

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17646 of 2016

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Jagdish Yadav son of Late Bajrangi Yadav, resident of village Basatpur
Pargana Ughara, P.S. Bahadurpur, District Darbhanga.

... .. Petitioner/s

Versus

1. The State of Bihar through the Collector, Darbhanga, Dist. Darbhanga.
2. The DCLR Sadar Darbhanga District Darbhanga.
3. The Additional Collector, Darbhanga District Darbhanga.
4. The SDO Sadar Darbhanga, District Darbhanga.
5. The Anchala Adhikari Circle Officer Anchal Bahadurpur, Block Bahadurpur,
District Darbhanga.
6. Lalit Yadav.
7. Ganga Yadav.
Both sons of Bindeshwar Yadav.
All resident of Village Basatpur Pargana Ughara, P.S. Bahadurpur,
District Darbhanga. Both were minor under the guardianship of his father
now both became major.
8. Bindeshwar Yadav son of Late Ram Kishun Yadav, resident of Village
Basantpur P.S. Bahadurpur District Darbhanga.
9. Yogi Lal Deo son of Late Mukhi Lal Deo resident of village Basatpur
Pargana Ughara, P.S. and Block Bahadurpur, District Darbhanga.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ram Bali Jha, Adv.
For the Respondent/s : Mr.Sajid Salim Khan- SC25

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

ORAL ORDER

2 08-10-2024 Heard learned counsel for the parties.

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

*“A) A writ of certiorari for quashing the Act done by
the respondents by which act the respondents have not
delivered the possession of the disputed lands to the
petitioner, when a sale deed have already been*



executed by DCLR Sadar Darbhanga in favour of the petitioner on 13.09.2009 according to his order passed in faovur of the petitioner dated 10.08.2004/ 16.08.2004 in land ceiling Case no. 19/2003 which was filed by the petitioner against the respondents 2nd and 3rd party the respondent 2nd party filed Land Ceiling (Area) appeal no. 61/ 04-05 which was dismissed learned on 12/1/08 by the Additional Collector Darbhanga, against the said order the respondent 2nd party never moved in revision before the member Board of Revenue or anywhere thus the order became final and the DCLR Darbhanga respondent no. 2 has executed sale deed dated 13.09.2009 in favour of the petitioner accordingly inspite of execution of sale deed possession of the land has not been delivered in favour of the petitioner thus the Act of the respondent 1st party is illegal, arbitrary, unconstitutional hence it should be quashed out right.

B) A writ of mandamus directing the respondents 1st party got to deliver the possession of the land in area Ceiling case mentioned above in favour of the petitioner against the respondents no. 6 to 8.

C) A writ of mandamus directing the respondent 2nd party not to disturb in peaceful possession of the land transferred in faovur of the petitioner after delivery of possession.

D) A writ of mandamus directing the respondent 2nd and 3rd party to pay the cost of the litigation.

E) Any other relief or reliefs for which the petitioner is entitled to:”

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.

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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.

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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, the instant application stands abated and, accordingly, disposed of.

6. It is further directed that in terms of the aforesaid order, it shall be open to the pre-emptor herein to withdraw the



amount deposited by him in terms of section 16 of the Act in
accordance with law.

(Rudra Prakash Mishra, J)

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