

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13417 of 2018

1. Md. Quashim
2. Md. Wasique Both Sons of Late Md. Taslimuddin
3. Bibi Wasila Khatoon
4. Bibi Sunjida Khatoon Petitioner nos. 3 and 4 daughter of Late Taslimuddin
All residents of village Matiyari P.S. Jokihat, District Araria.

... .. Petitioner/s

Versus

1. The State Of Bihar through Principal Secretary Land Reform Department,
Patna.
2. The Additional Collector, Ceiling, Araria.
3. The D.C.L.R. Araria, District Araria.
4. The Anchaladhikari, Jokihat, District Araria.
5. Shri Hint Ram Sah Son of Shri Andu Lal Sah Resident of Village Matiyari,
P.S. Jokihat, District Araria.
6. Nitya Nand Tatma Son of Sanup Lal Tatma
7. Tauhid Mian Son of Khaiyan Mian
8. Domir Rishidev Son of Bateshwar Rishidev
9. Prithwi Rishidev Son of Manik Chand Rishidev
10. Chgamru Rishidev Son of Jiya Lal Rishidev
11. Kamlu Rishidev Son of Dukha Rishidev
12. Karku Rishidev Son of Bhuni Rishidev
13. Chaiti Rishidev Son of Aklu Rishidev
14. Sarswar Rishidev Son of Ghotgak Rishidev
15. Misran Rishidev Son of Chhedi Rishidev
16. Giirdhu Rishidev Son of Kallu Rishidev
17. Phani Rishidev Son of Dukha Rishidev
18. Hakru Rishidev Son of Chedi Rishidev
19. Jhegar Rishidev Son of Latru Rishidev
20. Lakhan Rishidev Son of Ram Kumar Rishidev All residents of village
Chakai P.S., Jokihat, District Araria.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Manish Kumar, Adv.
For the Respondent/s : Mr. Raj Kishore Ray - GP-18



CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

6 04-02-2025 Learned Counsel for the petitioners and Learned
Counsel for the State are present.

2. The present writ petition has been filed for the
following reliefs:-

i. For issuance of an appropriate writ/ writs, order/ orders, direction/ directions in the nature of certiorari quashing the entire proceeding of Ceiling Procedure Case no. 126/1973-74 which climbing in gazette notification No. 2105 dated 05.02.1980 whereby learned Additional Collector Purnea has declared the land of the petitioners as surplus land showing the land of Chint Ram Sah respondent no.5 said proceeding came to end by way of publication of gazette notification under section 15(I) of the Act whereby issued red card in favour of the respondent no. 6 to 20 (most of them have abandoned from their place of long back could not be located.

ii. For that petitioner approach before this Hon'ble Court for reopening the Ceiling proceeding



as per the order of Hon'ble Mr. Justice Mihir Kumar Jha on 07.09.2015 in C.W.J.C., No. 2899/2016 Hon'ble Mr. Justice directed to file petition before State Govt. under section 45(B) of the Bihar Land reforms (Fixation of Ceiling Area and acquisition of surplus land) Act 1961 and section 45(B) of Ceiling Act has been deleted vide gazette notification no. 710 (Extra ordinary) dated 02.09.2016./ So as advice petitioner already filed case no. 01 of 2016 before Hon'ble Minister which was already infructuous so petitioner file this fresh writ petition before this Hon'ble Court for set aside the Ceiling procedure as well as gazette notification no. 2105 dated 15.02. 1980 with respect to land Khata no. 31, 34, 35 and 36 of Area 8.51 acres of village Rahikpur Thana No. 275 P.S. Jokihat District Araria.

iii. For issuance direction to the respondent authority do not interfere in the possession of the petitioner over the land in question.

iv. To grant any other relief or reliefs to which the petitioners are found entitle in the fact and circumstances of the case.



3. Learned Counsel for the petitioners submits that the present matter pertains to the reopening of a ceiling case which stands abated on the ground that the Bihar Land Reforms (Fixation of Ceiling and Acquisition of Surplus Land) (Amendment) Act, 2016, has come into effect. By this amendment, Section 45(B) of the Bihar Land Ceiling Act, 1961 has been repealed, and section 45(D) has been inserted into the said Act.

4. Learned Counsel for the State submits that due to the said ceiling law, the reopening of the ceiling case is not permissible and stands abated. Counsel further submits that the said amendment has been challenged before this Hon'ble Court in the Hon'ble Division Bench in the case of *Sudhakar Jha and Anr. Vs. State of Bihar* reported in 2024 (3) PLJR 403. According to them, those cases which shall be listed before the appropriate Bench having roster for it, to be decided on their own merits. The Division Bench has upheld the said amendment as valid. Counsel further submits that the similar issue has been challenged before the Hon'ble Supreme Court, but no stay has been granted till date. In this view of the matter the petitioners have no case at all.

5. In this view of the matter, it is necessary to quote



the findings (paragraph-52) of the aforesaid judgment *i.e.*, *Sudhakar Jha and Anr. Vs. State of Bihar* reported in 2024 (3) PLJR 403, which are as follows:-

52.(i) The applications so far as the challenge to the constitutional validity of the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) (Amendment) Act, 2016 as also that of the Bihar Land Reforms (Fixation of Surplus Area and Acquisition of Surplus Land) (Amendment) Act, 2019 are concerned, stand dismissed.

(ii) The following cases either challenge the [Amendment Act, 2019](#) and/or arise out of an application under [section 16\(3\)](#) of the Act. The cases arising out of an application under [section 16\(3\)](#) of the Act stand abated. They are all the cases in the instant batch of applications except CWJC no.1840 of 2019, CWJC no.2728 of 2019 and CWJC no. 10416 of 2020.

(iii) It may be mentioned here that by [Amendment Act, 2016](#), [section 45B](#) of the Act was repealed and section 45D added, which provided that after repeal of [section 45B](#) of the Act, proceedings pending before the State



Government or the Bihar Land Tribunal as also pending before the Collector shall stand abated. Both section 45D and 16(4) provide for the consequence upon repeal of section 45B and [section 16\(3\)](#) of the Act. The language of section 45D is different from that of Patna High Court CWJC No. 15060 of 2019 dt.13-10-2023 section 16(4). While section 16(4) provides that all cases of proceedings pending before the Tribunal or the Authorities mentioned therein 'or in any other Court' shall abate, the words 'or in any other Court' does not find mention in section 45D. Thus, in this view of the matter, the Court is of the opinion that those matters arising out of an application under [section 45B](#) of the Act having been decided by the Authorities or the Tribunal and applications preferred against the said orders being pending in this Court, though the Constitutional validity of the [Amendment Act, 2016](#) has been upheld, these cases will have



to be listed before the appropriate bench having roster, for it to be decided on its own merits. The cases falling under this category are CWJC no.1840 of 2019, CWJC no.2728 of 2019 and CWJC no. 10416 of 2020.

6. In view of the statutory provisions as well as the decision of the Hon'ble Division Bench rendered in the case of *Sudhakar Jha (supra)* the ceiling proceeding cannot be reopened. Accordingly, the writ petition disposed off, with liberty to the petitioner to challenge the matter afresh if the Hon'ble Supreme Court reopens the issue.

(Dr. Anshuman, J)

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