

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13965 of 2024

1. Yasmin Nehal W/o Late Nehaluddin Ahmad, resident of Village- Mushkipur, P.S.- Anchal- Gogri, District- Khagaria, Bihar- 851203.
2. Aadil Nehal, S/o Late Nehaluddin Ahmad, resident of Village- Mushkipur, P.S.- Anchal- Gogri, District - Khagaria, Bihar- 851203.
3. Ayesha Nehal, D/o- Late Nehaluddin Ahmad, resident of Village- Mushkipur, P.S.- Anchal- Gogri, District- Khagaria, Bihar- 851203.
4. Md. Ali Ahmad, S/o Late Syed Jamaluddin Ahmad, resident of Village- Mushkipur, P.S - Anchal- Gogri, District- Khagaria, Bihar- 851203.
5. Ishrat Jamal @ Ishrat Azad, W/o- Khalil Ashraf Azad, resident of Village - Mushkipur, P.S.- Anchal-Gogri, District - Khagaria, Bihar- 851203.
6. Nusrat Jamal @ Nusrat Shahab W/o Late Shahab Naseeruddin, residing at Flat No.- 303, Manna Surti Complex, West of Doctors Colony, Sampatchak, P.S.- Kankarbagh, District - Patna, 800020, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Department of Revenue and Land Reforms, Government of Bihar.
2. The District Collector, Khagaria.
3. The Additional District Collector, Khagaria.
4. The Circle Officer, Gogri, District - Khagaria.
5. The Circle Officer, Chautham, District - Khagaria.
6. The Circle Officer, Mansi, District- Khagaria.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mrs. Nivedita Nirvikar, Sr. Advocate
	:	Mr. Amar Shakti, Advocate
	:	Mr. Arya Achint, Advocate
For the State	:	Mr. Manoj Kumar, AC to GP-4

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
CAV JUDGMENT

Date : 18-04-2026

Heard Mrs. Nivedita Nirvikar, learned Senior Counsel
for the petitioners duly assisted by Mr. Amar Shakti and Mr.
Manoj Kumar, learned AC to GP-4 representing the State.



(A) PRAYER:

2. The present petition has been preferred for the grant of following relief(s):

“(i) for appropriate order/orders for quashing of the order of the Bihar Land Tribunal dated 25.07.2024 passed in BLT Case No. 162 of 2023 whereby the Petitioners' application for setting aside order dated 07.03.2015 passed by Additional Collector, Khagaria wherein order dated 29.02.1988 and Gazette Notification dated 16.09.1988 was affirmed in Land Ceiling Case No. 82 of 1975-76, 01 of 1987-88, and 65 of 1994;

(ii) for appropriate order/orders for grant of stay on the operation of the order dated 25.07.2024 passed by the Bihar Land Tribunal in BLT Case No. 162 of 2023;

(iii) pass any other order/orders as deemed fit and appropriate by this Court.”

(B) FACTS:

3. The matrix of the facts leading to the present writ petition is/are follows:



4. One **Syed Jamaluddin Ahmad** transferred **674.24** $\frac{1}{2}$ acres of cultivable lands (out of the lands he held and possessed), to his wife **Bibi Noor Jahan @ Umme Kulsum** on **01.08.1945** through a registered settlement deed. He divorced the lady later in the year 1956 after which they ceased to have any relationship as the husband and wife.

5. In the year 1975, a land ceiling case bearing **Land Ceiling Case No. 82 of 1975-76** was initiated before the **Additional Collector(Ceiling), Munger** against **Syed Jamaluddin Ahmad** in which the land settled in the year 1945 to **Bibi Noor Jahan** was also included. Accordingly, the draft statement under section **10(2) of the Land Ceiling Act** (henceforth for short '**the Act**') was published in the name of **Syed Jamaluddin Ahmad**.

6. **The Additional Collector, Munger**, after hearing the landlord and 22 other objectors as well as considering the related documents and evidence, passed the final order dated **04.09.1982** whereby and where under he upheld all the objections except five objections and accepted the said transfer in favour of **Bibi Noor Jahan @Umme Kulsum**.

7. Later, **Syed Shah Maqbool Hassan** and others appealed against the order dated **04.09.1982** which was rejected



by the **District Magistrate, Munger**. Bibi Maria and others whose objections were rejected by the Additional Collector, Munger also filed separate appeal bearing **L.C. Appeal No. 51-55** before the District Magistrate, Munger which too came to be dismissed.

