

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2902 of 2018

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Bharat Parit @ Bharat Kahar Son of Sri Baharan Pandit @ Dukh Haran
Pandit Resident of Village - Chakra, P.S.- Siwan Muffasil, District - Siwan.

... .. Petitioner/s

Versus

1. The State Of Bihar.
2. The Principal Secretary, Department of Land Reforms, Govt. of Bihar, Patna.
3. The Divisional Commissioner, Saran at Chapra.
4. The District Magistrate, Siwan.
5. The Additional Collector, Siwan.
6. The Deputy Collector, Land Reforms, Siwan.
7. The Circle Officer, Sadar, Siwan.
8. Smt. Sushila Devi Wife of Late Babu Choudhary
9. Koshila Devi Wife of Lal Bachchan Choudhary Both residents of Village Post - Chakra, P.S. - Siwan Muffasil, District - Siwan.
10. Pundeo Sah, Son of late Sukan Sah
11. Ramashray Sah, Son of late Sadhu Sah
12. Tuntun Sah, Son of late Bhagrasan Sah
13. Kalawati Devi, Wife of Bharat Sah
14. Pramila Devi, Wife of Akshay Lal Sah
15. Renu Devi, Wife of Vyash Sah
16. Singashan Sah, Son of late Sukhari Sah
17. Most. Kalawati Kuar, Wife of late Kuwar Sah, all residents of Chakra, P.S. - Siwan Muffasil, District - Siwan at present residing at Alamapur Bherihari Tola, P.O. - Bahadurpur Bazar, P.S. - Jamo Bazar, District - Siwan.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Ram Binod Singh, Advocate Mr. Vipin Kumar Singh, Advocate
For the Respondent/s	:	Mr. S.C. Yadav, GP-15 Mr. Dhurjati Kumar Prasad, GP-14

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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 relief(s):-



“(i) For issuance of writ in the nature of certiorari for quashing of order dated 29-08-2017 passed by the Collector-Cum- District Magistrate, Siwan in Land Ceiling Section-16 (3) appeal case No. 175/2016-17 whereby the appeal preferred by the private respondents against the order of the Land Reforms Deputy Collector, Siwan has been allowed and the matter has been remanded back to the Court of DCLR, Siwan.

(ii) For staying the further proceeding of Land Ceiling Case No. 80/2017 initiated before the DCLR, Siwan pursuant to the order passed by the Collector-Cum-District Magistrate, Siwan.

(iii) For holding that the order dated 17-10-2016 passed by the DCLR, Siwan in Land Ceiling Case No. 62/2015-16 is in accordance with law as after considering the correct legal status of the land, he allowed the preemption application of the Petitioner.

(iv) For any other direction, which your Lordships may deem fit and proper in the facts and circumstances 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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