

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.637 of 2006

1. KISHORI SINGH
2. Amrendra Kumar Singh
both sons of Late Chandradeo Singh, residents of village Manjurahi, P.S.
Aurangabad Mufassil, District Aurangabad.

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR
2. The additional member Board of Revenue Bihar, Patna
3. The Additional Collector, Aurangabad.
4. The Deputy Collector Land Reforms, Aurangabad

-----Respondents 1st Set.

5. Vijay Kumar Singh S/o Late Shiv Nandan Singh.
6. Amit Kumar Singh S/o Vijay Kumar Singh
7. Pranti Devi W/o Vijay Kumar Singh.
8. Sumit Kumar Singh S/o Vijay Kumar Singh

All resident of village Manjurahi P.S. Aurangabad Mufassil
District Aurangabad

-----Respondents II Set

9. Ram Pravesh Singh S/o Late Pandit Singh, resident of village Bharkuria
P.S. Dehri on-sona, District Rohtas, At present resident of village Manjurahi,
P.S. Aurangabad Mufassil, District Aurangabad

-----Respondent III Set

with

Civil Writ Jurisdiction Case No. 5440 of 2006

1. KISHORI SINGH
2. Amrendra Kumar Singh.
Both sons of Late Chandradeo Singh resident of village Manjurahi P.S.
Aurangabad Mufassil, District Aurangabad.

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR
2. The Additional Member Board of Revenue Bihar, Patna
3. The Additional Collector, Aurangabad.
4. The Deputy Collector Land Reforms, Aurangabad

-----Respondents 1st Set.

5. Vijay Kumar Singh S/o Late Shiv Nandan Singh.
6. Amit Kumar Singh S/o Vijay Kumar Singh
7. Pranti Devi W/o Vijay Kumar Singh.
8. Sumit Kumar Singh S/o Vijay Kumar Singh



All resident of village Manjurahi P.S. Aurangabad Mufassil
District Aurangabad

-----Respondents II Set

9. Ram Pravesh Singh S/o Late Pandit Singh, resident of village Bharkuria
P.S. Dehri on-sona, District Rohtas, At present resident of village Manjurahi,
P.S. Aurangabad Mufassil, District Auragabad

-----Respondent III Set

with

Civil Writ Jurisdiction Case No. 5475 of 2006

1. KISHORI SINGH
2. Amrendra Kumar Singh
Both sons of Late Chandradeo Singh,
resident of village Manjurahi P.S. Aurangabad Mufassil, District Aurangabad

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR
2. The additional member Board of Revenue Bihar, Patna
3. The Additional Collector, Aurangabad.
4. The Deputy Collector Land Reforms, Aurangabad

-----Respondents 1st Set.

5. Vijay Kumar Singh S/o Late Shiv Nandan Singh.
6. Amit Kumar Singh S/o Vijay Kumar Singh
7. Pranti Devi W/o Vijay Kumar Singh.
8. Sumit Kumar Singh S/o Vijay Kumar Singh

All resident of village Manjurahi P.S. Aurangabad Mufassil
District Aurangabad

-----Respondents II Set

9. Ram Pravesh Singh S/o Late Pandit Singh, resident of village Bharkuria
P.S. Dehri on-sona, District Rohtas, At present resident of village Manjurahi,
P.S. Aurangabad Mufassil, District Auragabad

-----Respondent III Set

... .. Respondent/s

Appearance :

(In CWJC Nos. 637 of 2006, 5440 of 2006 and 5475 of 2006)

For the Petitioner/s : Ms. Alka Singh, Advocate
Mr. Binod Kumar Singh, Advocate

For the State : AC to GP 27

For the Private Resp. : Mr. Gajendra Nath Ojha, Advocate

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER



10 28-03-2023

Heard the parties.

The petitioners have prayed for the following relief(s) :

“That, this is an application for issuing appropriate writ order or direction quashing the order dated 30.8.2005 passed by the respondent no.-2 dismissing the revision case no. 280/2004, the order dated 20.10.2004 passed by the respondent no.-3 dismissing the appeal cases no. 141/04-05 and the order dated 6.8.2004 passed by the respondent no.- 4 dismissing the pre-emption application filed by the petitioner giving rise to case no. 37/2002-03, and further for allowing the claim of the petitioners for enforcing his legal right of”

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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