8. The Notification with respect to order dated **04.09.1982** was published under **section 11(1) vide No. 9/R/85** in **Land Ceiling Case No. 82 of 1975-76** on **20.03.1985**. However, the case is that the final notification under section 15(1) was never published.

9. The issue was brought before the **Board of Revenue, Bihar** by filing five separate revision applications bearing **Revision Case No. 138-142 of 1985**. All of them were heard together and disposed of together by a common order dated **22.09.1986** and 'the Board' upheld the transfer made in favour of Bibi Noor Jahan in respect of the land which were settled to her. The revision applications of the unsuccessful objectors were dismissed and their claim was rejected by the Board of Revenue.

10. After the order dated 22.09.1986 was passed by the Board of Revenue, a separate land ceiling proceeding was initiated against **Bibi Noor Jahan** vide **Land Ceiling Case No.**



01 of 1987-88.

11. However, the grievance is that out of nowhere, in the absence of any fresh materials being brought on record or considering the orders dated 04.09.1982 and 22.09.1986 passed by the Additional Collector, Munger and the Board of Revenue, Bihar respectively, **the Additional Collector, Khagaria** re-opened the **Land Ceiling Case No.82 of 1975-76** vide an order dated **09.11.1987**.

12. Two orders came to be passed on **29.02.1988** in the **Land Ceiling Case No. 82 of 1975-76** and **Land Ceiling Case No.1 of 1987-88** with the direction to issue final notification under **section 15(1)** of '**the Act**'.

13. The Additional Collector, Munger published final notifications under **section 15(1)** of '**the Act**' in the name of **landholders, Bibi Noor Jahan and Syed Jamaluddin Ahmad** in **Land Ceiling Case No. 1 of 1987-88** vide **Notification No. 5/R/88** and in **Land Ceiling Case No. 82 of 1975-76** vide **Notification No. 4/R/88 on 16.09.1988** respectively.

14. Being aggrieved by the re-opening of Land Ceiling Case No. 82 of 1975-76, Syed Jamaluddin Ahmad (who is the father of one of the Petitioner) preferred a writ petition before the Hon'ble High Court of Judicature at Patna vide



C.W.J.C No. 8254 of 1988. The reopening of proceedings was quashed vide order dated **17.11.1988** with an observation that the Collector will proceed in accordance with law. (Annexure-P/7 to the petition).

15. The contention is that in between, on 29.02.1988 in Land Ceiling Case No. 82/1975-76, an order was passed to initiate a separate Land Ceiling proceeding against Bibi Umme Kulsum in the light of order passed by the Members, Board of Revenue, Bihar, Patna. Further held that the landholder was entitled to one unit and as such though the rest of the lands have been shown by the landholder to have been donated/sold, no one appeared pursuant to the notice issued. Thus, clearly, it has been transferred to defeat the Land Ceiling Proceeding. Accordingly, direction has given for publication of notification u/s 15(1) of ‘the Act’ (Annexure – 5 series to the writ petition).

16. Accordingly, the gazette notification was issued on 16.09.1988 by which notification under section 15(1) of ‘the Act’ (Annexure-6 to the writ petition).

17. The petitioners approached the Patna High Court vide **C.W.J.C No. 2943 of 1989** against the two orders dated **29.02.1988** and gazette notification dated **16.09.88**. The impugned orders and the notification were set aside vide an



order dated **12.11.1998** after holding that the orders were passed without the issuance of notice to the landholder, a fact not disputed by the respondents. The Court remitted back the Misc. Case No. 01/1987-88 to the Additional Collector (Ceiling), Munger for a decision afresh after notice and hearing the parties including the petitioners (Annexure-P/8 to the writ petition).

18. Pursuant to the order dated **12.11.1998** passed in **C.W.J.C No. 2943 of 1989**, the petitioners approached the Collector(Ceiling), Munger, letter dated 29.10.1999 was issued by him with the direction to the Additional Collector, Khagaria to stay the distribution of the lands.

19. The contention of the petitioners is that though the authorities concerned had earlier issued 'parchas' to a considerable number of people but these parcha holders were never put in possession. The petitioners filed an application before the Collector, Munger and requested for cancellation of 'parchas' issued considering that the notification dated 16.09.1988 has been was quashed by order dated 12.11.1998.

