

**IN THE HIGH COURT OF JUDICATURE AT
PATNA
Civil Writ Jurisdiction Case No.6648 of 2012**

PARAMHANS NARAYAN SINGH S/O Late Ram Kripal Singh Resident of
Village- Chakai, P.S.- Jagdishpur, Presently at Dhangain, District- Bhojpur at
Ara

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Addl. Member, Board Of Revenue, Bihar, Patna
3. The Additional Collector, Bhojpur at Ara
4. The D.C.L.R. , Jagdishpur , District Bhojpur at Ara
5. Radha Mohan Singh Son Of Late Ram Chandra Singh Resident Of Village-
Chakai, P.S.- Dhangain, District- Bhojpur at Ara
6. Upendra Singh Son Of Late Ram Chandra Singh Resident Of Village-
Chakai, P.S.- Dhangain, District- Bhojpur at Ara
7. Mostt. Sarswati Singh W/O Late Bankey Bihari Singh Resident Of Village-
Chakai, P.S.- Dhangain, District- Bhojpur at Ara
8. Sanjiv Kumar Singh @ Mantu Son Of Late Bankey Bihari Singh Resident
Of Village- Chakai, P.S.- Dhangain, District- Bhojpur at Ara
9. Pintu Kumar Singh Son Of Late Bankey Bihari Singh Resident Of Village-
Chakai, P.S.- Dhangain, District- Bhojpur at Ara
10. Smt. Janako Devi D/O Late Ram Chandra Singh, W/O Shri Radhey Shyam
Singh Resident Of Village- Manjhar, P.S. Semari District - Buxar
11. Smt. Gyanti Devi D/O Late Ramchandra Singh W/O Shri Bipin Bihari Singh
Resident Of Village- Champali, Post- Semari, District- Buxar
12. Hira Singh Son Of Late Ram Ekbal Singh Resident Of Village - Chakai,
Post- Chakwa, P.S.- Jagdishpur, At Present Dhangain, District- Bhojpur

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Murari Narain Chaudhary, Advocate
For the Respondent/s : Mr. Ajay, SC11

**CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER**

3 24-02-2023 Heard learned counsel for the parties.

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



“1.For quashing of order dated 21.10.02 passed by the learned D.C.L.R. Jagdishpur(Arrah) in L.C. case No 15 of 2001-02, whereby and where under an application for preemption filed by Late Ram Chandra Singh, the father of Respondent Nos.(5) and (6) u/s 16(3) of the Bihar Land Reforms(Fixation of Ceiling Area and Acquisition of surplus Land) Act 1961 (hereafter called "the Act"), contained in Annexure-(2) to this application has been allowed.

(ii) For quashing of order dated 3.4.06 passed by the learned Addl. Collector, Bhojpur in L.C. Appeal No 37 of 2002-03(Annexure-3) affirming the order of Annexure-(2).

(iii) For quashing of an order dated 20.12.2011 passed by the learned Addl. Member, Board of Revenue, Bihar, Patna in case No.82 of 2006(Annexure-4) whereby and whereunder the revision case, filed on behalf of the petitioner has been merely dismissed for default, without going into merits of the case.

(iv) To stay the implementation of impugned orders, during pendency of the instant writ application.

(v) For grant of any other relief or reliefs, the petitioner is entitled for.”

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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