-section 1 of Section 15 of the Act, instead it used its power u/s 45B of the Act and thereby directed reopening of the case and to

dispose of the same afresh in accordance with the provisions of the Act. Subsequent thereto a draft statement was prepared, but without complying with the provisions contained in sections 6, 8 and 9 of the Act. The draft statement was prepared on the basis of informations collected u/s 7 of the Act. Once again Surya Narayan Das filed an objection to the said draft statement. In the objection he represented himself to be the land holder. He however once again held out that a part of the land included in the draft statement has been dealt by him much prior to 1959 and, accordingly, those lands cannot be taken into account in the draft statement. He also held out that a part of the land mentioned in the draft statement is held by him in his personal capacity and the remaining are held by two Maths of Shri Ram Janki Jee. It was stated that his previous objection be treated as part of the objection so filed. While considering the objection, entire land was not treated as class IV land as was canvassed by the objector, Surya Narayan Das, but a part thereof was treated as class IV land and the remaining as class I and class II land. The objector was treated as the land holder and, accordingly, was permitted to retain such land as was permissible for one family. It was decided that there is no difference in between the petitioner and the Maths or the two idols. The objector preferred an appeal which having been dismissed he filed a revision application. The revisional authority accepted the contention of the objector that an idol is a separate juridical entity and, accordingly, should be treated as one unit in addition to the unit retained personally by the objector. Accordingly, the revision was allowed in part. The writ petition filed by the objector challenging the said orders did not succeed and hence, this L.P.A. has been preferred against the order of the writ court dismissing the writ petition.

2. The objector accepted, while filing the objection, that the case has been reopened u/s 45B of the Act. The records suggest that the same was reopened at the stage of Section 10(i) of the Act. The objector filed a separate objection against the draft statement as was prepared after reopening of the case. There is, therefore, no dispute that a draft statement was prepared after the case was reopened. The objector was aggrieved for steps u/ss. 6, 8 and 9 of the Act were not taken. Sub-section 1 of Section 10 of the Act authorises publication of draft statement on the basis of informations obtained u/ss. 6, 8 and 9 or the basis of information obtained u/s 7 of the Act. It was the contention of the objector that in as much as no step was taken u/ss. 6, 8 and 9 of the Act he has been prejudiced. The objector, however, failed to bring on record any fact which would suggest that for not taking steps u/ss. 6, 8 and 9 of the Act, he has at all been prejudiced. Inasmuch the draft statement could be prepared on informations obtained u/s 7 of the Act, when the prejudice element is lost, it cannot be said that draft statement was not properly prepared, for steps u/ss. 6, 8 and 9 of the Act had not been taken.

3. It was the contention of the objector that inasmuch as there are two Maths of Shri Ram Janki Jee situated at two different places and inasmuch as two separate idols adorn those two Maths, they should be treated as separate juridical entities

and as their sole Shebait the objector was entitled to two units on account of those two idols. Learned counsel for the appellant has drawn our attention to a decision of the Hon"ble Supreme Court in the case of Ram Jankijee Deities and Others Vs. State of Bihar and Others, to suggest that upon a deity being consecrated and endowed with landed properties, it is entitled to hold land of its own right in terms of the provisions of the said Act and, accordingly, it is entitled to be treated as a family separate from the family of Shebait/Managers.

4. It appears that the revisional authority accepted this contention and, accordingly, separated the objector and the deity, Shri Ram Janki Jee. However, while the objector was contending that two deities of Ram Janki Jee located at two different places and consecrated in two different Maths should be treated as two separate families, the same has not been accepted either by the revisional authority or by the writ court. We have also not been persuaded to accept the same. The objection was filed by the objector in his personal capacity and that was the only objection. He did not file objection in his personal capacity, in addition to his capacity as Shebait of one idol and Shebait of another idol. In the objection it was mentioned that idols of Shri Ram Janki Jee had been consecrated in two different Maths located at two different places. It was also stated that in the cadastral survey as well as in the revisional survey it has been shown that Ram Janki Jee is holding lands appertaining to two Maths located at two different places, but the objector did not bring on record any deed of endowment or dedication suggesting that they were individually given any piece of land to be retained in their individual capacity. Mere consecration does not make the idol the land holder. In order to hold land the idol must get the same from someone. There is nothing on record to show that the subject land was given to two idols of Shri Ram Janki Jee, consecrated in two different Maths, to be retained by them in their individual separate capacities. The conclusion, therefore, would that Ram Janki Jee was holding the land in question and not Ram Janak Jee and Ram Janki Jee. The objector placed reliance upon the report prepared in course of hearing of the previous objection and the decision rendered thereon. Inasmuch as, the case was reopened and was directed to be decided de novo, the report of the said inspection as well as the said decision rendered on the basis thereof lost its force, but certainly the same could be taken note of as part of evidence to establish what the objector was seeking to establish. In the report and in the decision referred to above, it was stated that those two idols of Shri Ram Janki Jee were consecrated in two different Maths located at two different places and their worship was performed separately and that their servants are also separate. That does not bring home the issue. There is no indication therein that those two idols, as separate legal entities, were entitle to hold land or that separate endowments were made in their favour. In those circumstances, non-placing of reliance on the said report and the said decision is not material.

5. The next contention of the objector in the present appeal is that no enquiry was made to ascertain whether the land in question is class IV land in its entirety. As aforesaid, in the previous objection, apart from stating that the land

do not fall in class I or class II, it was stated by the objector that he had no source of irrigation on 9.9.70 either from rest of holders or from private sources. In the later objection nothing further was added. There was no allegation that the land is capable of being provided with water for more than one season or for one season. An enquiry may be called for, when a plea has been taken squarely. The purpose of an enquiry is to ascertain whether the plea as taken is correct or not. In the instant case, when no such plea had been taken at all, there was no question of making an enquiry by local Inspection, which having not been done it seems that the objector is aggrieved, but he having had not taken the plea squarely, there is no just reason to be aggrieved. We, accordingly, find no reason to interfere with the judgment and order under appeal. The appeal fails and the same is dismissed.