20. As the petitioners request to the respondents to cancel 'the parchas' was not taken note of, they, thereafter preferred **C.W.J.C No. 12112 of 2005**. It came to be disposed of vide an order dated **12.04.2007** wherein the **Collector,**



Khagaria was directed to see to it that both the proceedings **Land Ceiling Case No. 82 of 1975-76 re-numbered as Land Ceiling Case No. 01 of 2006-07 (after Khagaria became a district in the year 2002) and Land Ceiling Case i.e. No. 1 of 1987-88** are taken up together and disposed of finally in accordance with orders of the superior authorities as also the Patna High Court. (Annexure-P/9 to the writ petition).

21. The order dated **12.04.2007** passed by the Patna High Court in **CWJC No. 12112 of 2005 (Yasmin Nehal vs. The State of Bihar)** is incorporated hereinbelow for proper appreciation:

“As contemplated under the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961, a proceeding was initiated in the then district of Munger being Land Ceiling Case no. 82/1975-76 against one Syed Jamaluddin Ahmad, resident of Muskipur, Sub-Division-Khagaria, District-Munger. Pursuant to objection filed, the matter was decided and order passed in terms of Section 10(3) of the Act by the Collector on 4.9.1982. By the said order, apparently, the



Collector accepted the transfer made by the land holder in Favour of his wife in the year 1945. The wife was divorced in 1956 but the gifts made by the wife from those lands were not accepted as valid. Thereafter adding those lands gifted by the wife to the lands of the land holders, surplus lands were declared and a notification in terms of Section 15(1) was then published on 1.4.1985. Under the said notification declaring and acquiring surplus land to the extent of 211.55 acres was made. It appears that pursuant to the said notification certain purchas were issued distributing the surplus land, a no intimation of any revision or any other proceeding impugning the said order was brought to the notice of the district authority. It appears that one of the donees gift to whom had been not recognized as valid apart from other, filed revision application before the Board of Revenue, which allowed the revision application with a direction that the lands gifted to the wife by the registered patta of 1945 by the land holder had to be excluded from



the proceedings as against the land holders.

It now appears that as a consequence of exclusion of those lands from the records of the said land holder and treating it to be the land of his wife Bibi Ume Kolsum @ Noorjahan Begum, a separate ceiling proceeding was then initiated being Land Ceiling Case no. 1/1987-88 and in those proceedings some lands, which were earlier notified as surplus in the hands of the land holder by notification dated 1.4.85 were again declared surplus, which was then challenged before this court in C.W.J.C. No. 2943 of 1989, which was disposed of by order dated 12.11.1998, which set aside the said second notification under section 15(1) dated 16.9.1988 and remitted the matter which to the Additional Collector (Ceiling), Munger for a fresh decision after hearing the parties.

The effect is that first the notification dated 1.4.1985 under section 15(1) as against the said land holder Syed Jamaluddin Ahmad stood materially altered by order of the Board of



Revenue. Subsequently, similarly, the notification issued on 16.9.88 though in respect of some lands treating them lands to be of Bibi Noorjahan was also set aside by this Hon'ble Court but both these proceedings i.e. 82 of 1975-76 and 1 of 1987-88 remain inconclusive and in law both the notification therein issued under section 15(1) did not attain finality.

I may also mention that all the lands which are concerned in the two ceiling proceedings were situated in the Sub-Division Khagaria of district Munger and the land holder and other also resided therein. Khagaria Sub-Division was then made into a district and as such in 2002 the records of L.C. Case no. 82/75-76 was then directed to be transferred to the newly formed Khagaria district and it finally surfaced in 2006 and now has been numbered as Land Ceiling case no. 1/2006-07 in the Land Ceiling Court of Khagaria district as against the land holder.

The grievance of the petitioners, who



are the children of the original land holder Syed Jamaluddin Ahmad is that consequent to the order dated 4.9.82 and thereafter the notification dated 1.4.85, to which the petitioners had no knowledge certain purchas were issued but these proceedings got modified by virtue of revisional order of the Board of Revenue, which order was not given effect to and the notification under section 15(1) dated 1.4.1985 continued to operate, notwithstanding, it being virtually set aside by the Board of Revenue. This is also sought to be demonstrated by the fact that some lands are covered in both notifications under section 15(1) i.e. notification dated 1st April, 1985 and notification dated 23.2.1998. In the first the notification the lands were treated to be lands of Syed Jamaluddin Ahmad in the second notification, they were treated to be the lands of Bibi Noorjahan.

