

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8393 of 2013

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Ram Adhar Singh @ Ram Adhar Yadav son of Late Ramsaran Yadav,
residence of village Majhiawan, P.O. Chechandhi, P.S. Obra, District
Aurangabad.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Secretary Revenue and Land Reforms Bihar, Patna.
2. The Bihar Land Tribunal, Patna.
3. The District Magistrate, Aurangabad.
4. The L.R.D.C., Daud Nagar, Aurangabad.
5. Lakhn Prasad son of Late Madhuri Saran Lal, residence of village Majhiuwa, P.O. Chechandhi, P.S. Obra, District Aurangabad
6. Bajnath Singh, son of Late Damon Singh residence of village Majhiawan, P.O. Chedchandhi P.S. Obra, 1 District Aurangabad.
7. Jaso Devi wife of Siyaram Singh, residence of Majhiawan, P.O. Chechandhi, P.S. Obra, District Aurangabad.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Ramesh Kumar Singh, Advocate
For the State	:	Mr. Manish Kumar, A.C. to AAG 6
For the respondent nos.6 and 7:		Mr. Lakshmi Kant Tiwary, Advocate
		Mr. Nitesh Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

9 28-02-2023 Heard learned counsel for the parties.

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

*“That this is an application for issuance of an
appropriate writ (s), order (s), direction(s) to the
respondents to quash the order dated 28.2.2013
passed in B.L.T. case No. 6 of 2012 by Bihar
Land Tribunal, Patna and allow the order dated
11.10.2012 passed in pre-emption case No.
2/2012-13 by L.R.D.C. Daud Nagar on the
ground of no jurisdiction of Land Tribunal to*



pass such orders according to section 9 of Bihar Land Tribunal and also in view of Ramchandra Yadav V/S Anuthia Yadav 1971 BLJ R 994 and citation 1979 BLJR where the petitioner has no knowledge of execution of second deed when pre-emption case was filed the second transferee is a necessary party whether the second transferee be allowed to be added as party and the case be decided fresh.”

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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