

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4918 of 2018

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1. Raj Nandan Singh
 2. Rajniti Singh
 3. Naresh Singh
 4. Sanjay Singh, all sons of Murli Singh
 5. Kiran Kumari, sister of Sanjay Singh, daughter of Murli Singh, Resident of Village P.O. - Babhangama, PS District - Lakhisarai.

... .. Petitioner/s

Versus

1. The State Of Bihar through Principal Secretary, Revenue Department, Govt. of Bihar, Patna.
2. The Commissioner, Munger Division, Munger.
3. The Collector, Lakhisarai.
4. L.R.D.C., Lakhisarai.
5. Chhiteshwar Singh Son of Jano Singh Resident of Village P.O. - Bhabangama, PS District - Lakhisarai.
6. Smt. Kranti Devi Wife of Ram Sagar Singh Resident of Village P.O. - Bhabangama, PS District - Lakhisarai.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Arvind Kumar Sharma, Advocate
For the Respondent/s : Mr. Raj Kishore Roy, GP-18

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

2 12-05-2023

1. Heard learned counsel for the parties.

2. In the instant application, the petitioners have
prayed for the following reliefs:-

*“That the present writ application is for issuance
of an appropriate writ in the nature of certiorari
or appropriate writ/order/direction for following
relief for quashing the order dated 04-08-2017
passed by Ld. Member, (Administrative), K.P.
Ramaiah in Bihar Land Tribunal Case No.
235/17 as contained in Annexure-5 by which*



order passed by the Divisional Commissioner, Munger dated 29-04-2015 as contained in Annexure-4 has been set aside and order passed by the L.R.D.C, Lakhisarai on 20-03-2010 in preemption case No. 5/2009-10 u/s 16 of the Bihar land ceiling Act as contained in Annexure-2 has been allowed.

(B) And for quashing the order dated 20-03- 2010 passed by the L.r.D.C, Lakhisarai in case No. 5/2009-10.

(C) Also for direction respondents to not give effect of the order dated 04-08-2017 passed in B.L.T case No. 235/17 as contained in Annexure- .. in any manner.

(D) And also for necessary relief order/orders as your lordships for which the petitioner is entitled in the eye of law and facts.”

3. 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.

4. 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.

13. Consequently, the present appeals are allowed. The entire pre-emption proceedings stand abated. It



shall be open to the respondents to withdraw 10% of the amount deposited by them in terms of Section 16 of the Act in accordance with law.” (Emphasis Supplied)

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

6. It is further directed that in terms of the aforesaid order, it shall be open to the pre-emptor herein to withdraw the amount deposited by him in terms of section 16 of the Act in accordance with law.

7. The application stands disposed of as having abated.

(Partha Sarthy, J)

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