

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12249 of 2018

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Madan Kumar Son of Late Natho Sahni, Resident of Village- Haibatpur, P.S.-
Muffasil Begusarai District- Begusarai.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The D.C.L.R. Begusarai.
3. The Addl. Collector, Begusarai.
4. Shanti Devi, Wife of Shiv Shankar Sahni, Resident of Village- Haibatpur,
P.S.- Muffasil Begusarai District- Begusarai.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Amresh Kr. Verma, Adv.
For the Respondent/s : Mr.Sajid Salim Khan -SC 25

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CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL JUDGMENT

Date : 07-01-2025

In the instant petition, petitioner has prayed for the
following relief(s):-

“(i) To quash the order dated 06.12.2016 passed by Sri K.P. Ramaiah, Member Administrative, the Bihar Land Tribunal Patna in B.L.T. Case No. 841 of 2013 as contained in Annexure-1 by issuing a writ in the nature of certiorari.

(ii) To issue a writ in the nature of mandamus directing the courts below to take necessary legal steps in view of provisions of 16(3) of Land Reforms Act in favour of petitioner Madann Kumar son of Late Natho Sahni son of late Prasadi Sahni (original applicant in Ceiling Case No. 02/93-94 before D.C.L.R. Begusarai).

(iii) To pass any other writ/writs,



order/orders, direction/directions to which the petitioner is entitled to.”

2. Briefly stated facts of the present case is that Prasadi Sahni, grandfather of the present petitioner, filed Land Ceiling Case No. 02/1993-94 under section 16(3) of the Land Reforms Act before the D.C.L.R., Begusarai to allow preemption in his favour in respect of the land appertaining to S.P. No. 259 and 260 because the aforesaid land is ancestral land of the petitioner and his co-sharers. Petitioner claimed right of pre-emption under 16(3) of the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961. The D.C.L.R., Begusarai by the order dated 09.05.1998/30.05.1998 refused the claim of petitioner for preemption. Against the order passed by the D.C.L.R., the grandfather of the petitioner filed Ceiling Case No. 28 of 1998 before the Collector, Begusarai. On death of the grandfather of the petitioner, name of petitioner's father came on record. The Collector, Begusarai vide order dated 25.09.2001 affirmed the order passed by the D.C.L.R. Thereafter, father of the petitioner filed Case No. 253 of 2001 before the Board of Revenue, Bihar challenging the order passed by the Collector, Begusarai. The Board of Revenue vide order dated 10.03.2005 allowed the claim in favour of the father of the petitioner. Thereafter, respondent no. 4, Shanti Devi preferred C.W.J.C.



No. 15464 of 2006 before this Court assailing the order passed by the Board of Revenue, which was transferred to B.L.T., Patna where it was registered as B.L.T. Case No. 841 of 2013. After death of his father, present petitioner appeared in the case before the B.L.T. The Tribunal vide order dated 06.12.2016 set aside the order dated 10.03.2005 passed by the Board of Revenue.

3. Learned counsel for the petitioner submits that the present petitioner has approached this Court after being aggrieved by the order passed by the BLT.

4. Learned counsel for the State submits that present writ has been filed on 29.06.2018 against the order dated 06.12.2016 passed by the BLT and during the pendency of this writ petition provision of Section 16(3) of the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961 was repealed by amendment in 2019 and its place 16(4) was added and in the light of aforesaid provision, Supreme Court in the case of ***Punyadeo Sharma & Ors. Etc. Vs. Kamla Devi & Ors. Etc*** arising out of ***SLP (Civil) Nos. 15694-15701 of 2017*** has held in para 12 and it is stated as under:-

*12. In **Shyam Sunder**, the right of pre-emption was said to be maligned law. Such rights have been characterized as feudal, archaic and outmoded. Such right of pre-*



emption has been taken away and all proceedings pending before any authority have been ordered to be abated including proceedings in any other Court. Any other Court is wide enough to include the Constitutional Courts i.e. the High Court and the Supreme Court. Even the 10% of the pre-emption amount which is required to be deposited was ordered to be deposited. Thus, keeping in view the object of the Statute, purpose to be achieved and the express language of the Amending Act, all proceedings of pre-emption under the Act pending before any authority under the Act or before any Court shall stand abated.

5. Section 16 (3) of the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961 was repealed by the amending Act, 2019, incorporating Section 16 (4), which reads 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.

(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."

6. A perusal of the provision, referred to above, clearly reflects that after the repeal of sub-section 3 of Section 16 of the Act, all cases or proceeding pending before all authorities would be deemed to be abated.

7. In view of the discussion made above, the entire pre-emption proceedings stands abated. It shall be open to the petitioner to withdraw 10 % of the amount deposited by him in terms of Section 16 of the Act in accordance with law.

8. Accordingly, the present writ petition stands disposed of.

(Alok Kumar Pandey, J)

mcverma/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	10.01.2025
Transmission Date	NA

