**IN THE HIGH COURT OF JHARKHAND AT RANCHI**

**C. Rev. 48 of 2024**

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**1.** Sahida Khatoon aged about 75 years, Wife of Late Abdul Hamid.
**2.** Nasiruddin Ansari, aged about 50 years, son of Late Abdul Hamid.
**3.** Jalil Ansari aged about 40 years, Son of Late Abdul Hamid.
**4.** Asgar Ansari aged about 48 years, Son of Late Abdul Hamid.
All residents of village Sirsai, P.O. Barotand, P.S. Dhanwar, District Giridih, Jharkhand- 815301.

**... ... Appellants/Petitioners**

**Versus**

**1.** The State of Jharkhand through the Member, Board of Revenue, P.O. Dhurwa, P.S. Jagarnathpur, District Ranchi, Jharkhand.
**2.** Additional Collector, Giridih, P.O. and P.S. Giridih, District-Giridih, Jharkhand.
**3.** Land Reforms Deputy Collector, Giridih, P.O. and P.S. Giridih, District Giridih, Jharkhand.
**4.** Nakul Rai Son of Late Kirat Rai
**5.** Sarju Rai, Son of late Kirat Rai
**6.** Raj Kumar Rai, Son of Late Kirat Rai
**7.** Rukmani Devi Wife of Late Parmeshwar Rai
**8.** Dilip Rai, Son of Late Parmeshwar Rai
**9.** Robin Rai, Son of Late Parmeshwar Rai
**10.** Ranjit Rai, Son of Late Parmeshwar Rai
**11.** Indradeo Rai, Son of Late Tilak Rai
**12.** Nageshwar Rai, Son of Late Tilak Rai
Sl. No. 4 to 12 all residents of village Sirsai, P.O. Barotand, P.S. Dhanwar, District- Giridih, Jharkhand 815301.

**… …. Respondents/Opposite Parties**

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**CORAM:HON'BLE MRS. JUSTICE ANUBHA RAWAT CHOUDHARY**
**HON'BLE MR. JUSTICE PRADEEP KUMAR SRIVASTAVA**

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For the Appellants : Mr. A. Allam, Senior Advocate
: Mr. Faisal Allam, Advocate
: Ms. Asfia Sultana, Advocate

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**04/Dated: 10.07.2026**

**1.** Heard the learned counsel appearing on behalf of petitioner.

**I.A. No. 10571 of 2024**

**2.** Learned counsel for the petitioner has submitted that there is a delay of 153 days in filing this review petition. He has submitted that after the order passed by the LPA court, they have moved to Hon'ble Supreme Court in S.L.P and order dated 18.03.2024 was passed in ***S.L.P. No. 4365 of 2024 [Sahida Khatoon and Others vs. The State of Jharkhand and Others]*** whereby the subsequent development was

relied upon by the petitioners before the Hon'ble Supreme Court and the Hon'ble Supreme Court was inclined to give the petitioners an opportunity to file a review petition before the High Court within a period of four weeks.

**3.** Learned counsel has submitted that the review petition has been filed before this Court on 06.04.2024.

**4.** Considering the averments made in the aforesaid interlocutory application seeking condonation of delay and the fact that the present review petition has been filed pursuant to the liberty granted to the petitioners by the Hon'ble Supreme Court, the delay is hereby condoned.

**5.** I.A. No. 10571 of 2024 is **allowed**.

**C. Rev. 48 of 2024**

**6.** Heard the learned counsel for the petitioners on the merit of the case.

**7.** This review petition has been filed for the following relief:-

> *"That the instant review application is being filed for reviewing the order dated 30.10.2023 passed in L.P.A. No. 563 of 2019 by Hon'ble Mr. Justice Shree Chandrashekhar and Hon'ble Mr. Justice Pradeep Kumar Srivastava whereby and whereunder the appeal filed by the appellants / petitioners has been rejected without considering the development already taken place by virtue of the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) (Amendment) Act, 2019 whereby and whereunder the right of preemption has been deleted or any case pending before any Court shall stand abated, so the Hon'ble Supreme Court has referred this matter again to this Hon'ble Court for filing the civil review petition after allowing the status quo only for four weeks. Moreover more than three decades have passed when the first application of preemption was decided in favour of the opposite parties Shri Rameshwar Rai and others and till date possession still is in the hands of the review petitioners over the disputed land in which certain construction of house were made a long back. Hence, the total facts could not be brought along with the necessary documents before the Division Bench in LPA. Had it been brought, then it could have changed the nature of the case. Accordingly, a right of review lies before this Hon'ble Court to either recall/modify the order of this Hon'ble Court or after reviewing the order*

