

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15732 of 2012

Bindeshwari Sharma S/O Late Arjun Sharma R/O Village- Dhuwabai, P.S.-
Sanokhar Sanhaula, District- Bhagalpur

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Commissioner, Bhagalpur
3. The Additional Collector, Bhagalpur
4. The L.R.D.C., Kahalgaon, Bhagalpur
5. Gauri Shankar Singh S/O Late Girmohan Singh R/O Village- Dhuwabai,
P.O.- Dhuwabai, P.S.- Sanokhar Sanhaula, District- Bhagalpur
6. Mukesh Kumar Singh S/O Gauri Shankar Singh R/O Village- Dhuwabai,
P.O.- Dhuwabai, P.S.- Sanokhar Sanhaula, District- Bhagalpur
7. Bhagwat Yadav S/O Late Matru Yadav R/O Village- Dhuwabai, P.O.-
Dhuwabai, P.S.- Sanokhar Sanhaula, District- Bhagalpur
8. Jaihind Yadav S/O Late Matru Yadav R/O Village- Dhuwabai, P.O.-
Dhuwabai, P.S.- Sanokhar Sanhaula, District- Bhagalpur

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Madhav Krishna, Advocate
For the Respondent/s	:	Mr. G.K. Agrwal, Advocate

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

6 25-02-2023 Heard learned counsel for the parties.

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

*“That an appropriate writ in the nature of
certiorari may be issued (a) to quash the order
dated 2.11.04 passed in L. C. case no. 4/2004-05
as contained in annexure-2 whereby and where
under the L.R.D.C. passed an ex-parte order and
directed the petitioner to execute the sale-deed in
favour of the respondent no. 7 and 8 without*



following the provisions of law laid down in the Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961, (b) to quash the order dated 05.12.2007 passed in L. C Appeal no 08/2006-07 as contained in annexure-3 whereby and where under the Additional Collector dismissed the said appeal considering the same as time barred without considering the case on merit and the documents on record, (c) to quash the order dated 03.09.2009 passed in L. C. Revision no 06/2007-08 as contained in annexure-4 whereby and where under the Commissioner, Bhagalpur dismissed the said revision petition without examining the facts in real perspective and the documents on record and (d) to quash the order dated 17.12.2009 passed in LC. Revision no. 06/2007-08 as contained in annexure-4 whereby and where under the Commissioner, Bhagalpur adamant on his order and dismissed the said review petition without considering the facts and circumstances of the case.

II Any other appropriate writ/writs, order/orders, direction directions for grant of any other reliefs to which the petitioner may be found entitled under the facts & circumstances of the case may be issued.”



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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