

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19089 of 2024

Shiva Kant Jha Son of Late Brahmdeo Jha, Resident of Village- Begampur,
Meghoul, P.O. Bara, P.S.- Khodabandpur, District- Begusarai.

... .. Petitioner/s

Versus

1. The State of Bihar through the Special Secretary, Revenue Department of the Govt. of Bihar, Patna.
2. The Collector, Begusarai.
3. The Land Reforms Deputy Collector, Manjhoul, Begusarai.
4. Dev Niti Jha, Son of Late Ram Chandra Jha, Resident of Village- Begampur, P.O.- Bara, P.S.- Khodabandpur, District- Begusarai.
5. Dhruvniti Jha, Son of Late Ram Chandra Jha, Resident of Village- Begampur, P.O.- Bara, P.S.- Khodabandpur, District- Begusarai.
6. Navniti Jha, Son of Late Ram Chandra Jha, Resident of Village- Begampur, P.O.- Bara, P.S.- Khodabandpur, District- Begusarai.
7. Meena Kumari, Widow of Late Rajniti Jha, Resident of Village- Begampur, P.O.- Bara, P.S.- Khodabandpur, District- Begusarai.
8. Nutan Kumari Widow of Late Prem Niti Jha, Resident of Village- Begampur, P.O.- Bara, P.S.- Khodabandpur, District- Begusarai.
9. Abhay Niti Jha @ Bambam Jha, S/o Late Prem Niti Jha, Resident of Village- Begampur, P.O.- Bara, P.S.- Khodabandpur, District- Begusarai.
10. Bobby Kumari, Daughter of Late Raj Niti Jha, Resident of Village- Begampur, P.O.- Bara, P.S.- Khodabandpur, District- Begusarai.
11. Guria Kumari, Daughter of Late Raj Niti Jha, Resident of Village- Begampur, P.O.- Bara, P.S.- Khodabandpur, District- Begusarai.
12. Chandan Jha, S/o Late Raj Niti Jha, Resident of Village- Begampur, P.O.- Bara, P.S.- Khodabandpur, District- Begusarai.
13. Hare Ram Jha, S/o Late Ramdeo Jha, Resident of Village- Begampur, P.O.- Bara, P.S.- Khodabandpur, District- Begusarai.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Ram Sumiran Singh, Advocate
For the Respondent/s	:	Mr. P.K.Shahi, Advocate General
		Mr. Amish Kumar, AC to AG

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE PARTHA SARTHY)



3 08-01-2025 Heard learned counsel for the petitioner and learned
counsel for the respondents.

2. The petitioner has filed the instant application for
the following relief(s):

“I. For adjudication of Sub- Section 1 of Section 2 of the Bihar Act 6 of 2019 (contained in Annexure-3) the Sub Section 3 of Section 16 of the Bihar Act 12 of 1962 Bihar Land Reforms (Fixation of Ceilings Area and acquisition of Surplus Land) Act, 1961 has been erroneously repealed which has no retrospective effect it has merely prospective effect as it has no effect on the pending proceeding either before the Board of Revenue, Bihar Land Tribunal, Divisional Commissioner, Collector, Deputy Collector Land Reforms or any other court.

II. For quashing of Sub Section 2 of Section 2 by which Sub Section 4 has been added in Act, 12 of 1962 as Section 4(1) (contained in Annexure- 3) all cases or proceedings pending before the State Government, the Board of Revenue, the Bihar Land Tribunal, the Divisional Commissioner, the Collector, the Addl. Collector, the Dy. Collector Land Reforms or any other court shall be deemed to be abated and by Section 4(ii) by which the deposit of purchase money to get her with sum equal to 10% there of already legally deposited shall be refunded without any interest to the depositor.

III. For quashing of the order dated 4.12.2023 passed by the Collector Begusarai (Respondent no.-2) in Ceiling Appeal Case No. 32 of 2004 Raj Niti Jha versus Shiva Kant Jha contained in Annexure-4 the proceeding of the appeal has been terminated in view of Ceilings Amendment Act, 2019 by which section 16(3) has



been repealed and section 16(4) has been added under which all pending cases has been abated by the notification contained in Annexure-3.

IV. And for adjudication that the order dated 13.7.04 passed by the Land Reforms Deputy Collector Manjhoul (Respondent no.-3) is still in effect even by adding of the said Sub Section 4 of the said amended Act contained in Annexure-3.”

3. The case of the petitioner in brief is that the petitioner being the adjacent raiyat of the land sold by respondent no.13, he deposited the consideration amount and filed an application for pre-emption. The Ceiling Case no.14 of 1976-77 was allowed in favour of the petitioner by order dated 13.7.2004 of the Deputy Collector Land Reforms, Begusarai against which the purchaser Rajniti Jha (deceased husband of respondent no.7) preferred Ceiling Appeal no.32 of 2004. During pendency of the appeal, State of Bihar coming out with the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) (Amendment) Act, 2019 ('Amendment Act, 2019' in short), section 16(3) of the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 2019 ('the Act' in short) was repealed and it was further provided that the purchased money together with the sum equal to 10% thereof deposited shall be refunded without any interest to the depositor.



4. It is contended by learned counsel appearing for the petitioner that the repealed provision shall not affect the pending proceedings under section 16(3) of the Act.

5. It may be mentioned here that constitutional validity of the Amendment Act, 2019 came up for consideration of this Court and the same was upheld in the case of ***Sudhakar Jha & Ors. vs. State of Bihar & Ors. (2024 (3) PLJR 403 (DB).***

6. This Court in the judgment of ***Sudhakar Jha*** (supra) took note of the judgment of the Hon'ble Supreme Court in the case of ***Punyadeo Sharma & Ors. vs. Kamla Devi & Ors. [2022 (1) BLJ 434 (SC)]*** wherein the Hon'ble Supreme Court held that with coming of the Amendment Act, 2019 and its express language, all proceedings of pre-emption under the Act pending before any authority or before any Court shall stand abated. It held that any other Court is wide enough to include the Constitutional Courts ie the High Court and the Supreme Court.

7. In view of the constitutional validity of the Amendment Act, 2019 having been upheld by this Court in the case of ***Sudhakar Jha*** (supra) as also in view of the decision of the Hon'ble Supreme Court in the case of ***Punyadeo Sharma***



(supra) holding that all pending proceedings before any authority or in any other Court shall be deemed to be abated, the Court finds no merit in the instant application and the same is dismissed.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

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