

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6215 of 2017

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Dhanpat Yadav Son of Late Sukhdeo Yadav Resident of Village - Pakhai, Tola
- Morkahi, P.O. - Jhajhara, P.S. - Kusheshwar Asthan, District - Darbhanga.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Additional Member, Board of Revenue, Bihar, Patna.
3. The Additional Collector, Darbhanga.
4. The Sub Divisional Magistrate, Biraul District Darbhanga.
5. The Deputy Collector Land Reforms Benipur District - Darbhanga.
6. Ram Kripal Mistry Son of Late Sukan Mistry Resident of Village - Pakahi,
Tola Morkahi, P.O. Jhajhara, P.S. Kusheshwar Asthan, District - Darbhanga.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Jitendra Kumar, Advocate
For the Respondent/s : Mr. Md. Khurshid Alam, AAG-12

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

ORAL JUDGMENT

Date : 06-08-2024

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/setting aside the order
dated 07.03.2017 passed by the learned
Additional Member, Board of Revenue
Patna (Respondent no.2) in Revision Case
(Land Ceiling Preemption) Case No. 78 of*



1978 (Annexure-6) whereby and where under the aforesaid Revision Case filed by the petitioner against the Appellate Courts order dated 21.12.1977 passed by learned Additional Collector, Darbhanga in ceiling Appeal Case No. 29 of 1976-77 was dismissed.

(ii) For quashing of the order dated 21.12.1977 passed in Appeal Case No. 29 of 1976-77 by the learned Court of Additional Collector Darbhanga upon the said Appeal. So filed by the Father of Respondent No. 6 which was heard and decided ex-party without hearing the petitioner even though the revisional court have uphelded the same vide its aforesaid order dated 07.03.2017.

(iii) For restoring and declaring the same as effective till the date the initial order of deputy collector land reforms, Benipur dated 6.9.1976, in pre-emption case no. 11 of 1973-74 whereby and where under the pre-emption application of the father of respondent no. 6 was rejected after considering the rival claims of adjacency by both the parties, and the said order dated 6.9.76 was also set aside by the aforesaid impugned revisional order dated 07.03.2017.”

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, it is ordered that the instant application stands abated.



6. Since the petitioner is purchaser, and if any grievance of the petitioner subsists, petitioner is granted liberty to raise the same before the appropriate forum 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
Uploading Date	21.08.2024
Transmission Date	N/A

