

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2734 of 2018

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1. Om Prakash Yadav and Anr Son of Sri Gandhi Yadav.
 2. Dipak Yadav, Son of Sri Gandhi Yadav, Both Resident of Village- Tarawa, P.O.- Siwan, P.S.- Siwan Muffasil, District- Siwan.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Revenue and land Reforms Dept. Govt. of Bihar, Patna.
2. Deo Narayan Prasad @ Deo Narain Chaudhary, Son of Mahendra Chaudhary.
3. Jyoti Chaudhary, Son of Mahendra Chaudhary.
4. Muni Lal Chaudhary, Son of Mahendra Chaudhary.
5. Manager Chaudhary, Son of Late Ram Janam Chaudhary.
6. Most Rikbia Devi, W/o Late Ram Jatan Chaudhary, Resp No. 2 to 6 Resident of Village- Tarwa, Pargana Bara, P.S.- Siwan Muffasil, District- Siwan.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Ravi Bhushan Verma, Advocate
For the Respondent/s : Mr. Md.Khurshid Alam, AAG-12

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

3 16-02-2023 Heard learned counsel for the parties.

In the instant application, the petitioners have prayed
for the following relief(s):-

“That this application is being filed for quashing the order dated 16.12.2016 passed by Sri K.K. Pathak, the Additional Member, Board of Revenue Bihar in Revision (Pre-emption) Case No. 123/2005 whereby and whereunder his honour has pleased to quash the order of the learned D.C.L.R. Siwan passed on 05.10.2002 as



well as the order dated 02.05.2005 passed by the learned collector siwan and uphold the order passed by the learned D.C.L.R. Siwan on 27.06.98.”

At the outset it is submitted by learned counsel for the respondents-State that in view of the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) (Amendment) Act, 2019 read with judgment of the Hon’ble Supreme Court in the case of **Punyadeo Sharma and Ors. Versus Kamla Devi and Ors.** reported in **2022(1) BLJ 434 (SC)**, the instant application which arises out of pre-emption application stands abated.

Relevant paragraphs of the aforesaid judgment in the case of **Punyadeo Sharma** (supra) is quoted hereinbelow:

“4. The question examined by the Division Bench of the High Court was whether an application for pre-emption was filed within three months of the registration as required by Section 16(3) of the Act or was it required to be filed within three months of the day of execution of the sale deed i.e. 9.2.1990. However, the said question does not survive for consideration in view of the subsequent development whereby the right of pre-emption itself has been taken away by the Bihar Act No. 6 of 2019 when the Act was



amended. The Amending Act reads thus:

“The Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) (Amendment) Act, 2019

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.

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7. 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.

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12. Any other Court is wide enough to include the Constitutional Courts i.e. the High Court and the Supreme Court. Thus, keeping in view the object of the Statute, purpose to be achieved and the express language of the Amending Act, all proceedings of pre-emption under the Act pending before any authority under the Act or before any Court shall stand abated.”

In view of the above, it is ordered that the instant application stands abated.

It is further directed that in terms of the aforesaid order, it shall be open to the petitioner herein to withdraw the amount



deposited by him in terms of section 16 of the Act in accordance with law.

The application stands disposed of as having abated.

(Partha Sarthy, J)

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