

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2385 of 2016

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Md. Zakir Hussain S/o Haji Md. Nasiruddin, Resident of Mohalla- Millat
Nagar, Rampara, P.S. and District- Katihar

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Divisional Commissioner, Purnea
3. The Collector, Katihar
4. The Land Reforms Deputy Collector, Katihar
5. Anand Kumar Paswan s/o Late Kusheshwar Paswan, Resident of New
Amirabad Bhagwan Chowk, P.S.- Katihar, District- Katihar
6. Lakshman Mandal, S/o Gopal Mandal
7. Nand Lal Mandal S/o Gopal Mandal Respondent Nos. 6 and 7 are resident
of Madhepura, P.S.- Katihar, District- Katih

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	None
For the Respondent/s	:	Mr. Ajay, GA12
For the Resp. No.5	:	Mr. Ashok Kr. Singh, N o.2 Adv. Mr. Lala Sachindra, Adv.

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CORAM: HONOURABLE MR. JUSTICE RUDRA PRAKASH MISHRA
ORAL JUDGMENT

Date : 04-07-2024

No one appears on behalf of the petitioner. Counsel
for the respondents are present.

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

*“1. That this writ application is being
filed for quashing of the order dated
16.12.2015 passed in B.L.T. Case No. 247 of
2013 by the Hon’ble Chairman, Bihar Land
Tribunal, Patna by which the case under
reference preferred by the Respondent no.5*



was allowed and the order passed by the Learned D.C.L.R., Katihar in Land Ceiling Case No.9 of 2007-08 dated 6.3.2009, order passed by the learned Collector in Pre-emption Appeal No. 562 of 2008-09 as well as order passed by ld. Divisional Commissioner, Purnea in Land Ceiling Revision No. 196 of 2013 are set aside by which all the three courts allowed the pre-emption application of the petitioner.”

3. At the outset, it is submitted by learned counsel for the respondent no.5 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.”

5. Learned counsel for the State has raised no objection to the aforesaid submissions made by the learned



counsel for the respondent no.5.

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 petitioner herein to withdraw the amount deposited by him, if any, 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	09.07.2024
Transmission Date	