*dated 30.10.2023 passed in L.P.A. No.563 of 2019 the matter may be reheard in view of the amendment of Bihar Land Ceiling Fixation of Ceiling Area Act, 1961."*

**8.** This review petition has been filed pursuant to the order of the Hon'ble Supreme Court passed on 18.03.2024 in ***S.L.P No. 4365 of 2024 [Sahida Khatoon and Others vs. The State of Jharkhand and Others]*** which is quoted as under:-

*"As the learned senior counsel appearing for the petitioners seeks to rely upon the subsequent development, we are inclined to give the petitioner an opportunity to file a review before the High Court within a period of four weeks from today.*
*Status quo, existing as on today, shall be maintained by the parties till the review petition is filed as aforesaid.*
*The Special Leave Petition is disposed of in above terms.*
*Pending application(s), if any, shall stand disposed of."*

**9.** In the light of the aforesaid liberty granted by the Hon'ble Supreme Court to rely upon the subsequent development, the Learned counsel for the petitioners has submitted that the subsequent development which has taken place is the amendment in Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act 1961 vide Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) (Amendment) Act 2019 whereby the provision relating to right of pre-emption as contained in section 16(3) of the aforesaid Act of 1961 has been repealed and therefore, the right of pre-emption does not exist anymore and all pending proceedings are to be treated as abated as per the amended provision.

**10.** In the present case, the connected writ petition was W.P.(C) No. 1582 of 2019 decided on 29th July 2019 and Letters Patent Appeal was L.P.A No. 563 of 2019 decided 30th October 2023 and thus the challenge regarding preemption proceedings was pending in the year 2019 and hence the right of pre-emption did not survive and stood abated in view of the aforesaid amendment of the year 2019 vide Gazette Notification Published on 25.02.2019.

**11.** Learned counsel has further submitted that the right of pre-emption under the provisions of the Act of 1961 is itself violative of Article 21 and Article 14 of the Constitution of India and such observation has also been made by the Hon'ble Supreme Court in the

Judgment passed in ***Civil Appeal Nos. 15-22 of 2022 (SLP Civil Nos. 15694-15701 of 2017) [Punyadeo Sharma & Others Etc. vs. Kamla Devi & Others Etc]*** annexed as Annexure-2 of the revision petition. He has referred to paragraph 10 of the said judgment, which is quoted as under:-

> *"10. In view of the aforesaid circumstances, since the Haryana Amendment Act has not taken away the right of pre-emption with retrospective effect, it was held that the amendment is prospective. This Court held as under:*
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> *"17. In modern times, the right of pre-emption based on statutes is very much a maligned law. During hearing of these appeals, such rights have been characterised as feudal, archaic and outmoded and so on. But its origin which was based on custom and subsequently codified was out of necessity of the then village community and society for its preservation, integrity and maintenance of peace and security. In changed circumstances, the right of pre-emption may be called outmoded, but so long it is statutorily recognised…*
>
> *xxx xxx xxx*
>
> *37. We are in respectful agreement with the view taken in Moti Ram v. Suraj Bhan [AIR 1960 SC 655 : (1960) 2 SCR 896] . The right of pre-emption may be a weak right but nonetheless the right is recognised by law and can be allowed to be defeated within the parameters of law. A statute which affects the substantive right has to be held prospective unless made retrospective either expressly or by necessary intendment…*
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> *xxx xxx xxx*
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> *47. The result of the aforesaid discussion is that the amending Act being prospective in operation does not affect the rights of the parties to the litigation on the date of adjudication of the preemption suit and the appellate court is not required to take into account or give effect to the substituted Section 15 introduced by the amending Act."*

**12.** Learned counsel for the petitioners has submitted that the Hon'ble Supreme Court has held in paragraph 13 of the said judgment that in view of the aforesaid amendment of the year 2019, the entire pre-emption proceeding stood abated. Paragraph 13 of the aforesaid judgement is quoted as under:-

> *"13. Consequently, the present appeals are allowed. The entire pre-emption proceedings stand abated. It shall be open to the respondents to withdraw 10% of the amount deposited by them in terms of Section 16 of the Act in accordance with law."*

**13.** Learned counsel for the petitioners has submitted that during the pendency of the LPA, the Act of 1961 was amended which was repealed and this subsequent development could not be brought to the notice of this Court at the time of decision of LPA and therefore, in view of the observation made by Hon'ble Supreme Court, the present review petition has been filed.

**14.** He has further submitted that aforesaid Bihar Act of 1961 is deemed to have been adapted by the State of Jharkhand under Section 85 of the Bihar Re-organization Act, 2000 and once the Bihar Act of 1961 has been amended in the year 2019, the proceedings of pre-emption initiated prior to reorganization and creation of state of Jharkhand also stood abated in terms of the Bihar Amendment in the year 2019.

