

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3306 of 2016

Most. Phulkali Devi wife of Late Rajdeo Singh resident of village and P.O.
Dulma, P.S. Madhuban, District East Champaran at Motihari.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Chairman, Bihar Land Tribunal, Patna.
3. The Divisional Commissioner, Tirhut Division, Muzaffarpur.
4. The Collector, East Champaran at Motihari.
5. The Deputy Collector Land Reforms DCLR, Pakaridayal, East Champaran at Motihari.

---- Official Respondents

6. Niteshwar Singh alias Niteshwar Prasad Singh
7. Vijay Kumar Singh
8. Sanjay Kumar Singh
9. Shashi Bhushan Kumar Singh
10. Ajit Kumar Singh All sons of Late Parmanand Singh all residents of village and P.O. Dulma, P.S. Madhuban, District East Champaran at Motihari.

---- Vendees/Respondents

11. Ravindra Kumar Singh son of Surendra Kumar Singh resident of village Ujhilpur, P.O. Narayanpur, P.S. Rajepur, District East Champaran at Motihari.

--- Donee/Respondent

12. Ganesh Rai
13. Harinandan Rai
14. Parmanand Rai All sons of Late Daroga Rai all residents of village Manpurwa, P.O. Velwan, P.S. Madhuban, District East Champaran at Motihari.

... .. Vendors/Respondents

Appearance :

For the Petitioner/s : Mr.Ranjan Kumar Dubey, Adv.
For the Respondent/s : Mr.Ajay, GA12

CORAM: HONOURABLE MR. JUSTICE RUDRA PRAKASH MISHRA

ORAL JUDGMENT



Date : 30-07-2024

Heard learned counsel for the parties.

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

“1. That this application is being filed for issuance of a writ in the nature of certiorari or any other appropriate writ/order/direction for quashing the order dated 02.10.2015 passed by the Chairman, Bihar Land Tribunal, Patna (respondent no.2) in B.L.T. Case No.842 of 2014 (Annexure-1), whereby the order dated 11.08.2014/15.09.2014 passed by the respondent no.3 in Pre-emption Revision Case No.42 of 2008 (Annexure-2) as well as the order dated 14.07.2006 passed by respondent no.4 in Pre-emption Appeal No.41 of 2001-02 (Annexure-3) and the order dated 10.11.2001 passed by respondent no.5 in L.C. Case No.06 of 2001-02 (Annexure-4) have been set aside and the B.L.T. Case No.842 of 2014 has been allowed and/or for grant of such other relief/reliefs to which the petitioners may be deemed entitled to in the facts and circumstances of the case.”

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.

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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, 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-emptor 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)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	09.08.2024
Transmission Date	

