

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14536 of 2018

1. Ram Chandra Yadav and Anr son of Late Soti Yadav, resident of Village-Bharhi, P.O.- Afajala Balia, P.S.- Biroal, District- Darbhanga.
2. Ugra Nath Mishra, son of Digambar Mishra, resident of Village P.O.- Afajala Balia, P.S.- Biroal, District- Darbhanga.

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. The Chief Secretary, Government of Bihar, Patna.
3. The Principal Secretary, Land Reforms, Government of Bihar, Patna
5. The District Magistrate, Darbhanga
6. The Sub Divisional Officer, Biraul, Darbhanga
7. The Director General of Police, Bihar, Patna.
8. The I.G., Darbhanga at Darbhanga
9. The D.I.G., Darbhanga at Darbhanga
10. The Superintendent of Police, Darbhanga
11. The Sub- Divisional Police Officer, Biraul, Darbhanga
12. The Officer In- Charge, Biraul Police Station, Darbhanga.
13. The District Magistrate, Samastipur.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Subhash Kumar Jha, Adv.
For the Respondent/s : Mr. Raj Kishore Roy -GP18

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

4 04-02-2025 Learned Counsel for the petitioners and Learned Counsel for the State are present.

2. The present writ petition has been filed for commanding the Respondents to take immediate action/steps against the encroacher/trespasser in accordance with law and further to ensure that the possession of Land Holders over the



land in question be not disturbed in violation of earlier order of this Hon'ble Court as well as law of the land and further for consequential orders/directions flowing from the main relief.

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 By this amendment, Section 45(B) of the Bihar Land Ceiling Act, 1961 has been repealed, and section 45(D) has been inserted into the said Act.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 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. 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. Accordingly, the writ petition disposed off with liberty to the petitioners that if any cause of action still arises in accordance with law then he shall be at liberty to avail the same.

(Dr. Anshuman, J)

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