**Findings of this Court.**

**15.** The connected judgement which was challenged in the L.P.A. No. 563 of 2019 was arising out of writ petition being W.P.(C) No. 1582 of 2019. The said writ petition was filed challenging the order dated 19.11.2018 passed in L.C. Revision no. 44 of 2017 vide W.P(C) Filing No. 2865 of 2019 on 29.03.2019 and registered on 01.04.2019. Accordingly, on the date of coming into force of Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) (Amendment) Act 2019 on 25.02.2019, no case was pending.

**16.** However, the provisions of Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) (Amendment) Act 2019 published in Bihar gazette on 25.02.2019 is quoted as under:-

> *"**The Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) (Amendment) Act, 2019***
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> ***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) (Amendment) Act, 2019.*
>
> *(2) It shall extend to the whole of the State of Bihar.*
>
> *(3) It shall come into force immediately.*
>
> ***2. Amendment in Section 16 of the Act, 1961. –** (1) Sub Section (3) of Section-16 of the said Act is hereby repealed.*
>
> *(2) In the Section-16 of the said Act, the following new sub section-(4) shall be added:-*

> *"(4)(i) After the repeal of sub section-(3) of Section-16 of this Act, all cases or proceedings pending before the State Government, the Board of Revenue, the Bihar Land Tribunal, the Divisional Commissioner, the Collector, the Additional Collector, the Deputy Collector Land Reforms or in any other Court, shall be deemed to be abated.*
> *(ii) Pursuant to the repeal of sub section-(3) of Section-16 of this Act, any purchase money together with a sum equal to 10% thereof, already legally deposited shall be refunded, without any interest, to the depositor."*

**17.** After hearing the learned counsel for the petitioners and while considering the aforesaid development which has been indicated by the learned counsel for the petitioners i.e. amendment in Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act 1961 in the year 2019 vide Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) (Amendment) Act 2019, it is not in dispute that no such Act repealing Section 16(3) of the Act of 1961 has been passed by the State of Jharkhand.

**18.** This Court is of the considered view that Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) (Amendment) Act 2019 has no applicability in the State of Jharkhand and the parties are to be governed by the laws applicable and amended from time by the State of Jharkhand including those which were adapted by the newly created State of Jharkhand pursuant to Bihar Reorganization Act, 2000.

**19.** The repeal of Section 16(3) of the Act of 1961 by State of Bihar, post reorganization of state, has no applicability in the State of Jharkhand and the parties continue to be governed by the provisions of Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act 1961 as adapted by the State of Jharkhand upon reorganization of State of Bihar and creation of State of Jharkhand with effect of 15.11.2000.

**20.** The reliance by the petitioners on the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land)

(Amendment) Act 2019 is misplaced. It cannot be said that the proceedings arising out of right of pre-emption within the territory of the State of Jharkhand would be governed by the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) (amendment) Act 2019. The aforesaid would be the position in law even if the initial proceedings regarding pre-emption had commenced prior to creation of State of Jharkhand which was decided in the present case in the year 1993.

**21.** The judgments which the learned counsel for the petitioners have relied upon and are placed on record are all arising out of the proceeding from the State of Bihar.

**22.** This Court is of the view that the aforesaid subsequent development in the State of Bihar after creation of State of Jharkhand by virtue of enactment of Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) (Amendment) Act 2019 [Annexure-1] has no applicability to the cases arising in the area falling within the State of Jharkhand and therefore, no grounds for review have been made out, on the basis of the aforesaid subsequent development vide Annexure-1.

**23.** The Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) (Amendment) Act 2019 has no applicability to the areas falling under the State of Jharkhand. It is the state of Jharkhand who has the exclusive jurisdiction to amend or enact laws for the territories falling within the state of Jharkhand which otherwise fall within the legislative competence of the state.

**24.** The sole point raised by the learned counsel for the petitioners during the course of arguments seeking review of the order passed in LPA No. 563 of 2019 on the basis of annexure-1 is devoid of any merits.

**25.** Further, it has been held by the Hon’ble Supreme Court as quoted above that the right of pre-emption may be a weak right, but nonetheless the right is recognized by law and can be allowed to be defeated within the parameters of law. The argument of the learned counsel for the petitioners that right of pre-emption is violative of

Article 14 and 21 cannot be accepted as the parties are governed by law , namely, Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act 1961 as adapted in the State of Jharkhand, which is still in force with respect to the areas falling within the State of Jharkhand.

**26.** As a cumulative effect of the aforesaid findings, this Review Petition is hereby dismissed.

**27.** Pending I.A., if any, is closed.

**(Anubha Rawat Choudhary, J.)**

**(Pradeep Kumar Srivastava, J.)**

*10.07.2026*
*Rakesh/-*
*Uploaded on:-14.07.2026*