

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2274 of 2017

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Abdul Kalam Ansari Son of Sajad Hussain Ansari, resident of Village-
Satuwa, P.O. Satuwa, Via- Baniyapur, P.S. Baniyapur, District- Saran.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Additional Collector, Saran Chapra.
3. The Land Reforms Deputy Collector, Saran Chapra.
4. Fakir Mohammad, Son of Late Hasruddin Miya, resident of village- Satuwa,
P.O. Satuwa, Via- Baniyapur, P.S. Baniyapur, District- Saran.
5. Juma Rahim alias Guma Rahim, son of late Habib Miya, Resident of
Village- Satuwa, P.O. Satuwa, Via- Baniyapur, P.S.- Baniyapur, District-
Saran.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ajay Kumar Singh, Advocate

For the Respondent/s : Mr. Rishi Raj Sinha, SC-19

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**CORAM: HONOURABLE MR. JUSTICE RUDRA PRAKASH
MISHRA**

ORAL JUDGMENT

Date : 05-09-2024

Heard learned counsel for the petitioner and learned
counsel for the respondents.

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

*“ (i) For issuance of appropriate
writ in the nature of Certiorari for quashing
the order dated 26.9.2016 passed by the
Chairman, Bihar Land Tribunal, Patna in*



B.L.T. Case No. 1387 of 2015 whereby and where under the Chairman has affirmed the order passed by Divisional Commissioner, Saran Division Chapra and further directed to D.C.L.R. Saran at Chapra for execution of sale deed in the name of Pre-emptor.

(ii) For issuance of appropriate writ in the nature of Certiorari for quashing the order dated 10.8.2015 passed by Divisional Commissioner, Saran at Chapra in Ceiling Revision No.121 of 2012 who has set aside the order dated 14.3.2012 passed by the Additional Collector, Saran Chapra in Appeal no.7 of 2007 and further order dated 13.2.2007 passed by D.C.L.R. Chapra in Land Ceiling Pre-emption Case No.10 of 2006-07 without looking into the nature of land.

(iii) For issuance of appropriate writ in the nature of Mandamus seeking direction to Respondent to not take any steps for execution of sale deed in the name of Pre-emptor as nature of land has become changed from Agricultural to Residential and Pre-emption act will not apply in the fact and circumstances of the case.

(iv) For any other relief or reliefs for which the petitioner is entitled for.”

3. 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.

4. 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)

5. In view of the above, the instant application stands abated.



6. Since, petitioner is purchaser, it goes without saying that if any grievance of the petitioner subsists, he is at liberty to move before appropriate forum for redressal of the same.

(Rudra Prakash Mishra, J)

Raj Kishore/-

AFR/NAFR	NAFR
CAV DATE	N/A
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