

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4579 of 2014

=====

Smt. Subhadra Devi W/O Sri Satyendra Kumar Singh Resident Of Village -
Adauri, P.S. Purnahiya, Distt. - Sheohar

... .. Petitioner/s

Versus

1. The State of Bihar
2. Dy. Collector Land Reforms, Sheohar
3. Addl. Collector, Sheohar
4. Commissioner, Tirhut Division, Muzaffarpur
5. Ramchandra Singh S/O Late Jagarnath Singh Resident Of Village - Adauri,
P.S. Purnahiya, Distt. - Sheohar
6. Suryalal Chaudhari S/O Late Ramaashray Choudhari Resident Of Village -
Adauri, P.S. Purnahiya, Distt. - Sheohar

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr. Yogendra Mishra, Sr. Advocate Ms. Swathi Mishra, Advocate Mr. Binod Kumar, Advocate
For the Respondent/s	:	Mr. Sajid Salim Khan, SC25 Mr. Amar Nath Deo, AC to SC25

=====

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE PARTHA SARTHY)

- 14 23-07-2024 1. Heard learned Senior counsel appearing for the
petitioner and learned counsel for the State of Bihar.
2. The petitioner filed the instant application praying
for quashing the order dated 30.12.2013 passed in Ceiling
Preemption Revision Case no. 110 of 2012 by the learned
Commissioner, Tirhut Division, Muzaffarpur.
3. It is submitted by learned Senior counsel appearing



for the petitioner that soon after the purchase of the land in question by the petitioner from the Respondent no.6 by a registered sale deed executed on 04.10.2005, the Respondent no. 5 filed L.C. Case No. 02/05-06 for preemption before the Deputy Collector, Land Reforms, Sheohar. On dismissal of the preemption application, the Respondent No. 5 preferred an appeal before the Appellate authority which was also dismissed by order dated 10.02.2012 passed by the Additional Collector, Sheohar. Thereafter the Respondent No. 5 filed Ceiling Preemption Revision Case No. 110 of 2012 which was allowed by order dated 10.12.2013 passed by the Commissioner, Tirhut Division, Muzaffarpur against which the petitioner has preferred the instant application.

Re: I.A. No. 02 of 2024

4. It is submitted by learned counsel appearing for the petitioner that pursuant to an objection having been raised by the private respondents, the petitioner filed I.A. No. 586 of 2015 which was allowed on 22.01.2015 and an additional prayer was made part of the writ petition which was to the effect of declaring that the provisions especially Sections 9, 14, 15 and 18 of the Bihar Land Tribunal Act is ultra vires and unconstitutional. Learned Senior counsel submits that by the



instant interlocutory application he seeks to withdraw the additional prayer allowed vide order dated 22.01.2015. It is further submitted that so far as the remaining prayers in the main writ application are concerned, the matter in issue stands settled by the judgment of this Court in the case of Sudhakar Jha vs. State of Bihar; 2023 (6) BLJ 397.

5. Having heard learned counsel for the parties, the prayer made in the instant application is allowed.

6. I.A. No. 02 of 2024 stands disposed of.

CWJC No. 4579 of 2014

7. As stated above, the instant application arises from a preemption application filed under Section 16(3) of the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961 (herein after referred as 'the Act'). The application for pre-emption filed by the Respondent no. 5 stood dismissed by the Deputy Collector Land Reform, Sheohar and the appeal preferred by him against the said order was also dismissed by order dated 10.12.2012 passed by the Additional Collector, Sheohar. The pre-emption revision case preferred by the Respondent no. 5 having been allowed by the Commissioner by order dated 30.12.2013, the instant application was preferred against the same.



8. The issue of constitutional validity of the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) (Amendment) Act, 2016 and the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) (Amendment) Act, 2019 came to be considered by this Court in the case of Sudhakar Jha (supra) wherein the constitutional validity of the same was upheld. Relevant paragraph nos. 50, 51 and 52 of the judgment are quoted here-in-below:-

“50) The Hon'ble Supreme Court in the case of Punyadeo Sharma & Ors. vs. Kamla Devi & Ors., 2022(1) BLJ 434 (SC) held as follows:-

"4. The question examined by the Division Bench of the High Court was whether an application for preemption 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:

.....

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 preemption 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 ie. 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."

51) *Thus, in view of section 16 of the Act as it stands after amendment by the Amendment Act, 2019 as also in view of the judgment of the Hon'ble Supreme Court in the case of Punyadeo Sharma (supra), all cases or proceedings which may be pending before any authority or Court stands abated and the amount deposited shall be refunded in the manner as provided in Section 16(4) of the Act.*

52) *The applications stand disposed of in the following terms:-*

(i) The applications so far as the challenge to the constitutional validity of the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) (Amendment) Act, 2016 as also that of the Bihar Land Reforms (Fixation of Surplus Area and Acquisition of Surplus Land)



(Amendment) Act, 2019 are concerned, stand dismissed.

(ii) The following cases either challenge the Amendment Act, 2019 and/or arise out of an application under Section 16(3) of the Act. The cases arising out of an application under Section 16(3) of the Act stand abated. They are all the cases in the instant batch of applications except CWJC no.1840 of 2019, CWJC no.2728 of 2019 and CWJC no. 10416 of 2020.

(iii) It may be mentioned here that by Amendment Act, 2016, Section 45B of the Act was repealed and Section 45D added, which provided that after repeal of section 45B of the Act, proceedings pending before the State Government or the Bihar Land Tribunal as also pending before the Collector shall stand abated. Both Section 45D and 16(4) provide for the consequence upon repeal of section 45B and Section 16(3) of the Act. The language of Section 45D is different from that of Section 16(4). While Section 16(4) provides that all cases of proceedings pending before the Tribunal or the Authorities mentioned therein 'or in any other Court' shall abate, the words 'or in any other Court' does not find mention in Section 45D. Thus, in this view of the matter, the Court is of the opinion that those matters arising out of an application under Section 45B of the Act having been decided by the Authorities or the Tribunal and applications preferred against the said orders being pending in this Court, though the Constitutional validity of the Amendment Act, 2016 has been upheld, these cases will have to be listed before the appropriate bench having roster, for it to be decided on



it's own merits. The cases falling under this category are CWJC no. 1840 of 2019, CWJC no.2728 of 2019 and CWJC no. 10416 of 2020”

9. In view of the facts and circumstances of the case and especially in view of the Section 16 of the Act as its stand by Amendment Act, 2019 and in view of the judgment of the Hon'ble Supreme Court in the case of Punyadeo Sharma (supra), the instant application stands abated along with the proceedings initiated for pre-emption. As held in the case of Punyadeo Sharma (supra) it shall be open to the Respondent no. 5 to withdraw 10% of the amount deposited by him in terms of Section 16 of the Act.

10. The instant application stands disposed of.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

Harsh/-

U			
---	--	--	--

