

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.23139 of 2019

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Nawal Kishore Singh, aged about 56 years, Gender-Male, Son of Late Rambalak Singh, resident of Village- Tetua, Police Station- Arti, District- Gaya

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary, General Administration Department, Government of Bihar, Patna
2. The Principal Secretary, Revenue & Land Reforms Department, Government of Bihar, Patna
3. The Additional Secretary, Revenue & Land Reforms Department, Government of Bihar, Patna
4. The District Magistrate, Gaya
5. The Additional Collector, Gaya
6. The Deputy Collector Land Reforms, Nimchak, Bathani, Gaya
7. The Circle Officer, Atri, Gaya
8. Chandramanti Devi, Wife of late Gopal Thakur, resident of Village- Koluhara, Police Station- Atri, District- Gaya
9. Jamuna Manjhi, Son of late Vishnu Manjhi, Resident of Village- Tetua, Police Station- Atri, District- Gaya

... .. Respondents

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Appearance :

For the Petitioner : Mr. Ajay Kumar, Advocate
For the State : Mr. Rakesh Kumar Srivastava, AC to GP 15

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH

ORAL JUDGMENT

Date : 29-11-2019

Heard learned counsel for the petitioner and learned AC
to GP 15 for the State.

2. The petitioner has moved the Court for the following
reliefs:

*“That this petition is being filed for
issuance of a writ in the nature of certiorari for
quashing the order dated 07.06.2019 passed in*



Appeal Case no. 16/2013-14 by the respondent no.5, whereby the appeal preferred by the respondent no.8 has been dropped in view of the notification no. 1569 dated 25.02.2019. Further, it has been directed that the purchase money together with a sum equal to 10% thereof deposited by the depositor should be refunded.

The petitioner further prays for issuance of a writ in the nature of mandamus commanding the respondents concerned to execute registered sale deed in respect to the land in question in favour of the petitioner pursuant to the order dated 03.08.2013 passed by the Respondent no. 6 in Case no. 01/2013-14 whereby the petitioner's case for pre-emption in relation to the land in question has been allowed and the opposite party no. 1, herein respondent no.8 has been directed to recovery the land in favour of the petitioner within thirty days.

Further the petitioner prays for issuance of any other writ(s)/Order(s)/ and/ or direction(s) to which the petitioner is found entitled."

3. The petitioner had filed an application under Section 16(3) of the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961 (hereinafter referred to as the 'Act'). The Court of DCLR had allowed the application which was challenged by the original vendee and by the impugned order dated 07.06.2019, it has been held that no relief can be granted to the petitioner and he has been permitted to withdraw the amount which he had deposited while making such application.

4. Learned counsel for the petitioner submitted that the application under Section 16(3) of the Act was also in terms of the



agreement made by the original land owner with the petitioner for sale but ignoring the same, the sale was made to a third person due to which the petitioner had filed an application under Section 16(3) of the Act. Learned counsel submitted that the petitioner had won before the DCLR in the year 2013 itself and the appeal filed by the private respondent was kept pending for many years for which he is not responsible.

5. Learned counsel for the State submitted that Section 16(3) of the Act has since been repealed by the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) (Amendment) Act, 2019 and with effect from 25.02.2019, all matters which were pending before any authority or Court stand abated. Thus, it was submitted that rightly the Appellate Court on 07.06.2019 has held to this effect as the matter was pending before him on 25.02.2019 and, thus, being covered by the amendment, automatically resulted in abatement of the claim itself under Section 16(3) of the Act.

6. In the aforesaid background, the Court does not find any error in the order.

7. Accordingly, the application stands disposed off.

8. However, it shall be open to the petitioner to agitate before the Civil Court of competent jurisdiction with regard to his



claim which is based on prior agreement to sale with the petitioner of the land which subsequently stood transferred to a third party.

9. At this juncture, learned counsel for the petitioner submitted that the amendment by which Section 16(3) of the Act has been deleted is under challenge before this Court in CWJC No. 15060 of 2019.

10. In such view of the matter, the Court would only observe that if the aforesaid writ petition is allowed, the petitioner shall be at liberty to renew his prayer before the authority concerned.

(Ahsanuddin Amanullah, J)

Vikash/Ranjit

AFR/NAFR	
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