

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9723 of 2018

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Ram Tapeswar Tiwari S/o Late Ishwar Dayal Tiwari, resident of Village-
Dehari, P.O.- Sheopur, P.S.- Agiaon Garahani District- Bhojpur Bihar.

... .. Petitioner/s

Versus

1. The State Of Bihar through Principal Secretary, Department of Revenue & Land Reforms, Government of Bihar, Patna.
2. The Additional Collector, Bhojpur, Arrah, Bihar
- 3.1. Sigasan Devi Wife of Late Sita Ram Tiwary Resident of Village Shivpur Dehri, P.S. Garhani, District Bhojpur.
- 3.2. Smt. Lalit Devi D/o Late Sita Ram Tiwary and Wife of Hari Prasad Tiwary, Village Berain, P.S. Imadpur District - Bhojpur.
- 3.3. Smt. Radhika Devi D/o Late Sita Ram Tiwary, Wife of Ganesh Tiwary, Resident of Village Barja, P.S. Bihiya, District- Bhojpur.
- 3.4. Jitendra Tiwary Son of Late Krishna Tiwary, Resident of Village Shivpur Dehri, P.S. Garhani, District- Bhojpur.
- 3.5. Kishun Tiwary Son of Late Sita Ram Tiwary, Resident of Village Shivpur Dehri, P.S. Garhani, District- Bhojpur.
4. Mosmat Sitwato Kawur widow of Late Sheapujan Tiwari, resident of Village- Dehari, P.O.- Sheopur, P.S.- Agiaon Garahani District- Bhojpur Bihar.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Ranjeet Tiwary, Advocate
For the State	:	Mr. Subhash Chandra Yadav (GP-15)

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL JUDGMENT

Date : 28-04-2025

Learned counsel for the petitioner, Learned counsel
for the State and Learned counsel for private respondent are
present.

Re:-Interlocutory Application No.1/2024

Learned counsel for private respondent submits that



the present I.A has been filed for addition of names of heirs and legal representatives of respondent no.3 of the present writ petition as intervener respondents. Counsel submits that during pendency of the writ petition, contesting respondent no.3 died and therefore, whatever be the right vested in respondent no.3 after death, such right has now been devolve upon the heirs and legal representatives of respondent no.3. Therefore, counsel submits that names of those persons may be added as party respondent in the writ petition.

2. Learned counsel for the petitioner and Learned counsel for the State has no objection for the same.

3. As such, the present I.A. No.1/2024 is hereby allowed.

4. Learned counsel for the petitioner is hereby directed to add the names of persons mentioned in paragraph no.1 of I.A. No.1/2024 as party respondent no.3(A) onwards in course of the day.

Re:-CWJC No.9723/2018

Both the counsel jointly submits that the present case has arisen out of pre-emption matter and directly related to Section 16 of the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961 [Bihar Act



XII of 1962] {hereinafter referred to as Act of 1961}. It has been submitted that by virtue of the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) (Amendment) Act, 2006, [Bihar Act No. 10 of 2006] {hereinafter referred to as Amendment Act of 2006}, dated 04.05.2006, Section 16(3) of the Act of 1961 has been repealed and in its place, a new Act has come in which it has been indicated that all cases pending relating to Section 16(3) of the Act of 1961 shall be deemed to be abated.

2. Learned counsel for the State submits that with regard to the Amendment Act of 2006, all cases relating to pre-emption has now abated and, therefore, appropriate decision may be taken.

3. In light of the submissions made by the parties, it is necessary to quote the amended paragraph which states as follows:-

“4(i) After the repeal of sub-section (3) of Section 16 of this Act, all cases or proceedings 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.



4(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.”

4. It transpires to this Court that, according to the amended provision 4(i) of the Amendment Act of 2006 mentioned above, the provision is to be applied retrospectively. However, upon perusal of Section 4(ii) of the Amendment Act of 2006, it further transpires that the applicability of the pre-emption law has to take place retrospectively because it has been mentioned in Section 4(i) of the Amendment Act of 2006, all cases deemed to be abated and in Section 4(ii) of the Amendment Act of 2006 it has been indicated that pursuant to the repeal of Section 16(3) of the Act of 1961, any purchase money together with a sum equal to 10% thereof, already legally deposited shall be refunded, without any interest, to the depositor.

5. In the present case, it is the private respondent who has deposited the money for the purpose of deciding the case of pre-emption in their favour, and by virtue of the amendment, they are entitled for refund of the purchase money



together with a sum equal to 10%.

6. Hence, this writ petition stands disposed off, with a direction that the private respondents may receive the said amount from the competent authority where it was deposited.

(Dr. Anshuman, J.)

Aman Kumar/
Divyansh-

AFR/NAFR	
CAV DATE	NA
Uploading Date	01.05.2025
Transmission Date	NA

