

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9315 of 2016

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1. Kameshwar Prasad Yadav
 2. Akhilesh Prasad Yadav, Both sons of Shri Ambika Prasad Yadav, Village - Dharhara Khurd, P.S. Amneur, Distt. Saran.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Collector, Saran.
2. Additional Member, Board of Revenue, Bihar Govt. Patna.
3. Additional Collector, Saran.
4. Deputy Collector Land Reform, Marhaura.
5. Jagsih Bhagat, S/o Kagee Bhagat, R/o Village Jalalpur, P.S. Amnaur, Distt Saran.
6. Smt. Baharan Devi, W/o Kamla Bhagat, S/o Ganga Bhagat, R/o Village - Kharika, P.S. Sonapur, Distt. Saran.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Dineshwar Mishra, Advocate Ms. Ruchi Arya, Advocate
For the Respondent/s	:	Mr.Ajay, GA-5 Mr. Rakesh Kumar Ranjan, AC to GA-5

CORAM: HONOURABLE MR. JUSTICE RUDRA PRAKASH MISHRA

ORAL ORDER

4 23-09-2024 Heard learned counsel for the petitioners and learned counsel for the respondents.

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

“That this application is for issuance of appropriate writ(s), order(s), direction(s) and for quashing of order dated 27.5.95 passed by Sri Pancham Lal, Additional Member, Board of Revenue, Bihar (Annexure-1) in Land Ceiling Revision Case No. 363 of 1995 whereby he upheld the order of preemption



passed on 11.07.94 by Additional Collector, Saran in favour of Respondent No. 5 by which the order of the D.C.L.R. dated 4.12.93 in Land Ceiling Case No. 2/93-94 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.

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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. The petitioners are the purchaser. It goes without
saying that if any grievance of the petitioners still subsists, they
are at liberty to move before appropriate forum for redressal of
the same.

(Rudra Prakash Mishra, J)

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