

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8813 of 2012

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1. SAMSAD ALAM and ANR Son Of Late Tahir Hussain Resident Of Village-Deoria Tola Baluwa, P.S.-Maharajganj, District-Siwan
 2. Nausad Alam Son Of Late Tahir Hussain Resident Of Village-Deoria Tola Baluwa, P.S.-Maharajganj, District-Siwan

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR
2. Noor Md. Ansari S/O Late Tewal Mian Resident Of Village-Deoria Tola Baluwa, P.S.-Maharajganj, District-Siwan
3. Bibi Noor Nihar W/O Late Tayab Hussain Resident Of Village-Deoria Tola Baluwa, P.S.-Maharajganj, District-Siwan
4. Istekhan Anshari S/O Late Tayab Hussain Resident Of Village-Deoria Tola Baluwa, P.S.-Maharajganj, District-Siwan
5. The Member Board Of Revenue, Old Secretariat, Patna
6. The Collector Cum District Magistrate, Siwan, District-Siwan

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Sanjay Kumar Singh, Advocate
For the State	:	Mr. Rajeshwar Singh, GA 10
		Mr. Jitendra Kumar, AC to GA 10
For the Pvt Resp	:	Mr. Md. Aslam Ansari, Advocate

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

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

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

*“1. That this is an application is being filed in
the nature of Certiorari for quashing the order
dated 8/12/2010, 21/4/2011 and 4/5/2011 passed
by Additional Member Board of Revenue Patna,
by which the case has been dismissed for default*



and rejected the restoration application which was filed for restoration of the Board case no. 106 of 2005.”

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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