

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2810 of 2016

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1. Kaplieshwar Singh and Ors Son of Late Ram Bahadur Singh
 2. Guneshwar Singh Son of Late Ram Bahadur Singh
 3. Nityanand Singh Son of Late Chandeshwar Singh All residents of village - Rajanpur, Police Station - Mahishi, District - Saharsa.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Additional Member, Board of Revenue, Bihar, Patna.
3. The Collector of the district of Saharsa.
4. The Deputy Collector Land Reforms, Saharsa.
5. Mir Rahim Son of Mir Qudus Resident of Village - Mahishi, P.O. and P.S. - Mahishi, District - Saharsa.
6. Ranbir Singh Son of Janardan Singh Resident of Village - Bhotia, P.S. - Bakhtiarpur, District - Saharsa.
7. Bibi Mahroon Nisa wife of Haji Abdul Qudus and Daughter of Abdul Haque Khan Resident of Village - Rajanpur, P.S. - Mahishi, District - Saharsa.
8. Chitralkha Devi Sister of Randhir Singh Resident of Village - Bhotia, P.S. - Bakhtiarpur, District - Saharsa.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Naresh Chandra Verma, Advocate
For the Respondent/s : Mr. Ajay, GA-2

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

ORAL ORDER

2 30-07-2024 Heard learned counsel for the parties.

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

*“1. That this is an application for
issuance an appropriate writ for a direction to
the Respondents particularly the Respondent
no. 2 to re-open the land ceiling (Pre-emption)
Appeal no. 4/2008 filed by the petitioner
before the collector, Khagaria against the
order dtd. 12.03.08, passed by the learned*



D.C.L.R. Khagaria in Land ceiling (Pre-emption) case no. 06 of 2005, because the several records of the office of collector had been burnt due to set fire of anti-socials and several records had been destroyed including the petitioner's case/Appeal filed before the Respondent no. 2.”

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. At this stage, learned counsel for the petitioner, who is a pre-emptor, seeks permission of this Court to withdraw this writ petition.

6. Permission is accorded.

7. Accordingly, the present application is dismissed as withdrawn.

8. 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)

Raj Kishore/-

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