

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14432 of 2010

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1. SACHCHIDANAND SINGH S/O Late Lakhan Singh
 2. Smt. Raj Dulari Devi W/O Sachchidanand Singh Both residents of Village Mazlishpur, P.S.Bidupur, Distt-Vaishali at Hajipur

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR
2. Tha Additional Member, Board Of Revenue Government Of Bihar, Patna
3. The District Magistrate Cum Collector Vaishali at Hajipur
4. The Deputy Collector, Land Reforms Vaishali at Hajipur
5. Savalakh Singh
6. Lala Singh both sons of Late Jamun Singh R/O Vill Majlishpur, P.S.Bidupur, Distt-Vaishali at Hajipur
7. Kailash Singh S/O Late Jamun Singh R/O Vill Majlishpur, P.S.Bidupur, Distt-Vaishali at Hajipur

... .. Respondent/s

Appearance :

For the Petitioner/s	:	None
For the Respondent/s	:	Ms. Kumari Amrita, Adv.

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

3 24-02-2023 No one appears for the petitioners.

Learned counsel for the respondents are present.

The petitioners have filed the instant writ application
for the following relief(s):-

“(i) for setting aside the order dated 30.9.2005 passed by Sri C. Ashok Vardhan, the Additional Member, Board of Revenue, Government of Bihar, Patna in Ceiling (preemption) Revision Case No. 264 of 2002 whereby the orders passed by the Collector, Vaishali dated 17.9.2002 in Ceiling (preemption) Appeal No. 53 of 2001 as well as the order passed by the Deputy



Collector, Land Reforms, Vaishali at Hajipur dated 1.10.2001 passed in Ceiling (preemption) Case No. 4 of 2001-02 was set aside and the preemption case filed by the respondent nos. 4 and 5 was allowed.

(ii) For upholding the orders dated 17.9.2002 and 1.10.2001 passed by the Collector, Vaishali and Deputy Collector, Land Reforms, Vaishali respectively. in Ceiling (preemption) Appeal No. 53 of 2001 and Ceiling (preemption) Case No. 4 of 2001-02 respectively as valid orders, deciding the case properly.

(iii) For holding that the land gifted by petitioner no. 1 to petitioner no. 2 is genuine and valid.

(iv) For further holding that respondent nos. 5 and 6 are either the boundary raiyats nor co sharers of the properties in question.”

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-emptors herein to withdraw the amount deposited by them 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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