

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11678 of 2019

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Md. Shamim Akhtar Son of Md. Altaf Hussain, Resident of Village Baidanda,
P.S. Barari District- Katihar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Divisional Commissioner, Purnea Division,
Purnea.
2. Md. Kasumudin Son of Hazi Islamuddin, Resident of Baidanda Naya Tola,
P.S. Barari, District- Katihar.
3. Abdul Rashid, Son of Hazi Islamuddin, Resident of Baidanda Naya Tola,
P.S. Barari, District- Katihar.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Ajit Kumar Singh
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

2 01-07-2019 Heard the learned counsel for the parties

The facts, which the petitioner admits, are that he had filed an application, seeking pre-emptory right under Section 16(3) of the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961 (for short 'the Act of 1961') in the wake of a sale deed executed on 24.07.1976 in favour of respondent no.3. The petitioner's application under Section 16(3) of the Act of 1961 was allowed by an order dated 04.09.2004, passed by the Deputy Collector Land Reforms in Case No. 54 of 2004-05, holding him to be an adjoining *raiyat*. He accordingly directed the respondents to ensure that a



registered sale deed is executed in favour of the petitioner in terms of the provisions under Section 16(3) of the Act of 1961. The said order of the Deputy Collector Land Reforms was assailed before the Collector, Katihar, which was dismissed by an order dated 20.04.2018, passed in Land Ceiling Case No. 387 of 2004-05. A revision petition was thereafter filed before the Divisional Commissioner, Purnea, giving rise to Revision Case No. 52 of 2018. When the said revision application was pending, Section 16(3) of the Act of 1961 itself came to be repealed by the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) (Amendment) Act, 2019 with effect from 25.02.2019. Section 2 of the said provision is relevant and is being extracted hereinafter:-

“Amendment in Section-16 of the Act, 1961.- (1) Sub section (3) of Section 16 of the said Act is hereby repealed.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 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.”

Learned counsel for the petitioner has submitted that the said amendment, notified on 25.02.2019, shall have no application in the petitioner’s case, which was decided in his favour upto the appellate stage, much prior to coming into force of the said Repealing Act.

I am unable to accept the said contention of the learned counsel for the petitioner.

The language of Section 2 of the Act, as noted above, is unambiguous and clearly states that consequent upon repeal of sub-section (3) of Section 16 of the Act of 1961, 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. Clause (ii) of sub-section (2) further clarifies that any purchase money, together with a sum equal to 10% thereof, already legally deposited shall be refunded, without any interest, to the depositor.

In the light of the above, the relief, which the petitioner is seeking, cannot be granted. This writ application is accordingly dismissed.

(Chakradhari Sharan Singh, J)

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