

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.15244 of 2019**

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1. Suruj Pal @ Suraj Pal son of Somaru Pal resident of Village- Kota, P.S. Kuchhila, District- Kaimur at Bhabhua.
  2. Ambika Pal son of Somaru Pal resident of Village- Kota, P.S. Kuchhila, District- Kaimur at Bhabhua.
  3. Jang Bahadur Pal son of Somaru Pal resident of Village- Kota, P.S. Kuchhila, District- Kaimur at Bhabhua.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Revenue and Land Reforms Department of Bihar.
2. Jai Nath Singh son of Anirudh Singh resident of Village- Kota, P.O.- Dihila, P.S. Kuchhila, District- Kaimur at Bhabhua.
3. Bindhyachal Singh son of Late Bhrigunath Singh resident of Village- Ujagara, P.S. Kudra, District- Kaimur at Bhabhua.
4. Kailash Singh son of Late Padarath Singh resident of Village- Ujagara, P.S. Kudra, District- Kaimur at Bhabhua.
5. Prayag Singh son of Late Padarath Singh resident of Village- Ujagara, P.S. Kudra, District- Kaimur at Bhabhua.

... .. Respondent/s

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**Appearance :**

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| For the Petitioner/s | : | Mr.Dr. Kislay                      |
| For the State        | : | Mr.Rishi Raj Sinha (SC-19)         |
|                      |   | Mr. Birendra Pd. Singh AC to SC 19 |

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**CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH**

ORAL ORDER

5      05-08-2019                      Though, the case has been listed with office notes, pointing out certain defects, considering the nature of dispute involved, ignoring the said defects, I have proceeded to dispose of the writ application, after hearing the learned counsel for the parties.

An order dated 16.07.2018, passed by the learned Chairman, Bihar Land Tribunal, Patna (for short ‘the



Tribunal'), has been put to challenge in the present writ application. The said order arose out of a proceeding under Section 16(3) of Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961(for short 'the Act'), which provision has since been repealed, but after the said decision of the Tribunal dated 16.07.2018. The Tribunal has sustained the claim of the private respondents of pre-emption and has affirmed the orders passed by the appellate authority and the revisional authority, allowing the claim of pre-emption. The petitioners were purchasers of the lands, in question.

Though, the order of the Tribunal was passed in July, 2018, this writ application has been filed on 26.07.2019, putting the order of the Tribunal to challenge, seemingly with the hope for availing the benefit arising out of the subsequent amendment in the Act, whereby Section 16(3) of the Act has been repealed, new sub-section (4) has been added in Section 16 of the Act, providing that '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.’

The said statutory abatement, in my view, shall have no effect on the proceeding already concluded. The question of abatement would have arisen had any proceeding been pending. So far as the case of the petitioner on merit is concerned, the facts have been elaborately noted in the impugned order.

Resisting the claim of pre-emption, the petitioners had asserted that by purchasing another piece of land, adjacent to the land, against which pre-emption was claimed, they themselves had acquired the status of adjoining *raiya*s. This aspect has been dealt with by the learned Chairman of the Tribunal, with reference to a decision of this Court reported in **2008(2) PLJR 409 (Udai Narain Singh Vs. State of Bihar)** and has recorded a conclusion that a purchaser by purchasing another part of the same land on the same date from the same vendor cannot be said to have neutralized the claim of pre-emption. The decision of this Court in case of **Jitendra Singh Vs. State of Bihar**, reported in **2016(1) PLJR 577** also supports the same view.

Resultantly, this writ application fails. There is no legal infirmity in the impugned order nor Section 16(4) of



the Act shall have any application, in the facts and circumstances of the case.

The writ application is accordingly dismissed.

**(Chakradhari Sharan Singh, J)**

HR/-

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