

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13294 of 2016

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Sri Bhagwan Rai son of Late Jhulan Rai of Village and P.O. Barkagaon,
Pargana Barai, P.S. Bhagwanpur Hat, District Siwan

... .. Petitioner/s

Versus

1. Commissioner, Saran Division, Chapra.
2. The Collector, Siwan.
3. The Subdivision Officer, Maharajganj.
4. Smt. Sushila Devi wife of Sri Ashok Rai of Village and P.O. Barkagaon,
Pargana Barai, P.S. Bhagwanpur Hat, District Siwan.
5. Most Shanti Kuer wife of late Baijnath rai of Village and P.O. Barkagaon,
Pargana Barai, P.S. Bhagwanpur Hat, District Siwan.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. S.N.P. Singh, Sr. Adv. Mr. Kumar Sameer, Adv.
For the Respondent/s	:	Mr. Rishi Raj Sinha- SC19 Mr. Saurabh Kumar, AC to SC19

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CORAM: HONOURABLE MR. JUSTICE RUDRA PRAKASH MISHRA
ORAL JUDGMENT

Date : 13-08-2024

Heard learned counsel for the parties.

2. In this writ application, the petitioner has prayed for
following relief:-

*“1. That this writ application is being filed
for issuance of appropriate writ, order or
direction for setting aside the order dated 17th of
August 2015 (Annexure-4) passed by the Hon'ble
Bihar Land Tribunal, Patna in B.L.T. Case No.740
of 2015 by which the order passed by the
Commissioner has been affirmed, order dated*



28th of February 2015 passed by the Commissioner, Respondent no.1 (Annexure-3) by which he set aside the order of the Collector dated 16th of April 2013 by which the learned Collector has allowed the appeal filed by the preemptor/petitioner and for stay of operation of the order contained in Annexure-3 and 4 during pendency of this writ application.”

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.

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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.

(Rudra Prakash Mishra, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	23.08.2024
Transmission Date	

