

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2350 of 2017

1. Vimal Singh Son of Late Sukhu Singh,
2. Ramashish Singh, S/o Late Shri Ram Singh, Both resident of Village- Piyan, P.S.- Sonhan, District- Kaimur at Bhabua.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Divisional Commissioner, Patna Division, Patna.
3. The Collector, Kaimur, District- Kaimur at Bhabua.
4. The Addl. Collector, Kaimur, District- Kaimur at Bhabua.
5. The Deputy Collector of Land Reforms, Bhabua, District- Kaimur at Bhabua.
6. Ishwar Dayal Singh, son of Late Ram Bilash Singh (Purchaser), Resident of Village- Piyan, P.S.- Sonhan, District- Kaimur at Bhabua.
7. Indradeo Singh Vender, son of Late Rupu Singh, Resident of Village- Piyan, P.S.- Sonhan, District- Kaimur at Bhabua.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Ramchandra Singh, Advocate
For the Respondent/s : Mr. S.C.Yadav, GP-15

CORAM: HONOURABLE MR. JUSTICE RUDRA PRAKASH MISHRA

ORAL JUDGMENT

Date : 01-08-2024

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

2. In the instant application, the petitioners have prayed
for the following relief:

*“1. That this is an application for quashing
the order dated 20.12.2016 passed in B.L.T.
Case No. 235/2016 by the Hon’ble*



Chairman, the Bihar Land Tribunal, Patna which he has affirm the order dated 27.09.2011 passed by the Commissioner, Patna Division, Patna in L.C. Revision No. 555/2007, which has set aside the order dated 28.09.2007 passed by Addl. Collector, Kaimur in pre-emption Appeal No. 07/2006-07/ 04.07.2008 by issuance of writ in the nature of certiorari as well as for issuance of writ in the nature of mandamus or any other writ or writes or direction or directions to the respondents directing them to register and to give delivery of possession over the land in question.”

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.

.....
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.*

.....
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, it is ordered that the instant application stands abated.

6. 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.

7. The application stands disposed of as having
abated.

(Rudra Prakash Mishra, J)

Alok Verma/-

AFR/NAFR	NAFR
CAV DATE	N/A
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