

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11292 of 2016

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Most Bachchi Devi Widow Of Late Kedar Yadav Resident of Village-
Daurma, Police Station-Anti, District-Gaya

... .. Petitioner/s

Versus

1. The Commissioner, Magadh Division, Gaya and Ors
2. The Collector, Gaya
3. The Deputy Cillector, Land Reforms, Tekari, Gaya
4. Rajeshwar Singh Son of Late Gaya Dutta Singh Resident of Village-Angra,
Police Station-Anti, District-Gaya
5. Nathun Yadav Son of Late Sauru Yadav Resident of Village- Angra, Police
Station-Anti, District-Gaya

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Gajanan Arun, Adv.
For the State	:	Dr. Mankeshwar Tiwari, AC to AAG3
For the Resp. No.5	:	Mr. Ramesh Jha, Adv.

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CORAM: HONOURABLE MR. JUSTICE RUDRA PRAKASH MISHRA
ORAL JUDGMENT

Date : 04-07-2024

Heard learned counsel for the parties.

2. In the instant application, the petitioner has prayed
for the following relief(s):-

*“1. That this petition is directed against
the order dated 14.10.2015 passed in BLT
Case No- 321 of 2015 passed by Hon’ble
Justice Smt. Mridula Mishra, Chairman
whereby and whereunder the order dated
14.07.2015 passed in Revision Appeal No.- 37
of 2009 passed by the Commissioner, Magadh
Division as well as order dated 10.07.2006
passed in Haqsafa Appeal No- 10 of 2006-*



2007 passed by the Collector, Gaya, have been reversed and direction has been issued to DCLR (Tekari) Gaya to recovery the land in favour of the Respondent no-5 Purchaser and put him in the possession name of purchaser bu mutated.”

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.*

.....
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."*

5. Learned counsel for the State has raised no objection to the aforesaid submissions made by the learned counsel for the respondent no.5.

6. In view of the above, it is ordered that the instant application stands abated.



7. It is further directed that in terms of the aforesaid order, it shall be open to the petitioner herein to withdraw the amount deposited by him, if any, in terms of section 16 of the Act in accordance with law.

8. The application stands disposed of as having abated.

(Rudra Prakash Mishra, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	09.07.2024
Transmission Date	

