

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2664 of 2018

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Shariayat Alam @ Shariayat Alam Khan S/o Md. John Khan, Resident of
Village- Madhopur Bairiya, P.S.- Gaunaha, District- West Champaran.

... .. Petitioner/s

Versus

1. The State Of Bihar.
2. The Administrative Member, Bihar Land Tribunal, Patna.
3. The Commissioner, Tirhut Division, Muzaffarpur.
4. The Collector, West Champaran, Bettiah.
5. The Land Reforms Deputy Collector, Narkatiyaganj, District- West Champaran.
6. Sukat Sah, S/o Late Dhani Sah.
7. Manoj Sah, S/o Late Dhani Sah.
8. Smt. Bedari D/o Late Dhani Sah.
9. Smt. Kuadar, S/o Late Dhani Sah.
10. Kinnu Mahto, S/o Jainath Mahto.
11. Gayatri Devi, W/o Kinnu Mahto, Respondent No. 6 to 11 all resident of Village- Madhopur Bairiya, P.S.- Gaunaha, District- West Champaran.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Ms. Shally Kumari, Advocate Mr. Siya Ram Shahi, Advocate
For the Respondent/s	:	Mr. Raj Kishore Roy, GP-18

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CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

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

In the instant application, the petitioner has prayed for
the following reliefs:

*“(i) For issuance of an appropriate writ in
quashing the order dated 06.09.2017 passed by
the Member Administrative, Bihar Land
Tribunal, Patna in B.L.T. Case No. 1090 of 2015
contained in Annexure- 10.*



(ii) For issuance of an appropriate writ in quashing the Order dated 14.07.2015 passed by the Divisional Commissioner, Tirhut Division, Muzaffarpur in Ceiling Pre-emption Revision Case No. 246 of 2014 whereby ad where under the order passed by the Collector, West Champaran in Pre-emption Appeal Case No. RM-90/10-11 dated 04.04.2013 has been set-aside contained in Annexure-7.

(iii) For any other relief or reliefs for which the petitioner is entitled under law as well as on the facts of the case.”

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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