

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17861 of 2019

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Shankar Mahto @ Ramashankar Mahto S/o Late Yamuna Mahto Vill.-
Gonawan, p.s.- Harnaut, Distt.- Nalanda

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Revenue and Land Reform Department, Patna
2. Commissioner Patna Division, Patna
3. Member Board of Revenue Patna
4. Additional Collector Nalanda at Bihar Sharif
5. Deputy Collector Land Reforms, Bihar Sharif, Nalanda
6. Mithilesh Kumar s/o Maheshwar Mahto Vill.- Gonawan, P.s.- Harnaut, Distt.- Nalanda
7. Prafful Prasad Sharma S/o Late Devi Prasad Vill.- Gonawan, P.s.- Harnauth, Distt.- Nalanda

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Pramod Kumar
For the Respondent/s	:	Mr.Rishi Raj Sinha (Sc19)
		Mr. Rajendra Narain, Sr. Adv.

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

3 07-02-2023

I.A. No. 1 of 2022

The present interlocutory application has been filed for deletion of the name of the sole petitioner, who died on 04.02.2020 during pendency of this application leaving behind his legal heirs, whose details are mentioned in paragraph no. 2 of the interlocutory application.

Taking into consideration the submissions made by learned counsel for the petitioner and the nature of prayer made in the interlocutory application, the same is allowed.



Accordingly, the name of the petitioner - Shankar Mahto @ Ramashankar Mahto is directed to be expunged from the array of parties and in his place his legal heirs whose details are mentioned in paragraph no. 2 of the interlocutory application is substituted.

The present writ application has been filed challenging the order dated 17.05.2019 / 29.05.2019 passed by Commissioner, Patna Division in Land Ceiling Revision No. 97 of 2015 by which the revisional authority has held that the case has abated in view of deletion of Section 16(3) of the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961 by the amending Bihar Act No. 6 of 2019 which came into force with effect from 23th February, 2019.

Learned counsel for the petitioner submits that High Court is a Constitutional Court and as such proceedings before the High Court will not abate inasmuch as ceiling case was initiated much prior to the coming into force of the Amending Act.

Mr. Rajendra Narain, learned senior counsel appearing for the private respondent no. 6 as well as learned counsel for State relying upon the judgment of the Hon'ble



Supreme Court rendered in SLP (Civil) Nos. 15694 - 15701 of 2017 *Punyadeo Sharma & Ors. Versus Kamla Devi & Ors.* submit that similar question was under consideration before the Hon'ble Supreme Court and the Hon'ble Supreme Court in paragraph nos. 12 & 13 of the said judgment has held that all proceedings of pre-emption pending before any Authority under the Act or before any Court shall stand abated. It has further been held that it shall be open to the respondents to withdraw 10% of the amount deposited by them in terms of the Act in accordance with law.

In view of the aforesaid facts and the law laid down by the Supreme Court, in my opinion, no interference in the order passed by Revisional Authority is required.

Section 16(4)(ii) of the Amending Act, 2019 prescribes that "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."

In view of the aforesaid provision, Deputy Collector Land Reforms, Bihar Sharif, Nalanda / respondent no. 5 is directed to refund Rs. 2,06,000 + 10 % of the consideration amount to the petitioner positively within a period of eight



weeks from the date of receipt / production of a copy of this order.

With the aforesaid observation and direction, this writ application is disposed of.

(Anil Kumar Sinha, J)

praful/-A.F.R.

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