

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.25095 of 2019

1. Raffique Ansari, S/o Rahman Ansari, Resident of Village- Khapra, Chandi, P.S.- Akorigola, District- Rohtas at Sasaram
2. Safik Ansari, S/o Rahman Ansari, Resident of Village- Khapra, Chandi, P.S.- Akorigola, District- Rohtas at Sasaram
3. Idrish Ansari, S/o Rahman Ansari, Resident of Village- Khapra, Chandi, P.S.- Akorigola, District- Rohtas at Sasaram

... .. Petitioner/s

Versus

1. The State of Bihar through Member Board of Revenue, Bihar, Patna
2. The Additional Collector Rohtas at Sasaram
3. The D.C.L.R. Dehri on Sone, District- Rohtas
4. Harun Ansari S/o Haji Lal Md. Ansari Resident of Village- Khapra, Chandi, P.S.- Akorigola, District- Rohtas at Sasaram
5. Jibrail Ansar S/o Harun Ansari Resident of Village- Khapra, Chandi, P.S.- Akorigola, District- Rohtas at Sasaram
6. Ismile Ansari S/o Harun Ansari Resident of Village- Khapra, Chandi, P.S.- Akorigola, District- Rohtas at Sasaram
7. Ijaj Ansari S/o Harun Ansari Resident of Village- Khapra, Chandi, P.S.- Akorigola, District- Rohtas at Sasaram
8. Wakil Ansari S/o Harun Ansari Resident of Village- Khapra, Chandi, P.S.- Akorigola, District- Rohtas at Sasaram
9. Istakhar Ansari S/o Harun Ansari Resident of Village- Khapra, Chandi, P.S.- Akorigola, District- Rohtas at Sasaram
10. Kayum Ansari S/o Umat Ansari Resident of Village- Khapra, Chandi, P.S.- Akorigola, District- Rohtas at Sasaram

... .. Respondent/s

Appearance :

For the Petitioner/s	:	None
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. No one appears on behalf of the petitioners.

Learned counsel for the respondents are present.



2. The petitioners have filed the instant application for the following relief :-

“That instant writ application is being filed herewith challenging the Bihar Land Reforms (Fixation of Ceiling Area and acquisition of surplus land) (Amendment) Act, 2019, by which sub section-(3) of section 16 has been repealed and sub section-4 of section 16 has been added which prescribed as follows :-

“(4) (i) After the repeal of sub-section (3) of section 16 of the Act, all cases or proceeding 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”

The aforesaid amendment Act, Bihar Act, 6, 2019 is ultra-virus which has taken away the Petitioners legal vested pre-emptory right created by appellate as well as Revisional Order dated 03.12.2004 and 15.03.2011 respectively, but after attaining finality of the said order the sale deed in respect of pre-empted land could not have



been executed in favour of the Petitioners (Pre-emptor) & in the meanwhile the aforesaid amendment Act, 2019 has been given effect from 25.02.2019 where by the sub section 4 (i) (ii) as mentioned above, adversely affected the petitioners interest as in amended Act, it has been contended that the money so deposited shall be refunded, though the Act has not given its retrospective effect without any interest. (ii) That the Petitioners further pray that the aforesaid amendment is against the constitutional provisions as before amending the Act the assent of president has not been taken. Hence, the amendment being ultra-virus and against the constitutional. (iii) That the Petitioners further seeks direction upon Respondent No. 3 to execute/register a sale deed in favour of the petitioners in respect of the lands in which the Petitioners have got the order from the statutory authority which has attained its finality.”

3. 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.

4. 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.

5. 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

