

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12337 of 2016

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Samsul Devan son of Late Khalil Devan, resident of village- D.K. Shikarpur,
P.S.- Shikarpur, District- West Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Department of Land Reforms, Bihar, Patna.
2. The Commissioner, Tirhut Division, Muzaffarpur.
3. The Collector, West Champaran at Bettiah.
4. The Deputy Collector, Land Reforms, Narkatiaganj, West Champaran.
5. Chandradeep Sah
6. Pradeep Sah Both sons of Late Lakshman Bhagat, residents of village- Shikarpur, District- West Champaran.
7. Smt. Mamta Devi daughter Shri Bhola Sah, wife of Late Lakshman Bhagat, resident of village- Shikarpur, P.S.- Shikarpur, District- West Champaran.
8. Dinesh Prasad @ Rajesh Kumar son of Late Akshay Lal resident of village- Shikarpur, P.O.- Shikarpur, P.S.- Shikarpur, District- West Champaran.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Umesh Chandra Verma, Adv. Ms. Rashmi Jha, Adv.
For the Respondent/s	:	Mr. Ajay, GA5 Mr. Rakesh Kumar Ranjan, AC to GA5

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CORAM: HONOURABLE MR. JUSTICE RUDRA PRAKASH MISHRA

ORAL JUDGMENT

Date : 13-08-2024

Heard learned counsel for the petitioner and

learned counsel for the State.

2. Learned counsel for the petitioner submits that

this Court had decided the constitutional validity of the

Amendment Act, 2016 in the case of Sudhakar Jha and Ors. Vs.

The State of Bihar and Ors. with analogous cases reported in

2023(6)BLJ 397.



3. The issue of constitutional validity of the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) (Amendment) Act, 2016 and the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) (Amendment) Act, 2019 came to be considered by this Court in the case of ***Sudhakar Jha vs. State of Bihar; 2023 (6) BLJ 397*** wherein the constitutional validity of the same was upheld. Relevant paragraph nos. 50, 51 and 52 of the judgment are quoted here- in-below:-

“50) The Hon'ble Supreme Court in the case of Punyadeo Sharma & Ors. vs. Kamla Devi & Ors., 2022(1) BLJ 434 (SC) held as follows:-

"4. The question examined by the Division Bench of the High Court was whether an application for preemption 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:

.....

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 withall pending proceedings before whatsoever forum. Therefore, the right of preemption 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 ie. 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."

51) Thus, in view of section 16 of the Act as it stands after amendment by the Amendment Act, 2019 as also in view of the judgment of the Hon'ble Supreme Court in the case of Punyadeo Sharma (supra), all cases or proceedings which may be pending before any authority or Court



stands abated and the amount deposited shall be refunded in the manner as provided in Section 16(4) of the Act.

52) The applications stand disposed of in the following terms:-

(i) The applications so far as the challenge to the constitutional validity of the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) (Amendment) Act, 2016 as also that of the Bihar Land Reforms (Fixation of Surplus Area and Acquisition of Surplus Land) (Amendment) Act, 2019 are concerned, stand dismissed.

(ii) The following cases either challenge the Amendment Act, 2019 and/or arise out of an application under Section 16(3) of the Act. The cases arising out of an application under Section 16(3) of the Act stand abated. They are all the cases in the instant batch of applications except CWJC no.1840 of 2019, CWJC no.2728 of 2019 and CWJC no. 10416 of 2020.

(iii) It may be mentioned here that by Amendment Act, 2016, Section 45B of the Act was repealed and Section 45D added, which provided that after repeal of section 45B of the Act, proceedings pending before the State Government or the Bihar Land Tribunal as also pending before the Collector shall stand abated. Both Section 45D and 16(4) provide for the consequence upon repeal of section 45B and Section 16(3) of the Act. The language of



Section 45D is different from that of Section 16(4). While Section 16(4) provides that all cases of proceedings pending before the Tribunal or the Authorities mentioned therein 'or in any other Court' shall abate, the words 'or in any other Court' does not find mention in Section 45D. Thus, in this view of the matter, the Court is of the opinion that those matters arising out of an application under Section 45B of the Act having been decided by the Authorities or the Tribunal and applications preferred against the said orders being pending in this Court, though the Constitutional validity of the Amendment Act, 2016 has been upheld, these cases will have to be listed before the appropriate bench having roster, for it to be decided on its own merits. The cases falling under this category are CWJC no. 1840 of 2019, CWJC no.2728 of 2019 and CWJC no. 10416 of 2020”

4. In view of the facts and circumstances of the case and especially in view of the Section 16 of the Act as its stand by Amendment Act, 2019 and in view of the judgment of the Hon’ble Supreme Court in the case of ***Punyadeo Sharma & Ors. vs. Kamla Devi & Ors., 2022(1) BLJ 434 (SC)***, the instant application stands abated along with the proceedings initiated for pre-emption. As held in the case of ***Punyadeo Sharma*** (supra) it shall be open to the pre-emptor herein to withdraw 10% of the amount deposited by him in terms of Section 16 of



the Act.

5. Accordingly, the instant application stands
abated.

(Rudra Prakash Mishra, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	23.08.2024
Transmission Date	

