

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11948 of 2018

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Ram Lagan Yadav @ Ram Lagan Gope Son of Late Jale Yadav, Resident of
Village- Shivner (Sheonar) Police Station- Mokama, District- Patna.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Revenue and Land Reforms Department, Government of Bihar, Patna.
2. The Principal Secretary, Revenue and Land Reforms Department, Government of Bihar, Patna.
3. The Collector, Patna.
4. The Deputy Collector Land Reform, Barh, Patna.
5. The Circle Officer, Mokama, Patna.
6. Kailash Yadav, Son of Late Bhattu Yadav, Resident of Village- Sheonar Tola, Dariyapur Sangat, P.S.- Mokama, District- Patna.
7. Bishundeo Das,
8. Janardan Das,
9. Uchit Das, Respondents no. 7 to 9 sons of Badri Das, Resident of Village- Sheonar Tola Sangatpar, P.S.- Mokama, District- Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : None

For the Respondent/s : Mr. Dhurjati Kumar Prasad- GP14

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CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL JUDGMENT

Date : 05-12-2024

On 18.11.2024 following order was passed.

“No one appeared on behalf of the petitioners.

2. In compliance of order dated 11.11.2024, office has reported that no counter affidavit has been filed as yet.

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

*“That by this writ application
the petitioners seek indulgence of this
Hon'ble Court, inter-alia, for issuance of
an appropriate writ/writs, order/orders,
direction/directions commanding the*



respondents especially the Collector, Patna for early disposal within a certain time limit of Ceiling Appeal No. 12/2012-13 pending before the Court of the Collector, Patna which has been filed on 22.8.2012 under Section 30 of the Bihar Land Reforms (Fixation of Ceiling Area & Acquisition of Surplus Land) Act, 1961 against the order dated 26.6.2012 passed by the Deputy Collector Land Reforms, Barh (Patna) in Land Ceiling Case No. 09 of 2009 whereby and where under the DCLR, Barh (Patna) has been pleased to dismiss the application of the petitioners.

4. Learned counsel for the petitioner has filed an application under Section 16(3) of the Bihar Land Ceiling Act before the D.C.L.R., Barh for allowing the petition of petitioner. Petitioner is the adjoining raiyat as well as co-sharer and he has every right to purchase the same on the same terms and conditions upon which the Respondents-3rd set have sold the land in question to Respondent-2nd set. The description of the land in question is as follows:-

Mauja	Thana No.	Khata No.	Khesra No.	Rakba
Shivnar	31	827	837	0.3125D
		64	843	0.2025D

5. Learned counsel for the State submits that present writ petition has been filed for early disposal of Ceiling Appeal No. 12/2012-13 pending before the Court of the Collector, Patna filed against the order dated 26.06.2012 passed by the Deputy Collector Land Reforms, Barh, Patna in Land Ceiling Case No. 09 of



2009 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.*

6. 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."

7. 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.

8. Learned counsel for the petitioner 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.

9. Put up this matter on 02.12.2024."

2. Today also, none appears on behalf of the petitioner.

3. Learned counsel for the State submits that he has submitted hard copy of the counter affidavit. In para 10 of the counter affidavit it is mentioned that the Collector has passed the reasoned order dated 07.06.2019 whereby it has been held that the said appeal is not maintainable in view of the amendment made by the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) (Amendment) Act, 2019 in Section 16 of the Act, 1961, whereby sub-section



(3) of Section 16 of the Act has been repealed and new sub-section (4) has been added which states that after the repeal of the sub-section (3) of Section 16 of this Act all the cases or proceedings pending before the State Government, Board of Revenue, Bihar Land Tribunal, Divisional Commissioner, Collector, Additional Collector, DCLR or pending before any court shall be considered to be dropped.

4. 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.

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

(Alok Kumar Pandey, J)

amitkumar/-

AFR/NAFR	AFR
CAV DATE	N/A
Uploading Date	09.12.2024
Transmission Date	N/A

