

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.25822 of 2019

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Yogendra Prasad Yadav Son of Late Jagat Kishore Yadav, Resident of
Nawada, P.S. Pirpainti, District- Bhagalpur (Pre-emptor).

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Bihar Land Reforms, Bihar, Patna.
2. The Principal Secretary, Revenue and Land Reforms Department, Bihar, Patna
3. The Joint Secretary, Revenue and Land Reforms Department, Bihar, Patna.
4. The District Magistrate-Cum- Collector, Bhagalpur.
5. The Deputy Collector Land Reform, Kahalgaon, District- Bhagalpur.
6. The Circle Officer, Kahalgaon, District- Bhagalpur.
7. Muktinath Yadav, Son of Late Sant Lal Yadav, Resident of Nawada, P.S. Pirpainti, District Bhagalpur (Vendee).
8. Ram Ekbal Sah, Son of Late Dhaneshwar Sah, Resident of Nawada, P.S. Pirpainti, District-Bhagalpur (Vendor).

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Satya Prakash Parasar, Advocate
For the Respondent/s : Md. Khurshid Alam, AAG-12

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

(Per: HONOURABLE MR. JUSTICE PARTHA SARTHY)

- 3 10-09-2024 1. Heard learned counsel for the petitioner and learned
counsel for the State of Bihar.
2. The petitioner has filed the instant application for
the following relief(s):



“(i) For issuance of writ in the nature of certiorari for quashing the abatement order dated 18.4.2019 passed by the Deputy Collector Land Reform, Kahalgaon, Bhagalpur in Land Ceiling Case No. 01/1994-95 whereby and where under the learned respondent has ordered to abate the proceeding of the present case in view of the abatement in Bihar Act 6, 2019 whereby abatement has been brought in Section 16 sub section 3 of the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961 Amendment Act, 2019.

(ii) For further declaring the abatement in Bihar Act, 6 of 2019 by which the abatement has been brought in Section 16 Sub Section 3 of the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) (Amendment) Act, 2019 ultra virus.

(iii) For further direction to the respondent authorities to proceed with the proceeding of Land Ceiling Case No. 01/1994-95 and direct the private respondent to execute a Sale Deed in favour of the petitioner.

(iv) And for any other reliefs for which this Hon'ble Court may deem fit and proper.”

3. It is the case of the petitioner that one Ram Ekbal Sah (respondent no.8) sold a piece of land to one Muktinath Yadav (respondent no.7) through a registered sale deed. The



petitioner being an adjoining raiyat filed an application for pre-emption under section 16(3) of the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961 (hereinafter referred to as 'the Act'). The said application which was registered as Land Ceiling Case no.1 of 1994-95 was rejected vide order dated 13.5.1997 passed by the Deputy Collector Land Reforms, Kahalgaon, Bhagalpur. The petitioner preferred an appeal before the Additional District Magistrate, Bhagalpur which was registered as Land Ceiling Appeal Case no.6/1997-98 and the same was allowed by order dated 30.1.2002. The private respondent nos.7 and 8 moved the Board of Revenue at Patna against the said order which was also dismissed. Consequently, the petitioner filed a petition before the DCLR, Kahalgaon on 3.9.2016 in Land Ceiling Case no.1/1994-95 praying therein that the registered sale deed be executed with respect to the land in question within a stipulated time by the opposite parties (respondent nos.7 and 8 herein) or through the process of the Court. By order dated 18.4.2019, taking note of the deletion of section 16(3) of the Act and abatement of all pending proceedings, the DCLR closed the proceedings as having abated. It is against this order that the instant application has been preferred.



4. On perusal of the records, it transpires that by order dated 6.1.2020, notices were directed to be issued to private respondent nos.7 and 8 for which requisites were to be filed by the petitioner within one week failing which it was ordered that the writ petition would stand dismissed as against the said respondents without further reference to the Bench. The order not having been complied with, the writ application stood rejected on 13.1.2020 as against respondent nos.7 and 8.

5. The instant application arises out of the pre-emption application filed under section 16(3) of the Act on account of a registered sale deed having been executed by respondent no.8 in favour of respondent no.7. Thus, in the opinion of this Court, both respondent nos.7 and 8 are not only proper but necessary parties without whom the instant application cannot proceed.

6. Further, so far as the validity of the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) (Amendment) Act, 2019 is concerned, the same has already been upheld by a judgment of this Court in the case of ***Sudhakar Jha & Ors. vs. The State of Bihar & Ors.; 2024 (3) PLJR 403 (DB).***

7. In view of the facts and circumstances stated herein



above, the Court finds no merit in the instant application and the same is dismissed.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

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