

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2447 of 2016

1. Kant Lal Choudhary and Ors S/o Late Kokai Mandal @ Late Kokai Parihar @ Late Kokai Choudhary
2. Parvati Devi W/o Late Kamleshawary Choudhary
3. Devan Choudhary S/o Late Kokai Mandal @ Late Kokai Parihar @ Late Kokai Choudhary
4. Sumitra Devi W/o Muneshwar Choudhary
5. Mukti Choudhary S/o Late Kokai Mandal @ Late Kokai Parihar @ Late Kokai Choudhary All are resident of Village- Cjarki, P.S.- Korha, District- Katihar.

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. The Commissioner, Purnea Division, Purnea.
3. The Collector, Katihar
4. The Deputy Collector, Land Reform, Katihar
5. The Circle Officer, Korha, District- Katihar
6. Veena Devi W/o Sri Bidyanand Jha Resident of Village- Charki, P.S.- Korha, District- Katihar.
7. Kumari Bandana Chattarjee D/o Late Baidyanath Chatterjee, Resident of Mohalla- Amlatola, P.S. and District- Katihar.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Raghvendra Kumar Singh, Advocate
For the Respondent/s	:	Mr. Ajay, GA-12
	:	Mr. P.K. Jaipuriyar, Advocate
	:	Mr. Anshuman Jaipuriyar, Advocate
	:	Mr. Anukriti Jaipuriyar, Advocate
	:	Mr. Rajnikant Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE RUDRA PRAKASH MISHRA

ORAL JUDGMENT

Date : 05-08-2024

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



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

“1.(i) That writ application is directed against the order dated 22.09.2015 passed by the Chairman, The Bihar Land Tribunal, Patna in B.L.T. Case No. 189 of 2014 by which B.L.T. Case has been allowed and order dated 11.12.2013 passed by the Divisional Commissioner, Purnea in Land Dispute Appeal No. 205 of 2013 as well as order dated 25.10.2010 passed by the D.C.L.R. Katihar in Ceiling Case No. 15/2009-10 have been set aside and affirmed the order dated 16/3/13 passed by Collector, Katihar in Misc. Ceiling Appeal No. 554/2011-12.

(ii) That this application is also directed against the order dated 16.03.2013 passed by the collector, Katihar in Miscellaneous Ceiling appeal No. 554/2011-12 by which the appeal was allowed and order dated 25.10.2010 passed by the D.C.L.R., Katihar in Ceiling (pre-emption) Case No. 15 of 2009-2010 was set-aside.”

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.

6. 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.

7. The application stands disposed of as having abated.

(Rudra Prakash Mishra, J)

Alok Verma/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	09.08.2024
Transmission Date	N/A

