

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14324 of 2018

1. Vijay Kumar Mehta and Ors
2. Vishwanath Mehta. Both sons of Late Ghanshyam Mehta.
3. Rajendra Kumar Mehta.
4. Upendra Mehta @ Upendra Mehata.
5. Bhupendra Mehta. All Sons of Late Kameshwar Mehta. All residents of Village- Masuria, P.O. Ramnagar, P.S. Sarsi, District- Purnea.

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. Collector, Purnea.
3. Additional Collector Ceiling, Purnea.
4. Anchal Adhikari, Banmankhi, Purnea.
5. Madhav Jha, Son of Late Shashi Mohan Jha.
6. Ram Kumar Jha.
7. Laxman Jha. null null
8. Bharat Jha.
9. Shatrughan Jha. All sons of Late Hari Mohan Jha. All residents of Village- Ramnagar, P.S. Krityanand Nagar, District- Purnea.
10. Brij Lal Mehta, Son of Late Bhubneshwar Mehta, resident of Village- Mansuria, P.S. Sarsi, District- Purnea.
11. Lakhan Rishi, Son of Late Binchu Rishi.
12. Mostt. Kando Devi, Wife of Late Ramdeo Rishi.
13. Hari Lal Rishi.
14. Bodha Rishi. Both sons of Late Veero Rishi.
15. Nilu Devi, Daughter of Late Chando Devi & wife of Guneshwar Rishideo.
16. Rita Devi, Daughter of Late Chando Devi. All residents of Village- Masuria, P.S.- Sarsi, District- Purnea.

... .. Respondent/s



Appearance :

For the Petitioner/s : Mr. Kumar Uday Singh, Adv.

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

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

4 28-01-2025 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 directing the
Collector, Purnea and other official
respondents to exclude the lands of
the petitioners fully described in
Schedule A & B of this writ petition
from the Ceiling Case No. 3/1975-
76, 31/1983-84 of the land holder
Late Madhav Jha and his family
respondent nos. 5 to 9.*

*(ii) For directing the
Collector, Purnea and other official
respondents to include the lands of
the petitioners fully described in
Schedule C, D & E of this writ
petition in the Ceiling unit of the
land holders in view of the
provisions of Section 9 of the Act.*

*(iii) For quashing the
notification Nos. 2773 and 2774*



dated 24.7.90 published u/s 15 (1) of the Bihar Land Reforms (Fixation Acquisition of Ceiling Area and surplus Land) Act, hereinafter referred to as the Act, in the Purnea District Gazette No.16 dated 27.7.1990 (annexure-8 and 8/A), only in SO far as the lands of the petitioners are concerned which have been declared surplus and acquired by the State and for directing the official respondents to re-notify the same from the said gazette notification.

(iv) For directing the Collector, Purnea and the other official respondents concerned to cancel the parchas/ parwanas prepared in the names of the Respondent Nos. 11 to 16 or their ancestors.

(v) For restraining the respondents from disturbing the peaceful possession of the petitioners over the lands fully described in Schedule A, B, C, D & E of this writ petition.

3. Learned Counsel for the petitioners submits that the present matter pertains to reopening of a ceiling case



which stands abated on the ground that 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. Hence, 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. Accordingly, the present writ petition stands disposed off in the light of the judgment mentioned above with liberty to avail further remedy available.

(Dr. Anshuman, J)

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