

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.420 of 2017

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Basant Kumar Singh Son of Late Ramdeo Singh, resident of village - Neema,
P.S. Aurangabad Moffasil, District - Aurangabad

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Divisional Commissioner Magadh Division, Gaya
3. The Additional Collector, Aurangabad
4. The Land Reforms Deputy Collector Aurangabad
5. The Bihar Land Tribunal, Patna
6. Nageshwari Devi, Wife of Jagdish Chandra Banshi,
7. Ramashish Singh, Son of Late Kamdeo Singh, Both Resident of village -
Neema, P.O. Chaukhra, P.S. Aurangabad Muffasil, District - Aurangabad

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Nand Kishore Prasad Sinha, Advocate
For the Respondent/s : Mr. Sajid Salim Khan, SC 25

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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 petitioner has prayed
for the following reliefs:

“1. That this is an application for issuance of an appropriate writ order or Direction for quashing the order dated 23-8-2016 passed by the Bihar Land Tribunal Patna in B.L.T. case No. 1237 of 2015 as contained in annexure-8 whereby and where under the application filed by the petitioner against the order dated 12-3-2015 passed by the Commissioner Magadh Division Gaya in Revision case No. 335 of 2012 as



contained in Annexure-5 dismissing the case of the petitioner for non prosecution as his arguing counsel had got accident and could not appear before the court without deciding the case on merit, has been dismissed without considering the fact that the case of the petitioner was not decided by the commissioner on merit and in that view of the matter the impugned order is not sustainable in law and thus vitiated.

2. That the petitioner is citizen of India and the facts giving rise to the present application is that the land in dispute is khata no.6 plot no.218 having an area of 7 decimals situated in village Neema of the district of Aurangabad which was owned and possessed by Ramashish Singh the vender of Respondent no. 6.”

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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