

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15009 of 2021

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1. Dheeraj Kumar Jha S/o Shri Rajendra Jha R/o Village- Tulsipur, P.S.- Kharik Bazar, Naugachhia, District- Bhagalpur.
 2. Neeraj Kumar Jha S/o Shri Rajendra Jha R/o Village- Tulsipur, P.S.- Kharik Bazar, Naugachhia, District- Bhagalpur.

... .. Petitioner/s

Versus

1. The State of Bihar Through Principal Secretary, Revenue Department, New Secretariat, Patna.
2. The Commissioner Bhagalpur.
3. The District Magistrate Bhagalpur.
4. That Additional Collector Bhagalpur.
5. The Deputy Collector Land Reforms Naugachia District- Bhagalpur.
6. The Registrar Registration Office Bhagalpur District- Bhagalpur.
7. Sri Diwakar Ray S/o Late Hari nath Ray
8. Smt. Urmila Devi W/o Late Girwar Roy R/o Village- Tulsipur, P.S.- Kharik Bazar, District- Bhagalpur.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Chandra Kant, Advocate.
For the Respondent/s : Mr. Birendra Prasad AC to SC-19.

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

5 03-04-2025 1. Heard learned counsel for the petitioners, learned

AC to SC-19 and the learned counsel appearing on behalf of the

private respondent.

2. The learned counsel appearing on behalf of the

petitioners submits that the land pertaining to Khata No.335,
Plot No.7240 and 7241, area 2.49 acres at Mauza-Kharika,
Thana No.47/1, P.S. Kharika, District-Bhagalpur was purchased
by the petitioner through two registered sale deeds bearing



no.13592 dated 09.10.2003 and 13593 dated 09.10.2003 and the petitioners thereafter came in possession of the same. It is next submitted that the private respondent no.7 (Diwakar Ray) claimed preemption in terms of the provisions of section 16(3) of the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961 hereinafter referred as the Ceiling Act and accordingly filed an application on 03.01.2004 before the Deputy Collector, Land Reforms at Naugachia, leading to registration of L.C. Case No.11/2003-04. The Preemption Case No.11/2003-04 was decided in favour of the respondent no.7 by an order dated 07.05.2009 passed by the Deputy Collector, Land Reforms, Naugachia. The petitioners accordingly filed an appeal before the Collector, Bhagalpur against the order dated 07.05.2009 in Preemption Case No.11/2003-04, being Ceiling Appeal No.18/2009-10, in appeal notices were issued and the respondent no.7 herein appeared and finally the appeal was dismissed by an order dated 31.01.2012 passed by the Collector, Bhagalpur.

3. The petitioners accordingly filed Revision Case No.12/2011-12 before the Divisional Commissioner, Bhagalpur impugning the order dated 31.01.2012 passed in Appeal by the Collector, Bhagalpur. The Revision Case No.12/2011-12 was



dismissed by the Divisional Commissioner by an order dated 25.10.2012 (Annexure-1), thereafter, the petitioners filed BLT Case No.315/2016 against the order passed in Revision Case No.12/2011-12 by the Divisional Commissioner. The learned BLT issued notice to the respondent no.7, accordingly the respondent no.7 appeared.

4. It is submitted that during the pendency of BLT Case No.315/2016, Section 16(3) of the Ceiling Act was repealed, as a consequence thereof, all cases of preemption pending adjudication abated. The learned BLT by order dated 29.04.2019 (Annexure-2) in BLT Case No.315/2016 held that the case abated. The learned counsel submitted that since the BLT by its order dated 29.04.2019 in BLT Case No.315/2016 held that the case abated, as such, the status of the petitioners as purchaser was restored and the right of the private respondent no.7 to claim preemption was forfeited.

5. The learned counsel for the petitioners next submits that the preemptor i.e. respondent no.7 after passing of the order by the D.C.L.R. had applied for execution of the sale deed with regard to the land in dispute, accordingly, the sale deed was executed and registered on 25.07.2009, accordingly, the petitioners in terms of order dated 29.04.2019 passed by the



BLT submitted a representation before the Sub-Registrar, Naugachia with a prayer to cancel the sale deed dated 25.07.2009 executed in favour of the respondent no.7, as Section 16(3) of the Ceiling Act was deleted and the pending case had thus abated as held by the BLT, hence the status of the petitioners as purchaser revived as would manifest from the representation of the petitioners dated 07.09.2020 (Annexure-3), when no action was taken, the petitioners by their representation dated 05.04.2021 (Annexure-4) represented before the District Magistrate, Bhagalpur for cancelling the sale deed executed in favour of respondent no.7, but still no action has been taken and the petitioners are running from pillar to post, when the authorities are duty bound to notify that the sale deed executed by respondent no.5 in favour of the respondent no.1 is not operative.

6. The learned counsel appearing on behalf of the State vehemently rebuts the submission of the learned counsel appearing on behalf of the petitioners. It is submitted that the order of the BLT records that the preemption proceeding abated in view of the deletion of Section 16(3) of the Ceiling Act, as such, there was no occasion for the petitioners to move before this Court by filing the instant writ application for a direction



upon the respondent no.6 to treat the sale deed dated 25.07.2009, as inoperative, in view of amendment in Section 16(3) of the Ceiling Act and to hold that two sale deeds dated 09.10.2003 executed by respondent no.8 in favour of the petitioners are still valid. It is further submitted that it appears that the instant writ application has been filed seeking clarification of the order passed by the BLT. It is also submitted that if the order of the BLT is not being complied by the authority, in that event, the petitioners have remedy of approaching the BLT by filing a Contempt application, as BLT has power to initiate contempt under Section 12 of the BLT Act, 2009.

7. The learned counsel appearing on behalf of the State further submits that once the BLT had held that in view of the provision of Act 6 of 2009, the present case shall be deemed to be abated that in itself demonstrates that the entire preemption proceeding, which was initiated at the behest of respondent no.7 abated and as such the consequences of the abatement shall follow but then the same has to be done in accordance with law.

8. The learned State counsel further reiterates and submits that if the order of the BLT is not being given effect to



by any authority, in that event, the petitioners instead of moving before this Court ought to have moved before the BLT, seeking appropriate relief or before an authority/forum in accordance with law.

9. The learned counsel appearing on behalf of the private respondent is not in a position to rebut the submissions of the learned counsel appearing on behalf of the State.

10. The Court is in complete agreement with the submissions made by the learned counsel appearing on behalf of the State, as such finds no merit in the instant writ application.

11. Accordingly, the writ application is dismissed.

(Satyavrat Verma, J)

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