

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12246 of 2010

1. SHIV NANDAN YADAV
2. Shree Krisha Yadav
3. Dharvendra Yadav @ Nunulal Yadav
4. Bindeshwar Yadav
5. Awadhesh Rai @ Adhiklal Yadav
All sons of Ram Gulam Yadav R/O Vill.- Dumarkola, P.S.- Khaira, Distt.-
Jamui At Present Residing At Vill.- Dharmpur, P.O.- Dumarkola, P.S.-
Khaira, Distt.- Jamui

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR through the Collector, Jamui
2. The Additional Member Board Of Revenue Old Secretariat, Patna
3. The Divisional Commissioner, Munger
4. The Additional Collector, Jamui P.O.P.S. & Distt.- Jamui
5. The Deputy Collector Of Land Reforms, Jamui P.O.P.S. & Distt.- Jamui
6. Ram Janki Bihari Sharan @ Sharma
7. Kanak Bihari Sharan
8. Saket Bihari Sharan Respondent no.6 to 8 sons of Late Braj Nandan Prasad
R/O Vill.- Dharampur, P.O.- Dumarkola, P.S.- Khaira, Distt.- Jamui
9. Shiv Nandan Prasad
10. Shyam Nandan Prasad
Respondent no.9 and 10 sons of Late Bhola Pd. R/O Vill.- Dharampur, P.O.-
Dimarkola, P.S.- Khaira, Distt.- Jamui

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Prakash Mahto, Adv.
For the Respondent/s : Mr. Ajay, Adv.

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

5 24-02-2023 Heard learned counsel for the parties.

In the instant application, the petitioners have prayed
for the following reliefs:

“That, through this application, the petitioners seek



indulgence to this Hon'ble court for issuance of appropriate writ(s), order(s) and direction (s) especially for issuance of writ of certiorary for quashing the order dated 20.6.1998 (Annexure-2) passed by the Deputy Collector of Land Reforms, Jamui (Respondent no.5) in the land ceiling case no.01/1997-98 whereby and whereunder right of pre-emption was allowed in favour of the Pre-emptors/respondent no. 6 to 8, directing the vendees/petitioners to execute sale-deed of land in dispute in favour of the pre-emptors within 30 days without considering that a pucca dwelling house was made by the vendees/ petitioners over the some part of the land in dispute and for quashing the order dt. 20.4.2000 (Annexure-3) and 06.5.2009 (Annexure-5) passed by the Additional Collector, Jamui (Respt.no.4) in land ceiling Rev. No. 38/1998-99 and Misc, No. 38/1998-99 whereby and whereunder order dt. 20-6 1998 was confirmed and Misc. case no.38/1998-99 was rejected without mentioning plot enquiry in which a Pucca house of the vendees/petitioners was found himself for which he was directed by a remand order dt. 29.6.2004 (Ann.-4) passed by the Additional Member Board of Revenue Patna (Respt.no.2) in Rev. case no.120/2000 respectively and for quashing the order dt. 06.01.2010 (Ann. 6) passed by the Divisional Commissioner, Munger (Respt no.3) in Land ceiling Rev. No. 30/2009. whereby and whereunder he was pleased to reject the revision petition filed on behalf of the Vendees/petitioners and further be pleased to command the respondents -authorities to stay the operation of above Orders passed by the courts below and grant other



relief(s) to the petitioners for which they are legally entitled.”

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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