

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15554 of 2018

=====

Ram Lakhan Prasad @ Ram Lakhan Mahto Son of Late Ritoo Prasad,
Resident of Village- Khurmawan, P.S.- Barachatti, District- Gaya.

... .. Petitioner/s

Versus

1. Smt. Sibiya Devi and Ors W/o Sheo Nandan Prasad,
2. Jai Prakash Prasad, S/o Bishun Mahto (Deceased), Both resident of Village-
Kurmawan, P.S.- Barchatti, District- Gaya.
3. Binod Prasad, S/o Late Jageshwar Mahto,
4. Manoj Prasad, S/o Late Jageshwar Mahto,
5. Matiya Devi, W/o Jageshwar Mahto (Deceased), No. 3 to 5 all are resident
of Village Sabal Bigha, P.O.- Kurmawan, P.S.- Barchatti, District- Gaya.
6. The State of Bihar through the Divisional Commissioner, Magadh Division,
Gaya.
7. The Divisional Commissioner, Magadh Division, Gaya.
8. The District Magistrate, Gaya.
9. L.R.D.C., Gaya.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr.Ray Saurabh Nath
For the Respondent/s : Mr.Raj Kishore Roy- Gp18

=====

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL JUDGMENT

Date : 19-11-2024

In the instant petition, petitioner has prayed for
the following relief(s):-

*That the writ petition
is being filed for quashing the order
passed by The Hon'ble Chairman, Mr.
Justice V. Nath in BLT Case no. 879
of 2017 vide order dated 08.05.2018
whereby the Hon'ble Tribunal had
upheld the order passed by the
Commissioner, Magadh Division,
Gaya in Land Ceiling Revision Case
No. 198/2013 dated 11.09.2017, the*



Additional Collector, Gaya, order dated 25.04.2013 passed in Misc. (Ceiling) Appeal no. 23/2003/89/2011 and order passed by LRDC, Sherghati dated 13.10.2003 passed in Land Ceiling Case no. 01/2001-02.

2. Learned counsel for the petitioners submit that petitioners have filed an application under Section 16(3) of the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961 before the DCLR, Sherghati, Gaya in Land Ceiling Case No. 01/2001-02, which was rejected vide order dated 13.10.2023. Petitioner approached the Additional Collector, Gaya in Ceiling Appeal No. 23/2003/89/2011 and which was rejected vide order dated 25.04.2013. Against the order of appeal, petitioner approached the learned Commissioner, Magadh Division, Gaya in Revision Case No. 198 of 2013 which was also rejected. Thereafter, petitioner against the order of the learned Commissioner approached BLT in B.L.T. Case No. 879 of 2017, which was dismissed vide order dated 08.05.2018 affirming the order passed by the aforesaid authorities and being aggrieved by the order of BLT, petitioner has approached to this Court. Petitioner is claiming preemption over the land appertaining to Thana No. 198, Khata No. 25, Plot No. 104, situated at Mauza – Sunder Kumbhari, P.S. Barachatti



on the basis of his status as adjacent raiyat as mentioned in the sale deed (Annexure-1) where the name of the petitioner has been mentioned in the southern boundary of the vended land.

3. Learned counsel for the State submits that present writ has been filed on 04.08.2018 for quashing the order dated 08.05.2018 passed in BLT Case No. 879 of 2017 and during the pendency of this writ, provision of 16(3) of the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961 was repealed by amendment in 2019 and its place 16(4) was added and in the light of aforesaid provision, Supreme Court in the case of ***Punyadeo Sharma & Ors. Etc. Vs. Kamla Devi & Ors. Etc*** arising out of ***SLP (Civil) Nos. 15694-15701 of 2017*** has held in para 12 and it is stated as under:-

*12. In **Shyam Sunder**, the right of pre-emption was said to be maligned law. Such rights have been characterized as feudal, archaic and outmoded. Such right of pre-emption has been taken away and all proceedings pending before any authority have been ordered to be abated including proceedings in any other Court. Any other Court is wide enough to include the Constitutional Courts i.e. the High Court and the Supreme Court. Even the 10% of*



the pre-emption amount which is required to be deposited was ordered to be deposited. 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.

4. Section 16 (3) of the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961 was repealed by the amending Act, 2019, incorporating Section 16 (4), which reads as follows:-

"(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."

5. A perusal of the provision, referred to above,



clearly reflects that after the repeal of sub-section 3 of Section 16 of the Act, all cases or proceeding pending before all authorities would be deemed to be abated.

6. In view of the discussion made above, the entire pre-emption proceedings stands abated. It shall be open to the petitioner to withdraw 10 % of the amount deposited by them in terms of Section 16 of the Act in accordance with law.

7. Accordingly, the present writ petition stands disposed of.

(Alok Kumar Pandey, J)

alok/-

AFR/NAFR	AFR
CAV DATE	N/A
Uploading Date	21.11.2024.
Transmission Date	N/A

