

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.16891 of 2016**

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Beyas Tiwari Son of Late Rajeshwar Tiwari Resident of Village-Ter Khemraj,  
P.S.- Janta Bazar Kateya, District-Gopalganj

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Additional Member, Board of Revenue, Bihar, Patna
3. The Commissioner, Saran Division, Chapra
4. The Collector Gopalganj, District-Gopalganj, District-Gopalgaj
5. The Additional Collector,Gopalganj, District-Gopalganj
6. The Deputy Collector, In-Charge Land Reforms, Gopalganj, District-Gopalganj
7. The Deputy Collector Land Reforms, Hathua, District-Gopalganj
8. The Sub-Divisional Officer, Hathua, Sub-Division-Hathua, District-Gopalganj
9. Jai Prakash Tiwari Son of Late Harihar Tiwari Resident of Village-Ter Khemraj, P.S.- Janta Bazar Kateya, District-Gopalganj
10. Nathuni Tiwari Son of Late Bhagurashan Tiwari Resident of Village-Ter Khemraj, P.S.- Janta Bazar Kateya, District-Gopalganj

... .. Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Nityanand Mishra, Advocate  
For the Respondent/s : Mr. Subhash Chandra Yadav, GP-15

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**CORAM: HONOURABLE MR. JUSTICE RUDRA PRAKASH MISHRA**

**ORAL JUDGMENT**

**Date : 30-09-2024**

Heard learned counsel for the petitioner and learned counsel for the respondents.

2. In the instant application, the petitioner has prayed for the following reliefs:

*“a) For issuance of a writ in the nature of certiorari to quash and set aside the order dated 18.8.2015(Annexure-5)*



*passed by the learned Commissioner, Saran Division, Chapra (respondent no.3), in Land Ceiling Revision no. 180/2008 Beyash Tiwari Vs. Jai Prakash Tiwari and others whereby and where under the respondent no. 3 has upheld the order dated 16.9.2006 (Annexure-4) passed in land Ceiling Appeal no. 02/05/15/2005-06 by the Additional Collector, Gopalganj (respondent no.5) and further dismissed the Land Ceiling Revision case of the petitioner bearing L.C. Revision no. 180/2008.*

*b) Further to quash and set aside the order dated 16.9.2006 (Annexure-4) passed in Land Ceiling Appeal no. 02/05/15/2005-06 by the Additional Collector, Gopalganj (respondent no.5) whereby and where under the respondent no.5 reversed the order dated 6.11.2004 passed in L.C. case no. 3/2004-05 by the Sub-Divisional Officer, Hathua (respondent no. 6) as contained in Annexure-3 to this application.*

*c) Further to quash and set aside the letter no. 523 dated 20.7.2016 issued by the Deputy Collector Land Reforms, Hathua, District- Gopalganj (respondent no.7) in hurry position, whereby and whereunder he has directed to the Sub-Registrar, Fulwariya, District- Gopalganj to execute registered sale-deed in favour of Jai*



*Prakash Tiwari (respondent no. 9).*

*d) For issuance of a writ in the nature of mandamus whereby and whereunder to grant stay the operation of enforcement of the registered sale-deed dated 23.7.2016 (Annexure-8) which executed in favour of Jai Prakash Tiwari (respondent no.9) during pendency of this writ application.*

*e) Further to pass other consequential orders in favour of the petitioner in the facts and circumstances of the case for the ends of justice.*

*f) For any other relief/reliefs for which the petitioner is entitled to in accordance with law.”*

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.*

.....  
*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)

5. In view of the above, it is ordered that the instant application stands abated and accordingly disposed of.

6. Since, the petitioner is purchaser, it goes without saying that if any grievance of the petitioner still subsists, he will be at liberty to move before appropriate forum for redressal of the same.

**(Rudra Prakash Mishra, J)**

Raj Kishore/-

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