

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12341 of 2018

Smt. Vijay Lakshmi Choudhary @ Vijay Lakshmi Devi Wife of Sri Kewal Narayan Choudhary, Resident of Village and P.O.- Lagma-Rambhadrapur, P.S.- Sakatpur, District- Darbhanga.

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. The Commissioner, Darbhanga Division, Darbhanga.
3. The Additional Collector, Darbhanga.
4. The Deputy Collector I/c Land Reforms, Darbhanga.
5. Shri Chandra Mohan Choudhary, Son of Late Buchan Choudhary, Residents of Village and P.O.- Lagma Rambhadrapur, P.S.- Sakatpur, District- Darbhanga.
6. Kameshwar Narayan Choudhry,
7. Visheshwar Narayan Choudhary, Both sons of Late Kamal Narayan Choudhry, Resident of Village and P.O.- Lagma, Rambhadrapur, P.S.- Sakatpur, District- Darbhanga.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Jitendra Kumar, Adv.
For the Respondent/s : Mr. Subhash Chandra Yadav GP-15

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL JUDGMENT

Date : 12-12-2024

In the instant petition, petitioner has prayed for
following reliefs:-

*“1.1. To issue a writ of Certiorari
for quashing the order dated 14. 03. 2018 passed
by Dr C. Ashok- Vardhan, Member
[Administrative], Bihar Land Tribunal, Patna, in
B.L.T. Case No. 817 of 2016 (Vijay Laxmi
Choudhary vs The State of Bihar and others)
[Annexure-7] whereby and where under the
Petitioner's application under section 9 of Bihar
Land Tribunal Act, 2009, filed to set aside the*



order dated 30.03.2016 passed in Ceiling Revision case no. 42 of 2008-09 by Divisional Commissioner, Darbhanga [Annexure-6] and order dated 25.11.2003 passed by the learned ADM Darbhanga (Annexure-5) in 'Area Ceiling Appeal No. 66 of 2003 [Vijay Laxmi Choudhary vs The State of Bihar and others] and to restore the Trial court's order dated 29.07.2006, rejecting the Pre-emption Application passed in Area Ceiling Case No. 66 of 2003 [Chandra Mohan turned down. learned LRDC, Darbhanga [Annexure-4] has been turned down on untenable grounds.

1.2. To issue a further writ of certiorari for quashing

a. the order dated 30. 03. 2016 passed by learned Commissioner, Darbhanga in Ceiling Appeal No. 42 of 2008-09 [Vijay Lakshmi Choudhary vs State of Bihar & others] (Annexure-6), where by the revision preferred against the order passed by learned ADM Darbhanga in appeal has been dismissed and the appellate order of, pre-emption has been affirmed.

And

b. the order dated 23.12.2002 passed by learned ADM Darbhanga (Annexure-5) in 'Area Ceiling Appeal No. 66 of 2002-03, where by, the rejection order of the Pre-emption application passed on 25.11.2003 in Area Ceiling Case No. 66 of 2002-03 (Annexure-4) by learned LRDC, Darbhanga, has been set aside and prayer of pre-emption made by Respondent no. 5 has been allowed.

1.3 To grant any other relief(s) to which the petitioner may be found entitled to.”

2. Briefly stated facts of the present case is that the



petitioner has purchased the land pertaining to Khata Nos. 631(o)/46(n) and 608(o), Plot Nos. 613(o)/1592(n) and 610(o)/1599(n) measuring total area of 10 katha 18 dhurs and 12 Kanma situated at village- Lagma, Rambhadrapur, P.S. Sakatpur, District- Darbhanga. The boundary of the said land is as under :

North : Vendor himself & then Abhiram Choudhary

South : Rambilash Choudhary

East : Surendra Nr. Choudhary

West : Bachcha Choudhary & Mohan Choudhary

3. Learned counsel for the petitioner submits that respondent no. 5 filed an application under section 16(3) of the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition Surplus Land) Act, 1961 before the L.R.D.C., Darbhanga vide Ceiling Case no. 66 of 2002-03 claiming preemption of the aforesaid vended land. Petitioner appeared and contested the case. The claim was allowed in favour of the petitioner and the petition of respondent no.5 was dismissed by order dated 25.11.2003. The order of learned DCLR, Darbhanga was challenged before the Additional Collector, Darbhanga in Area Ceiling Appeal No. 52 of 2003-04, which was allowed by order dated 29.07.2006 in favour of respondent no.5. Against the order passed in appeal, the petitioner filed Ceiling Revision No.



42 of 2008-09 before the Commissioner, Darbhanga, which was dismissed and the order of learned Additional Collector, Darbhanga was confirmed. Petitioner assailed the order passed by the Commissioner before the Bihar Land Tribunal in B.L.T. Case No. 817 of 2016 which was also dismissed on 14.03.2028, and thereafter being aggrieved by the order passed by the Tribunal petitioner has approached this Court.

4. Learned counsel for the State and the counsel for the respondent no. 5 submit that the present writ petition has been filed on 02.07.2018 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 proceeding stands abated, it shall be open to the party concerned/ depositor to withdraw the amount deposited by him in terms of 16 of the Act in accordance with law.

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

(Alok Kumar Pandey, J)

amitkumar/-

AFR/NAFR	AFR
CAV DATE	N/A
Uploading Date	14.12.2024
Transmission Date	N/A

