

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.25356 of 2019

Subhash Chandra Srivastava, Son of late Shadhu Sharan Sriwastava, Resident
of Village and P.O. Badaram, P.S. Hussainganj, District- Siwan.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Revenue and Land Reforms Department,
Government of Bihar, Patna.
3. The Member, Board of Revenue, Bihar, Patna.
4. The Collector, Siwan.
5. The Sub-Divisional Officer, Siwan-Cum-The Collector, Siwan.
6. Narsingh Prasad, Son of late Nathuni Prasad Resident of Village and P.O.
Badaram, P.S. Hussainganj, District- Siwan.
7. Ram Ashish Prasad, Son of late Bhagwan Prasad, Resident of Village and
P.O. Badaram, P.S. Hussainganj, District- Siwan.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Sushil Kumar Jha, Advocate
For the Respondent/s : Mr. Md. Khurshid Alam (AAG-12)

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE PARTHA SARTHY)

Date : 24-10-2024

1. Heard learned counsel for the petitioner and learned
counsel for the respondent-State of Bihar.

2. For non-compliance of the peremptory order dated
19.12.2019, the application stood dismissed as against private
respondent nos. 6 and 7.

3. The petitioner has filed the instant application for



the following relief :-

“1. That this writ application is being filed to declare Section 16(4) (i), (ii) of The Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) (Amendment) Act, 2019 (herein after referred to as the Amendment Act), Bihar Act 6, 2019 ultra virus taking away the petitioner's legal vested preemptory right created in the year, 2004 in Land Ceiling Case No. 26/2003-04 vide order dt.28.10.2004, subsequently affirmed in Land Ceiling (Pre-emption) Appeal No.275/04 vide order dt.11.03.2005 by the appellate authorities. The Act, 2019 has been given effect from 25.02.2019 i.e. the date of gazette notification whereas Sub Section 4(i), (ii) adversely affect the petitioner's interest wherein the cases has not only been abated but it has been made clear that the money so deposited shall be refunded, though the Act has not given its retrospective effect, without any interest for decades of deposit.

This writ application is also being filed for quashing the order dated 06.01.2017 passed by learned Additional Member, Board of Revenue, Bihar, Patna in Revision (Land Ceiling Pre-emption) Case No.87/2005 whereby and where under the order dated 11.03.2005 passed in Land Ceiling (Pre-



emption) Appeal No.275/04 has been set aside.

This writ application is also being filed for quashing the order dated 22.04.2019 passed by the learned Member, Bihar Land Tribunal (herein after referred to as the Tribunal) in B.L.T. Case No.-161/2017 (Subhash Chandra Srivastava Versus The State of Bihar & Others) in term of Amendment Act, 2019..

This writ application is also being filed for other reliefs as well.”

4. The constitutional validity of the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) (Amendment) Act, 2019 came to be challenged before a Division Bench of this Court in **Sudhakar Jha vs. State of Bihar & Ors.** By judgment dated 13.10.2023, reported in **2024 (3) PLJR 403**, the constitutional validity of the Amendment Act was upheld and the applications dismissed. It was held that all the cases arising out of an application under section 16(3) of the Act stand abated.

5. It may further be observed that as held by the Hon'ble Supreme Court in the case of **Punyadeo Sharma & Ors. vs. Kamla Devi & Ors. [2022 (1) BLJ 434 (SC)]**, the entire pre-emption proceedings stand abated and it shall be open



to the applicants, who have filed the pre-emption application, to withdraw 10% of the amount deposited by them in terms of section 16 of the Act in accordance with law.

6. In view of the decisions of this Court in the case of **Sudhakar Jha** (*supra*), this application stands disposed of.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

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AFR/NAFR	
CAV DATE	N/A
Uploading Date	26.10.2024
Transmission Date	N/A

