

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3776 of 2017

1. Nagendra Mishra
2. Dhirendra Kumar Mishra
3. Dilip Mishra All Sons of Late Deo Kant Mishra, Resident of Village-Raghuni Dehat, Tola Amba, Police Station-Raj Nagar, District-Madhubani
4. Sindu Devi, Daughter of Late Deo Kant Mishra and Widow of Pradip Jha, Resident of Village-Babu pali, Police Station-Khagauli, District-Madhubani.
5. Rani Devi Daughter of Late Deo Kant Mishra and Wife of Mihir Jha, Resident of Village-Balha, Police Station-Raj Nagar, District-Madhubani.
6. Sushila Devi @ Sumitra Devi Daughter of Late Deo Kant Mishra and Wife of Mod Narayan Jha, Resident of Village-Pariharpur, Police Station-Raj Nagar District-Madhubani
7. Babudai Devi Wife of Late Deo Mishra, Resident of Village-Raghuni Dehat, Tola Amba, Police Station-Raj Nagar, District-Madhubani

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Additional Collector, Madhubani.
3. The Deputy Collector Land Reforms, Madhubani
4. Uday Kant Mishra
5. Bijay Kant Mishra
6. Hari Kant Mishra
7. AShok Mishra
8. Firan Mishra
9. Ghuran Mishra (Petitioners in B.L.T. Case No. 843 of 2013) Sl. No. 4 to 9 are Sons of Shri Hanuman Mishra Resident of Village-Raghuni Dehat, Tola Amba, Police Station-Raj Nagar, District-Madhubani.
10. Sri Panchanand Thakur Son of Late Khattar Thakur
11. Ajit Kuar Thakur Minor Son of Panchanand Thakur
12. Deepak Kumar Minor Son of Panchanand Thakur.
13. Shiv Kumar Thakur Son of Panchanand Thakur Sl. Nos. 10 to 13 are Resident of Village-Raghuni Dehat, Tola-Amba, Police Station-Raj nagar, District Madhubani

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Sanchay Srivastava, Advocate
	:	Mr. Sushant Srivastava, Advocate
	:	Mr. Ashish Kumar Palit, Advocate
	:	Mr. Sourav Suman, Advocate



For the Respondent/s : Mr. Raj Kishore Roy, GP-18

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

ORAL JUDGMENT

Date : 22-08-2024

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:

*“ 1(i). For quashing order dated 18th
August, 2016 of Mridula Mishra, Chairman
of the Bihar Land Tribunal, Patna passed in
B.L.T. Case No. 843 of 2013 by which the
Tribunal has allowed the application of the
Respondents No. 4 to 9 setting aside the
order dated 31.10.2005 of the Additional
Member, Board of Revenue, Patna passed
in Case No. 131 of 2001.*

*(ii) For affirming the order dated
31.10.2005 of the Additional Member,
Board of Revenue, Patna passed in Case
No. 131/2001 and the order dated
22.11.2000 of D.C.L.R., Sadar Madhubani
passed in L.C. 16(3) Case No. 1/2000-01
and order dated 20.03.2001 of the D.C.L.R.,
Sadar Madhubani passed in L.C. 16(3)
Case No. 1/2000-01.*

*(iii) For any other relief/reliefs for which
the petitioners be deemed entitled under the
law.”*



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. 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.

6. The application stands disposed of as having abated.

(Rudra Prakash Mishra, J)

Alok Verma/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	31.08.2024
Transmission Date	N/A

