

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.186 of 2019

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Fudo Devi Wife of Sri Rajendra Yadav Resident of Village-Post Officer-
Police Station-Supauli, District-Purnia.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Revenue and Land Reforms, Government of Bihar, Patna.
2. The Collector, Purnia.
3. The Circle Officer, Bhawanipur, District-Purnia.
4. Smt. Uma Devi Wife of Sri Shailendra Kumar Sinha, Resident of Village-Kapsauha, P.S.-Shahkund, District-Bhagalpur,.
5. Smt. Kanti Devi Wife of Bindeshwari Rishi Daughter of Kamal Rishi, Resident of Village- P.S.-Bhawanipur, District-Purnia.
6. Smt. Bhangiya Devi Wife of Sitaram Rishi, Daughter of Sweat Rishi, Resident of Village- Sugakuli, P.S.-Bhawanipur, District-Purnia.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Parmanand Kumar, Advocate Mr. Himanshu Shekhar, Advocate
For the State	:	Mr. Nutan Sahay (AC to AAG-12)

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

3 23-01-2025 Heard Learned Counsel for the petitioner and Learned
Counsel for the State.

2. The present writ petition has been filed for the
following relief/s:-

“1. For quashing the portion of Gazette Notification dated 18.09.2006 issued by the Collectorate, Purnia (annexed as Annexure-4) whereby land of the petitioner, detailed in paragraph no.4 of this writ application which she purchased from respondent no.4 by



payment of consideration money on 15.07.1961 has been declared surplus in the Ceiling Case No.106/73-74/211/1975-76 and further declared that all action of the respondent pursuant to the said final publication regarding distribution or issuance of purcha relating to the land of the petitioner are all illegal, and not binding on the petitioner nor on that basis petitioner's possession may be disturbed on the said land.

II. For commanding the respondent no.2 to re-open the Original Land Ceiling Case No.106/1973-74/211/1975-76 (State Vs. Uma Devi & Ors.), which have been concluded against the respondent no.4, whereby the land purchased by the petitioner from father of respondent no.4 has been declared as surplus to consider and pass an appropriate order in regard to the land of the petitioner."

3. Learned Counsel for the State raised preliminary objection and submits that in light of the Annexure-5 which is order dated 12.08.2016 passed in Civil Writ Jurisdiction Case No.8084 of 2007 (Fudo Devi Vs. The State of Bihar & Ors.),



this writ petition is not maintainable due to the reason that for the same relief, petitioner has earlier moved before this Hon'ble Court.

4. As such, in light of the submissions made, it transpires to this Court that petitioner had earlier moved before this Hon'ble Court in Civil Writ Jurisdiction Case No.8084 of 2007 by which *vide* order dated 12.08.2016, Court has observed that:-

“After some argument, the learned counsel appearing on behalf of the petitioner seeks permission to withdraw the present writ petition with a liberty to approach the State Government under Section 45B of The Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land), Act, 1961 for re-opening the original land ceiling case started and concluded against the respondent no.2 and thereafter for grant of appropriate relief(s) to the petitioner. Permission is accorded. The writ petition stands disposed of as withdrawn with the liberty aforesaid.”

5. It transpires to this Court from the pleadings made particularly from paragraph no.11 of the writ petition that the



petitioner has mentioned that after order passed by this Hon'ble Court, petitioner has approached to the concerned authority, but the concerned authority has not passed the order and as such, she has moved before this Court by filing fresh writ petition, whereas, this issue has already been decided in case of ***Sudhakar Jha and Anr. Vs. The State of Bihar*** reported in **2024 (3) PLJR 403** in which paragraph no.52(iii) is the operative portion which states as follows:-

“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 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 the present facts and circumstances of this case, this Court is of the view that the present writ petition is not maintainable. Therefore, this writ petition stands disposed off.

(Dr. Anshuman, J)

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