

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4057 of 1999

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Urmila Devi W/o Ramchandra Jha, Resident of Village Partapur, P.O.-
Partapur, Police Station Belsand, District- Sitamarhi

... .. Petitioner/s

Versus

1. The State of Bihar
2. Member Board of Revenue, Bihar, Patna
3. Addl. Member Board of Revenue, Bihar, Patna
4. Collector, Sitamarhi
5. D.C.L.R. Sitamarhi
6. Smt. Prabhawati Devi, W/o Sri Rajdeo Jha, resident of village Partapur,
Police Station Belsand, Distt. Sitamarhi
7. Mukesh Kumar,
8. Himesh Kumar, sons of Late Chandra Bindu Prasad
Both residents of village Partapur, P.S. Belsand, District Sitamarhi.
- 9(a) Ganesh Prasad Singh,
- 9(b) Bibhuti Prasad, both sons of Late Chandra Bindu Prasad
Both R/o village + P.O. Partapur, P.S. Belsand, Distt. Sitamarhi, Pin 843311
- 9(c) Suresh Prasad
- 9(d) Mahesh Prasad both sons of Late Chandra Bindu Prasad
All R/o Village Kailash Puri, Ward no.9, near Chandi Dham, P.O. Sitamarhi
Cant, P.S. Sitamarhi, Dist. Sitamarhi, Pin 843301
- 9(e) Sobha Sinha, D/o Late Chandra Bindu Prasad W/o Mukul Kumar Sinha, R/o
village Rasulpur Jilani Majhauria Road Near Doctor Asha Sinha Clinic,
Muzaffarpur, Ward no.2, Pin Code-842001
- 9(f) Bina Sinha, D/o Late Chandra Bindu Prasad W/o Late Amaresh Kumar
Sinha, R/o village Kailashpuri Dumara, Ward no.9, Pin Code-843301

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Mahesh Prasad 2, Advocate
For the Respondent/s : Mr. Ajay, G.A. 12

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CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

15 10-04-2023

Heard learned counsel for the parties.

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

“That this application is for quashing the



resolution dated 26.12.98 passed by Sri B. K. Singh Addl. Member Board of Revenue Bihar, Patna in Revision Case no. 221/97 contained in Annexure 5, order dated 1.9.97 passed by Collector Sitamarhi in Ceiling Appeal no. 58/ 96 contained in Annexure 4 and order dated 11.5.96 passed by D. C. L. R. Sitamarhi in Ceiling Case no. 18/ 95-96 contained in Annexure 3 where by they have allowed the preemption application filed on behalf of Respondent no.6 which was barred by Limitation, without verifying as to whether disputed land is agriculture land or not and as to whether respondent no. 6 is adjacent raiyat or not.”

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.

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)

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 pre-emptor 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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