

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.946 of 2019

In

Civil Writ Jurisdiction Case No.3336 of 1999

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Mina Devi, Wife of Rabindra Singh Resident of Village- Nimi, Police Station-
Barbigha, District- Sheikhpura.

... .. Appellant/s

Versus

1. The State of Bihar
2. The Member, Board of Revenue, Bihar, Patna.
3. The Collector, Sheikhpura.
4. The Deputy Collector, Land Reforms, Sheikhpura.
5. Smt. Mani Devi Wife of Late Vijay Kumar Prasad Singh Resident of
Village- Nimi, Police Station- Barbigha, District- Sheikhpura.
6. Sri Sanjay Kumar Bhardvaj Son of Late Raj Ballabh Singh Resident of
Village- Nimi, Police Station- Barbigha, District- Sheikhpura.
7. Sri Sanjeev Kumar Son of Late Vijay Kumar Prasad Singh Resident of
Village- Nimi, Police Station- Barbigha, District- Sheikhpura.
8. Sri Rajeev Kumar Son of Late Vijay Kumar Prasad Singh Resident of
Village- Nimi, Police Station- Barbigha, District- Sheikhpura.
9. Sri Kailash Singh Son of Late Akhjoo Singh Resident of Village- Sarba,
Police Station- Barbigha, District- Sheikhpura.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr.Arun Kumar, Advocate

For the Respondent/s : Mr.Md.Khurshid Alam (AAG-12)

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE HARISH KUMAR

CAV JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 18-04-2024

The writ appeal is from the purchaser of a land,
aggrieved with the preemption proceedings taken by the 5th



respondent, which was approved by the learned Single Judge in the impugned judgment.

2. The appellant purchased a land appertaining to Khata No. 286, Khesra No. 2394, admeasuring 15½ decimals, situated in Village Nimi, P.S. Barbigha, in the District of Sheikhpura. The registered Sale Deed was executed on 16.09.1991 by the 6th respondent who was the owner of the property. An application under Section 16(3) of the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961 was filed by the preemptor, the 5th respondent. The 5th respondent claimed that he was the adjoining *raiyat* of the land in question and, therefore, entitled to transfer of the land sold by the 6th respondent.

3. The appellant, the purchaser resisted the claim mainly on the ground that her husband was the adjoining *raiyat*. The Deputy Collector Land Reforms, Sheikhpura allowed the preemption application holding that though the husband of the purchaser was the adjoining *raiyat*, this cannot confer a claim on the wife, who was the purchaser. The Collector allowed the appeal filed by the appellant which was reversed by the Member, Board of Revenue in Case No. 57 of 1997. The order impugned in the writ petition in the revision was dated



05.03.1999 which restored the order of the Deputy Collector Land Reforms.

4. The learned Single Judge found that the appellant's claim as an adjoining *raiyyat* cannot be sustained. The order in the revision was affirmed. The Amendment Act of 2019 was noticed, but however, it was found that the revisional order itself was in the year 1999 and hence, the amendment is of no consequence.

5. As per the amendment of 2019, the right of preemption was taken away and all proceedings for preemption were declared to stand abated.

6. We need only notice the judgment of the Hon'ble Supreme Court in ***Punyadeo Sharma v. Kamla Devi & Ors.; 2022 (1) BLJ 434 (SC)*** wherein the specific amendment Act of 2019, Act No. 6 of 2019, was considered. We extract hereunder Paragraph 7 of the said judgment: -

“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.”

7. However much time has passed, the proceedings



for preemption stands abated as the very right of pre-emption stands abated. We are told that the purchaser, the appellant herein, is still in possession of the land. In such circumstances, the order on preemption would stand set aside by virtue of the amendment passed, finding the proceedings to have abated. The purchaser, the 5th respondent, if he has deposited the amounts, will be entitled to receive a refund.

8. The appeal stands allowed leaving the parties to suffer their respective costs.

9. Interlocutory Application(s), if any, shall stand closed.

(K. Vinod Chandran, CJ)

Harish Kumar, J: I agree.

(Harish Kumar, J)

P.K.P./-

AFR/NAFR	
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