

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3078 of 2016

1. Navin Kumar Singh
2. Shambhu Kumar Singh
Both sons of Late Ramchandra Singh, resident of village- Bariyarpur Buzurg, Tola Nirpur, P.S.- Rajapakar, P.O.- Gouspur, Bariyapur, Sub Division- Mahua, District- Vaishali

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Commissioner, Tirhut Division, Muzaffarpur
3. The District Magistrate, Vaishali at Hajipur
4. The Additional Collector, Vaishali at Hajipur
5. The Deputy Collector Land Reforms, Mahua, Vaishali
6. The Sub Divisional Officer, Mahua, District- Vaishali
7. Smt. Krishna Devi W/o Bharat Prasad Singh, Resident of village- Bariyarpur Buzurg, Tola- Nirpur, P.O.- Gauspur Bariyarpur, P.S.- Rajapakar, District- Vaishali
8. Savitri Devi W/o Sachidanand Singh, D/o Ram Sudhist Narayan Singh, resident of village- Bariyarpur Buzurg, Tola Nirpur, P.S.- Rajapakar, P.O.- Gouspur, Bariyapur, P.S.- Rajapakar, District- Vaishali

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Subodh Kumar Jha, Adv. Mr. Pranav Kumar Jha, Adv. Mr. Chandra Mohan Jha, Adv.
For the Respondent/s	:	Mr. Rakesh Kumar Ranjan, AC to GA5

CORAM: HONOURABLE MR. JUSTICE RUDRA PRAKASH MISHRA
ORAL JUDGMENT

Date : 29-07-2024

Heard learned counsel for the parties.

2. In the instant application, the petitioners have prayed for the following reliefs:

“1. That this writ application is being filed for issuance of an appropriate writ/writs, order or orders in the nature of certiorari for quashing of the order dated 14.09.2015 passed in Ceiling



Presumption Revision Case No.84/2015 by the learned Commissioner, Tirhut Division, Muzaffarpur, the order dated 17.03.2015 passed in Ceiling Appeal Case No. 8127/12- 13/350/13-14 by the Additional Collector, Vaishali and order dated 01.08.2012 passed in Ceiling Case No. 26/11-12 by the learned Deputy Collector Land Reforms, Mahua by which the application filed by the petitioner Under Section 16 (3) of Ceiling Act has been rejected without considering the facts that the petitioner is not only the Ariya Raiyat rather he is a co-sharer and his land is surrounded by all the three sides of land in question and only to frustrate his case the earlier sale deed executed has been canceled although still the land in question is in possession over the purchaser i.e. respondent no.7 and further for issuance of an appropriate writ in the nature of mandamus for directing and commanding the respondents to direct the respondent No.8 to get the land executed in favour of the petitioners as the entire statutory consideration amount is still lying before the authority till date and further for any other appropriate relief or reliefs for which the petitioner is entitled in the facts and circumstances of this case.”

3. Learned counsel for the petitioners, at the outset, submits that the present case is entirely covered by the Division Bench judgment of this Court passed in the case of ***Sudhakar Jha Vs. The State of Bihar & Ors. with analogous cases***



reported in **2023(6)BLJ 397** and prays for disposal of this case also in the same terms.

4. Learned counsel for the respondents-State then submits 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.

5. 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.

.....
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.

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.” (Emphasis Supplied)

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 pre-emptors herein to withdraw the amount deposited by him 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	02.08.2024
Transmission Date	

