

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.13831 of 2017**

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Mithlesh Yadav son of Darogi Yadav, resident of Village- Simrigarh Tola,  
Samraitha, P.S. Roh, District- Nawada.

... .. Petitioner/s

Versus

1. Member Board of Revenue, Patna and Ors
2. The Collector, Nawada.
3. D.C.L.R. Rajauli, District- Nawadah.
4. Saudagar Yadav, son of Baro Yadav, resident of Village- Simrhigarh Tola  
Samretha, P.S. Roh, District- Nawada.
5. Ram Rati Devi, W/o Sukar Yadav, resident of Village- Simrhigarh Tola  
Samrahtha, P.S. Roh, District- Nawada.

... .. Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Gauri Shankar Prasad, 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 : 26-09-2024**

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:

*“1. That this writ application is being filed  
for issuance of a writ in nature of certiorari  
or some other appropriate writ or writs or  
order or directions directing and  
commanding upon the respondents  
Authorities to set side the order of Revision  
in Preemption matter dated 27.2.2017  
passed by the Additional member Board of*



*Revenue, Bihar, Patna in Revision( Land ceiling preemption) case No. 297/2004 by which the Additional member Board Revenue, Bihar, Patna set a side the order passed by the learned collector, Nawada on 22.09.2004 in appeal case No. 4(R) 2002 in favour of the petitioner where by the order appeal dated 14.9.2001 passed by D. C. L. R. in case No. 02/ 2000 Rajauli was set a side on the ground of non fulfillment of the mandatory provisions of law and Rules of land ceiling Act.”*

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, the instant application stands abated and accordingly disposed of.

6. It is further directed that if any grievance of the petitioner, who is purchaser, still subsists, he (i.e., petitioner) is at liberty to move before appropriate forum for redressal of the same.

**(Rudra Prakash Mishra, J)**

Alok Verma/-

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