

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10513 of 2018

Sri Ram Singh and Ors

... .. Petitioner/s

Versus

The State Of Bihar and Ors

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Chandra Mohan Singh
For the Respondent/s : Mr.Raj Kishore Roy- Gp18

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

4 26-11-2024 On 18.11.2024, the following order was

passed:

No one appeared on behalf of the petitioners.

2. From perusal of the writ petition, brief facts of the case is that petitioner's father Ramgrih Singh filed Ceiling Case No. 05 of 2002-03 before the D.C.L.R., Buxar against the respondent, the vendee and respondent the Vendor who sold 17 decimal of land in Plot No. 1378, Khata No. 312 to respondent vendee under registered sale deed dated 29.07.2002 out of total area of the said Plot 1.02 Acre and he deposited 10 % surplus amount in the treasury on 13.09.2002 under Challan No. 9. He further submits that the D.C.L.R. after examining the entire records allowed the pre-emption petition in favour of father of the petitioner by passing order dated 12.10.2002 in Ceiling Case No. 05 of 2002-03. He further submits that against the order of DCLR, appeal was filed by respondent no. 5 vide Ceiling Appeal No. 153 of 2002 before the Collector, Buxar and said ceiling appeal was transferred to the Additional Collector, Buxar



and numbered as Ceiling Appeal No. 153/2002-03/41 of 2006. The Additional Collector, Buxar allowed the said appeal and set aside the order dated 12.10.2002 passed by DCLR and the order of Additional Collector, Buxar was affirmed by the Commissioner as well as BLT.

*3. Learned counsel for the State submits that present matter is related with Section 16(3) of the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961. He further submits that present writ has been filed on 23.05.2018 against the order dated 27.03.2018 passed by the BLT and during the pendency of the writ petition, provision of 16(3) of the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961 was repealed by amendment in 2019 and its place 16(4) was added and in the light of aforesaid provision, Supreme Court in the case of **Punyadeo Sharma & Ors.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.

4. 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."

5. 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.

6. Learned counsel for the petitioners is directed to submit reply on the said point. If reply is not given on the next date of hearing, the matter would be decided with the available records since the matter is pending consideration for the last about six years.

7. Put up this matter on 25.11.2024.

2. Despite grant of opportunity, no reply has been

filed on behalf of the petitioner in the light of previous order passed by this Court.



3. In view of the discussion made in the previous order dated 18.11.2024 and the facts and circumstances of the present case, 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.

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

(Alok Kumar Pandey, J)

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