

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11873 of 1997

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1. Nunu Lal Bhagat, Son of late Chhedi Lal Bhagat, Resident of Village-Murlibasantpur, P.S. Bangaon, District-Saharsa.
 2. Mani Lal Bhagat, Son of late Chhedi Lal Bhagat, Resident of Village-Murlibasantpur, P.S. Bangaon, District-Saharsa.

... .. Petitioner/s

Versus

- 1.1. Anant Mistry, Son of late Basudeo Mistry, Resident of Village-Murli
1. Basantpur, P.O. Murli Basant pur, P.S. Bangaon, District-Saharsa.
- 1.1. Ashok Mistry, Son of late Basudeo Mistry, Resident of Village-Murli
2. Basantpur, P.O. Murli Basant pur, P.S. Bangaon, District-Saharsa.
- 1.1. Pankaj Mistry, Son of late Basudeo Mistry, Resident of Village-Murli
3. Basantpur, P.O. Murli Basant pur, P.S. Bangaon, District-Saharsa.
- 1.2. Upendra Mistry, Son of late Paltu Mistry, Resident of Village- Murli
- Hasanpur, P.S. Bangaon, Distt. Saharsa.
- 1.3. Adlahi Devi, D/o of late Paltu Mistry, Resident of Village- Murli Hasanpur,
- P.S. Bangaon, Distt. Saharsa.
2. Usha Raman Jha, Son of late Radha Raman Jha, Resident of Village-Shahpur, P.S. Shahpur, District-Saharsa.
3. The State of Bihar.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Vinod Shanker Modi, Adv. Mr. Manoj Kumar Singh, Adv.
For the Respondent/s	:	Mr. Kamal Kishore Singh, Adv. Mr. Anil Kumar, Adv.

CORAM: HONOURABLE MR. JUSTICE RUDRA PRAKASH MISHRA

ORAL JUDGMENT

Date : 08-08-2024

Heard learned counsel for the petitioners and counsel
for the private respondents. No one appears for the State.

2. In this writ application, the petitioners have prayed
for following relief/s:-

*“1. That by this application, the petitioners,
citizens of India, pray for issuance of an*



appropriate writ or writs for quashing the orders dated 26.8.1993 and 10.12.1996 passed by the Additional Collector, Saharsa and that by Sri Pancham Lal, Additional Member, Board of Revenue, Bihar in Appeal Case No.44/88-89 and Board Case No.436/1993 respectively (the impugned orders dated 26.8.1993 and 10.12.1996 are contained in Annexures 3 and 4 to this petition.)”

3. At the outset, it is submitted by learned counsel for the petitioners 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)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	14.08.2024
Transmission Date	

