

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10117 of 2020

Premchand Rai Son of Late Ramashish Rai Resident of Village- Sahbazpur,
P.S. Bihta, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Collector-cum-District Magistrate, Patna.
3. The Deputy Collector, Land Reform, Danapur, Patna.
4. Circle Officer, Bihta, Patna.
5. Ishwar Dayal Rai Son of Late Bijendra Rai Resident of Village Sahbazpur,
P.O. and P.S. Bihta, District- Patna.
6. Jeera Devi W/o Ram Sagar Prasad Resident of Village Sahbazpur, P.O. and
P.S. Bihta, District- Patna.
7. Ram Sagar Prasad Son of Late Raghunath Prasad Resident of Village
Sahbazpur, P.O. and P.S. Bihta, District- Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Md. Nazir Ansari Advocate
For the Respondent/s : Mr.Lalit Kishore (Ag)

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

5 08-08-2022 Heard the parties.

The petitioner has made following prayer:

“That the instant writ petition is being filed in this Hon'ble Court against the order dated 26.7.2019 passed by the learned Land Reforms Deputy Collector, Danapur, Patna (contained in Annexure-7) whereby the learned Land Reform Deputy Collector closed the case of the petitioner for the possession of the land in question by way of a circular published in Bihar Gazette No. 270 dated 25.2.2019 whereby and where under amendment in the sub section (3) of Section 16 of the Bihar Land Reforms Act 1961 were happened by way of Bihar Land Reforms Act 2019 and sub section 16(3) has been abated as contained in annexure-8 to this petition while petitioner has perfect right, title as per order dated 16.6.2009 and 13.5.2010 passed by Land Reforms Deputy Collector, Danapur in Land Ceiling Case No.1/08-09 u/s 16(3) by an appropriate writ, order or direction commanding the respondent in the nature of Certiorari for quashing the order dated 26.7.2019.”



Learned counsel for the State has submitted that this writ petition is not maintainable in view of the law laid down by the Supreme Court in the case of ***Punydeo Sharma & Ors vs Kamla Devi & Ors. reported in 2022(1) BLJ SC 435*** and he submits that in this regard para 11 and 12 of the Judgment of the Supreme Court may be considered.

Paragraph 7 of the Judgment reads as follows:

“We have heard the learned counsel for the parties and find that the right of pre-emption, after the Amending Act, abates as sub-section 4(i) is specifically dealing with all pending proceedings before whatsoever forum. Therefore, the right of pre-emption will stand abated on and after 25.2.2019 including the proceedings which were pending before any forum.”

In the light of the above, when the petitioner has no legal right of pre-emption, this Court cannot enforce any order passed by any authority for possession.

This application is disposed of.

The petitioner has liberty to withdraw the amount deposited before the Authorities in accordance with law.

If such an application is filed by petitioner, the same shall be disposed of by the respondent within four weeks from its filing and it is expected that the amount is returned to the petitioner expeditiously.

(Sandeep Kumar, J)

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