

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3056 of 2017

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Sheo Shankar Singh son of Late Raghaw Singh, Resident of Village- Piprahia,
POPS- Bhagwanpur, District- Siwan.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Bihar Land Tribunal, Bihar, Patna.
3. The Commissioner, Saran Division, Chapra.
4. The Collector-cum-District Magistrate, Siwan.
5. The D.C.L.R. Maharajganj, District- Siwan.
6. Vijay Pandey, son of Late Kapildeo Pandey, null
7. Sunil Pandey, son of Late Kapildeo Pandey, Both resident of Village- Aruan,
P.S.- Bhagwanpur Hat, District- Siwan.
8. Pundai, wife of Late Dasrath Singh, resident of Village- Aruan, P.S.-
Bhagwanpur Hat, District- Siwan.
9. Baby, Daughter of Late Dasrath Singh, wife of Late Sant Kumar, resident of
Village- Aruan, P.S.- Bhagwanpur Hat, District- Siwan. at present Resident
of Village- Bharkueya Tiwai Tola, PO- Barauli, District- Gopalganj.
10. Ranju, Daughter of Late Dasrath Singh, wife of Ramashray Singh, resident
of Village- Aruan, P.S.- Bhagwanpur Hat, District- Siwan. at present resident
of Village- Janki Nagar, PO- Basantpur, District- Siwan.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Naresh Prasad, Advocate
For the Respondent/s : Mr. Sajid Salim Khan, SC-25

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

ORAL JUDGMENT

Date : 12-08-2024

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. That this writ application is



directed against the order dated 19.09.2016 passed by the Hon'ble Chairman, the Bihar Land Tribunal, Patna in B.L.T. Case No. 1317 of 2015 whereunder the B.L.T. case was dismissed upholding the order dated 05.07.2011 passed by the learned Commissioner, Saran Division, Chapra in Pre-emption Revision No. 286 of 2007, order dated 30.03.2007 passed in Land Ceiling Appeal No. 274/1998-99 by learned Collector, Siwan and order dated 09.11.1998 passed in Pre-emption Case No. 09 of 1997 by learned D.C.L.R. Maharajganj, District Siwan.”

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. 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)

Raj Kishore/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	14-08-2024
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