

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.683 of 2019

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Jageshwar Mahto Son of Late Ram Khelawan Mahto Resident of Village and
P.O.-Sadalpur Khurd, P.S.-Korha, District-Katihar.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Collector, Purnea, Collectorate, At, P.O. and District-Purnea.
3. Addl. Collector, Purnea, Ceiling, Purnea, P.O. and District-Purnea.
4. Circle Officer, Korha, At and P.O.-Korha, District-Katihar.
5. Ajai Kr. Pathak Son of Late Nageshwar Pathak Resident of Mohalla and
P.O.-Madhubani-Dhobi tolla P.S.-K. Hat, District-Purnea.
6. Arun Kr. Pathak Son of Late Nageshwar Pathak Resident of Mohalla and
P.O.-Madhubani-Dhobi tolla P.S.-K. Hat, District-Purnea.
7. Uday Kr. Pathak Son of Late Nageshwar Pathak Resident of Mohalla and
P.O.-Madhubani-Dhobi tolla P.S.-K. Hat, District-Purnea.
8. Vijai Kr. Pathak Son of Late Nageshwar Pathak Resident of Mohalla and
P.O.-Madhubani-Dhobi tolla P.S.-K. Hat, District-Purnea.
9. Abhay Kr. Pathak Son of Late Nageshwar Pathak Resident of Mohalla and
P.O.-Madhubani-Dhobi tolla P.S.-K. Hat, District-Purnea.
10. Sanjai Kr. Pathak Son of Late Nageshwar Pathak Resident of Mohalla and
P.O.-Madhubani-Dhobi tolla P.S.-K. Hat, District-Purnea.
11. Pratibha Thakur D/o Late Nageshwar Pathak Resident of Mohalla and P.O.-
Madhubani-Dhobi tolla P.S.-K. Hat, District-Purnea.
12. Shashi Jha D/o Late Nageshwar Pathak Resident of Mohalla and P.O.-
Madhubani-Dhobi tolla P.S.-K. Hat, District-Purnea.
13. Prema Jha D/o Late Nageshwar Pathak Resident of Mohalla and P.O.-
Madhubani-Dhobi tolla P.S.-K. Hat, District-Purnea.
14. Aparna Jha D/o Late Nageshwar Pathak Resident of Mohalla and P.O.-
Madhubani-Dhobi tolla P.S.-K. Hat, District-Purnea.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Anshuman Jaipuriyar, Adv.
For the Respondent/s : Mr. Sajid Salim Khan, Sr. Adv.

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

2 23-01-2025 Heard Learned Counsel for the petitioner and Mr.

Sajid Salim Khan, Learned Senior Counsel for the State.



2. Learned Counsel for the petitioner submits that the present writ petition has been filed for quashing the order dated 16.02.2018 passed by the Collector in Miscellaneous Ceiling Case No.338 of 1992 by which the claim of the petitioner over the land in question has been dismissed on the ground that Amendment Act, 2016 has come into existence by which Section 45(B) of the Bihar Land Ceiling Act, 1961 has been repealed and section 45(D) has been inserted in the said Act.

3. Learned Counsel for the petitioner submits that the petitioner was purchaser of the land in the year 1975 and his matter was kept pending for last 26 years from 1992 to 2018 without affording opportunity for resolving the *bonafide* dispute between the parties for ascertaining the claim of the petitioner in Land Ceiling Case No.41 of 1982-1983. Counsel further submits that he has also filed I.A. No.683 of 2019 challenging the virus of Bihar Land Reforms (Fixation of Ceiling and Acquisition of Surplus Land) (Amendment) Act, 2016.

4. Counsel further submits that a pure technical question has involved in this case. He submits that Division Bench of this Court has decided this matter in case of *Sudhakar Jha and Anr. Vs. State of Bihar* reported in 2024 (3) (PLJR) 403, in which according to him, those cases which shall be listed



before the appropriate Bench having roaster for it, to be decided on its own merit. He further submits that it is due to this reason, this Court has jurisdiction to decide this case on merit as liberty was granted by the Division Bench.

5. Learned Senior Counsel for the State also relying on the same judgment on which the petitioner is relying upon and submits that paragraph 32 of the said judgment provides the term on the basis of which the said writ petition has been disposed off.

6. Counsel further submits that in the said term, the Hon'ble Court has discussed the constitutional validity of Bihar Land Reforms (Amendment) Act, 2016. He further submits that Court has not interfered in amendment made in Section 16(3) of the Act. He further submits that in paragraph 52(3) of the said judgment, the Hon'ble Court has categorically held that in section 45(D), the word 'Authorities or the Tribunal' are there, but the word, 'Court' are not there, therefore, matters pending relating to 16(4) of the Act before Tribunal or Authorities or any other Court shall abate, but for applications pending under section 45(B), the word Authorities or the Tribunal shall abate as under section 45(D), the word 'Court' is not there. But he submits that at the relevant period of time, the claim of the



petitioner was pending before the Authorities/Tribunal and not before the Court. Counsel further submits that he has every sympathy towards the petitioner, but since the amended law has been affirmed by Hon'ble Division Bench of this Court, then in that case, he has no remedy left and this writ petition is fit to be dismissed.

7. After hearing the parties, it transpires to this Court that the issue which has been raised by the counsel for the petitioner in the said I.A. No.683 of 2019, has already been tested by the Division Bench of this Court in case of *Sudhakar Jha and Anr. Vs. State of Bihar* reported in 2024 (3) PLJR 403, in which the same question which the petitioner has raised in the I.A., has also been decided. Hence, this Court is of the firm view that the question raised in the I.A. petition has already been tested by this Hon'ble Court on which the finding has come, which shall be binding on this Court and, hence, the I.A. No.683 of 2019 is not entertainable and fit to be dismissed.

8. Upon going through the impugned order *i.e.*, Annexure-1, dated 16.02.2018 passed in Miscellaneous Ceiling Case No.338 of 1992, it transpires that at the relevant period of time, the petitioner's matter was pending before the Tribunal/Authorities and during pendency of the said



Miscellaneous Ceiling Case, this changed law has come whose virus has been challenged before this Court and this Court has affirmed the said amended law in case of Sudhakar Jha (supra).

9. In this view of the matter that at the relevant period of time, the petitioner's case was not pending before the Court. This Court states the findings (paragraph 52) of the said 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.

10. Hence, the petitioner has no case at all and the order dated 16.02.2018 passed by the Collector in Miscellaneous Ceiling Case No.338 of 1992 is absolutely in



accordance with law and there is no need of any interference in the said order.

11. With the aforesaid directions and observations, the present writ application stands dismissed.

(Dr. Anshuman, J.)

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