

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13993 of 2018

- 1.1. Asha Devi Wife of Late Rajendra Sah, Resident of Village Chhatia, P.S. Sadar District Purnea.
- 1.2. Sunil Kumar Sah Son of Late Rajendra Sah, Resident of Village Chhatia, P.S. Sadar District Purnea.
- 1.3. Mithilesh Kumar Sah Son of Late Rajendra Sah, Resident of Village Chhatia, P.S. Sadar District Purnea.
- 1.4. Meena Kumari alias Veena Devi D/o Late Rajendra Sah Resident of Village Chhatia, P.S. Sadar District Purnea.
- 1.5. Punam Devi Wife of Raj Kumar Sah and D/o Late Rajendra Sah Resident of Vasudevpur P.S. Barhara Kothi District Purnea.
- 1.6. Meena Devi Wife of Sharvan Kumar Sah and D/o Late Rajendra Sah, Resident of Gram Barinagar Thakurwari Tola P.S. Katihar District Katihar.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Land Reforms and Revenue Department, Government of Bihar, Patna.
2. The District Magistrate -Cum-Collector, Purnea.
3. Additional Collector,. Purnea.
4. District Land Acquisition Officer in Charge Purnea.
5. Sita Ram Das Son of Mahadeo Mandal
6. Tulsi Das Son of late Mahadeo Mandal both Resident of Village Jaiyagachhi, P.S. Sadar District- Purnea.
7. Babu Ram Rideo Son of late Mangal Rideo
8. Dorhi Rideo Son of late Parnu Rideo Both resident of Viollage Bhamra, P.S. Sadar, District- Purnea.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Ram Prawesh Kumar, Adv.
For the Respondent/s : Mr. Sajid Salim Khan -SC-25, Sr. Adv.

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

5 28-01-2025 Learned Counsel for the petitioners and Learned Senior Counsel for the State are present.

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



(i) For giving a direction to the respondent no.2 (The District Magistrate- cum Collector, Purnea) to re-open the ceiling Misc case no. 317/88.

(ii) For exclusion of land of the petitioner appertaining to Khata no. 209, plot no. 1089 measuring an area 2.63 decimals and 1091 area 0-21 decimal wrongly declared surplus in ceiling case no. 904/1973-1974 and further to adjust the same from the rest of the unit of the original private respondent no.5 and 6.

(iii) For giving a direction to the concern authority to stay the distribution of the land till the disposal of this application.

(iv) For any other relief/reliefs for which the petitioner will be found eligible under the facts 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 roaster 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 it's 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. Since the matter is old and 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.

7. Accordingly, the writ petition stands dismissed with liberty to the petitioners to challenge the matter afresh if the Hon'ble Supreme Court reopens the issue.

(Dr. Anshuman, J.)

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