

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16159 of 2018

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- 1.1. Shail Kumari Devi W/o late Jirakhan Thakur @ Digvijay Thakur @ Dirakhan Thakur, R/o Village - Gangauli, P.O. - Gangauli, P.S. - Simri, District- Buxar.
 - 1.2. Abhishek Bijay Thakur S/o Late Jirakhan Thakur @ Digvijay Thakur @ Dirakhan Thakur, R/o Village - Gangauli, P.O. - Gangauli, P.S. - Simri, District- Buxar.
 - 1.3. Ajit Thakur S/o Late Jirakhan Thakur @ Digvijay Thakur @ Dirakhan Thakur, R/o Village - Gangauli, P.O. - Gangauli, P.S. - Simri, District- Buxar.

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. The Collector, Buxar, District- Buxar.
3. The Deputy Collector, Land Reforms, Dumraon, District- Buxar.
- 4.1. Nirmala Devi D/o Late Brahm Dutta Thakur, R/o Village - Chhata, P.s. - Basdih, District- Ballia, Uttar Pradesh
5. Fateh Bahadur Thakur @ Bhuti Thakur, Son of Ambika Thakur, resident of Village- Gangauli P.O.- Gangauli, P.S.- Simri, District- Buxar.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Pandit Jee Pandey, Advocate Mr. Ramendrapati Tripathy, Advocate
For the Respondent/s	:	Mr. Raj Kishore Roy - GP-18

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

3 04-08-2025

I.A. No. 01 of 2025

Learned counsel for the writ petitioner submits that during the pendency of the present writ petition, the sole petitioner died, leaving behind his heirs and legal representatives as mentioned in paragraph No. 4 of I.A. No. 01 of 2025. Counsel further submits that respondent No. 4 has also died, leaving behind his heir and legal representative, his



daughter, whose name and details are mentioned in paragraph No. 5 of I.A. No. 01 of 2025.

2. Learned counsel appearing for original respondent No. 4 has no objection for the same.

3. Learned counsel for the State has also no objection for the same.

4. Accordingly, the I.A. No. 01 of 2025 is hereby allowed.

5. The Registry is directed to substitute the name of the petitioner with his heirs and legal representatives as mentioned in paragraph No. 4 of I.A. No. 01 of 2025. Similarly, the name of respondent No. 4 shall be substituted with the name mentioned in paragraph No. 5 of the said I.A. The Registry is further directed to make necessary corrections in the hard copy as well as in the soft copy of the cause title page during the course of the day.

6. It transpires to this Court that the *Vakalatnama* has been filed on behalf of the heirs of the writ petitioner, which is annexed to the present Interlocutory Application and is hereby directed to be accepted.

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7. Heard learned counsel for the petitioners and



learned counsel for the State.

8. The present writ petition has been filed for setting aside the order dated 05.02.2018 passed in BLT Case No. 1155 of 2015, and further to set aside the orders dated 21.07.2015 and 04.08.2015 passed in Land Ceiling Revision No. 11 of 2008 by the Divisional Commissioner, Patna.

9. Learned counsel for the petitioners submits that the order passed by the BLT dated 14.11.2016 has been challenged, and a request has been made to set aside the order passed by the Bihar Land Tribunal.

10. Learned counsel for the State, on the other hand, submits that the present writ petition is not maintainable for two reasons. Firstly, against the order dated 14.11.2016 by the Bihar Land Tribunal, a review was filed, in which a final order was passed on 05.02.2018. However, the said review order has not been challenged before this Court. He submits that, for this reason alone, the writ petition is not maintainable. Secondly, under the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961 (hereinafter referred to as the 'Act of 1961'), Section 16(3) of Act of 1961 was deleted in the year 2019, and Section 16(4)(i) and (ii) of Act of 1961 were inserted. According to the amended provisions, any matter



or proceeding pending in any court other than those mentioned under the Act of 1961 shall be deemed to have abated.

11. Counsel further submits that since the matter stands abated, the petitioners have no enforceable right, particularly in view of the effect of the repeal of Section 16(3) of Act of 1961, which is addressed in Section 16(4)(ii) of the Act of 1961. As per this provision, the only entitlement available is that any purchase money, together with a sum equal to 10% thereof, already legally deposited shall be refunded, to the depositor without any interest. Therefore, he submits that the petitioner is only entitled to a refund of the purchase amount along with 10% of the same, and no other relief can be granted.

12. After hearing the parties and upon perusal of the record, it transpires to this Court that the Bihar Land Tribunal has passed an order directing that the purchase money, which is still lying in the District Treasury, the entire consideration amount will be paid to the purchaser with compound interest thereon to be calculated from the year 1992, i.e., the date on which registration of the sale deed was completed, and the calculation of interest will be done on the basis of bank induced rate existing / changing time to time.

13. It further transpires to this Court that, after the



repeal of Section 16(3) of the Act of 1961, the pending matters relating to pre-emption have abated, and the effect of such abatement is limited only to the refund of the amount kept in the Treasury, along with a sum equal to 10% thereof already legally deposited. Since the decision of the Bihar Land Tribunal goes beyond the scope of the amended law, therefore, the petitioners shall not be entitled for taking compound interest. They shall be entitled only to receive the purchase money, together with a sum equal to 10% thereof, actually deposited, which shall be refunded to the depositor without interest. The petitioner shall be at liberty to receive the said amount.

14. From the pleadings, it also transpires that possession is still with the depositor, however, due to the change in law, the depositor has no option but to return the possession of the said land to the landowner or to any other person who is now interested through the landowner.

15. The petitioners are directed to hand over the possession of the land to the landowner within 90 days from the date of receipt of the amount deposited by him. It is made clear that, in case the petitioners intentionally fail to take steps for returning the land within six months, the landowner shall have the right to initiate legal proceedings for recovery of possession,



in accordance with law.

16. Accordingly, the present writ petition stands disposed off.

(Dr. Anshuman, J.)

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