

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3524 of 2018

Amrendra Kumar Singh son of Late Haribansh Singh @ Haravansh Narayan Singh, Resident of Village- Bishunpur, Police Station- Bishunpur, District- Gaya.

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. The District Magistrate, Gaya.
3. The Deputy Collector Land Reforms, Gaya Sadar, District- Gaya.
4. Navin Kumar.
5. Praveen Kumar.
6. Arvind Kumar, Respondent No. 4 to 7 are sons of Late Hari Prasad Singh, Resident of Village- Bishunpur, Police Station- Bishunpur, District- Gaya.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Manish Kumar No-2
For the Respondent/s : Mr.Subhash Chandra Yadav -Gp15

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL JUDGMENT

Date : 12-11-2024

In the instant petition, petitioner has prayed for
the following relief(s):-

That the present writ application is being filed for issuance of appropriate writ/writs, order/orders for setting aside the order dated 06.09.2017 passed by Sri R.P. Ramaiah, Member Administrative, Bihar Land Tribunal, Patna in B.L.T. Case No 1448 of 2015 whereby and where under the aforesaid case filed by the private respondents has been partly allowed and order passed by the D.C.L.R. Gaya Sadar, Collector Gaya and Divisional Commissioner, Magadh Division, Gaya so far as the Plot No. 2482 is concerned has been set aside and/or



any other relief or reliefs to which the petitioner may be found entitled encourse of hearing of this writ application.

2. Briefly stated facts of the present case is that petitioner being pre-emptor of adjoining South and East of the land under right of pre-emption having plot no. 2432,2441 and 2426 respectively are the joint family properties and said plot was allotted to petitioner/pre-emptor in family settlement. It has been mentioned in the writ petition that plot no. 2438 measuring area 22 decimal and plot no. 2482 measuring area 1.38 decimal for which petitioner is claiming right of pre-emption under 16(3) of the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961. It has been stated that,admittedly, the father of the petitioner- *Late Harbansh Singh* was adjoining raiyat of the vended plot of plot no. 2438 and 2482. After receiving the knowledge about the sale of both the plots, the petitioner deposited the amount of sale deed, for a sum of equal to 10%. After depositing money, petitioner filed application under section 16(3) of the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961 and claiming the right of pre-emption of the vended land which was registered as Case No. 10 of 1999 before DCLR, Gaya. It has been submitted that father of the petitioner holds



land in the West and North of the land under pre-emption.

3. Learned counsel for the petitioner submits that ceiling case no. 10 of 1999 was allowed in favour of the petitioner by learned DCLR Sadar, Gaya and direction was given to private Respondent to convey the land in favour of the petitioner by executing deed of sale for which consideration money has already been paid. Now, the said order was challenged by private Respondent before this Court in CWJC no. 12522 of 2004 and by virtue of this writ, the matter was remanded back for re-opening the land ceiling case no. 10 of 1999. Learned counsel for the petitioner submits that petitioner was again heard and the ceiling case no. 10 of 1999 was allowed in favour of the petitioner. Private Respondent challenged the order dated 02.09.06 before Collector Gaya vide Appeal case No. 15/06-07 but the same has been dismissed. The order dated 25.11.08 has been challenged before the Commissioner, Magadh Division, Gaya vide Appeal no. 222 of 2008 but the same has also been dismissed. The private respondents filed CWJC no. 20833 of 2012 and the case was heard and direction was given to withdraw the writ and filed the application before the Bihar Land Tribunal. The private respondent filed B.L.T case No. 1448 of 2015 against the order of Divisional Commissioner,



Magadh Divison, Gaya and after hearing the parties, order of DCLR Gaya Sadar, learned Collector Gaya and learned Divisional Commsisioner, Gaya regarding plot no. 2482 was set aside and application was allowed in favour of the private respondent. The present petitioner has approached this Court after being aggrieved by the order passed by the BLT. The counsel of petitioner submits that from the order sheet of BLT, it transpired that 10 per cent of the amount was deposited by the petitioner.

4. Learned counsel for the State submits that present writ has been filed on 15.02.2018 against the order dated 06.09.2017 passed by the BLT and during the pendency of this writ provision of 16(3) of the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961 was repealed by amendment in 2019 and its place 16(4) was added and in the light of aforesaid provision, Supreme Court in the case of ***Punyadeo Sharma & Ors. Etc. Vs. Kamla Devi & Ors. Etc*** arising out of ***SLP (Civil) Nos. 15694-15701 of 2017*** has held in para 12 and it is stated as under:-

12. In Shyam Sunder, the right of pre-emption was said to be maligned law. Such rights have been characterized as feudal, archaic and outmoded. Such right of pre-



emption has been taken away and all proceedings pending before any authority have been ordered to be abated including proceedings in any other Court. Any other Court is wide enough to include the Constitutional Courts i.e. the High Court and the Supreme Court. Even the 10% of the pre-emption amount which is required to be deposited was ordered to be deposited. 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.

5. Section 16 (3) of the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961 was repealed by the amending Act, 2019, incorporating Section 16 (4), which reads as follows:-

"(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."

6. A perusal of the provision, referred to above, clearly reflects that after the repeal of sub-section 3 of Section 16 of the Act, all cases or proceeding pending before all authorities would be deemed to be abated.

7. In view of the discussion made above, the entire pre-emption proceedings stands abated. It shall be open to the petitioner to withdraw 10 % of the amount deposited by them in terms of Section 16 of the Act in accordance with law.

8. Accordingly, the present writ petition stands disposed of.

(Alok Kumar Pandey, J)

vashudha/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	13.11.2024
Transmission Date	NA