As noted above, both those notifications lost efficacy because of subsequent orders but purchas were not



canceled nor parcha holders were restrained from disturbing the present writ petitioners-the present and holders. This is what has brought the petitioners to this court.

To this court after hearing the parties and perusing the affidavit and counter affidavit filed, it is clear that the authorities have lost sight of the two cases. The first case against Syed Jamaluddin Ahmad being L.C. Case no. 82/1975-76 as before the ceiling authorities in the district of Munger is now newly numbered as L.C. Case no. 1/2006-07 before district authorities Khagaria and the second case being L.C. Case no. 1/1988-89 as against the Bibi Noorjahan remains before the district authorities of Munger. The two proceedings are pending and have not been finally culminated. Whatever may be the effect of the final order that may be passed, this much is sure and certain that the declaration of surplus land as contained in the respective section 15 (1) notifications cannot be given effect to and till



such time they cannot be given effect purcha
could have been issued, muchless, seen that
they are enforced. As purchas have been issued
the consequence would be that the authorities
would be well advised to keep the enforcement
thereof in abeyance till matters are finally
redecided and fresh notification issued. I
accordingly direct so.

However, I also direct that as purchas
have been issued, the purcha holders would be
liable to be heard because they are entitled to
get some other lands which may also be
declared surplus in case the lands for which
they were given purchas are held not to be
surplus. I accordingly direct.

The Collector, Khagaria district
would be well advised to see that both the
proceedings are taken up and finalised in
accordance with the orders of the superior
authorities and this court expeditiously, so that
finality is arrived and different people know of
their rights and liabilities as early as possible.



***With this observation and direction
this writ application stands disposed of.***

***Let a copy of the order be given to
State counsel for communication to the
Collector, Khagaria for compliance.”***

(emphasis added)

22. The grievance of the petitioners is/are that the Additional Collector, Khagaria, after hearing the parties under the orders of remand passed by this Court disposed of the petition vide orders on **07.03.2015** in **Land Ceiling Case No.01 of 1987-88** and **Land Ceiling Case No. 82 of 1975-76** (re-numbered as Land Ceiling Case No. 01 of 2006-07) in complete contravention of existing provisions, affirmed the two orders dated **29.02.1988** and notifications dated **16.09.1988** in a mechanical manner. The Additional Collector, Khagaria held that since the land had been gifted/sold by the landholder between a short period of 15.04.1963 to 17.04.1963, the transfers were made with the intent to defeat the provisions of ‘the Act’.

23. The contention of the petitioner is that the Additional Collector, Khagaria in passing such order failed to appreciate section 5 (5) of ‘the Act’. While section 5 of ‘the Act’



specifies that no person can hold land in excess of the ceiling area, clause (5) of the section 5 of 'the Act' provides an exception and states that any land-holder may make transfers before the commencement of 'the Act' and within six months after the commencement by way of gift any land to his son, or daughter, or any children of son or daughter or anyone else who would have inherited the said land and such transfer would be considered valid under law.

24. Section 5(5) of 'the Act' read as follows:

5. No person to hold land in excess of the ceiling area (1) (i) It shall not be lawful for any person to hold, except as otherwise provided under this Act, land in excess of the ceiling area.

(5) Any land-holder, subject to the provisions of the tenancy law of the area may, if he has not already transferred, transfer, till the commencement of this Act and within six months thereafter by way of gift any land held by him as raiyat to his son, daughter, any children of his son or daughter, or to such other person or persons who would have



inherited such land or would have been entitled to a share therein had the landholder died intestate in respect thereof at midnight between the date of the commencement of this Act and the day just preceding such date so as not to exceed, together with any other land held by the donee, the area the donee can hold under Section 5."

25. Aggrieved, the petitioners thereafter preferred **C.W.J.C No. 3487 of 2015** before Patna High Court for quashing of the orders dated **07.03.2015**. However, vide an order dated **04.07.2016**, CWJC No. **12718 of 2012** and CWJC No. **3487 of 2015** were rejected by the Court with liberty to appear before the **Bihar Land Tribunal** (henceforth for short '**the Tribunal**').

26. The petitioners thereafter approached 'the Tribunal' by filing of **B.L.T Case No. 669 of 2016** which was disposed of vide order dated **25.05.2017** observing that **section 45B of 'the Act'** has been repealed and hence proceedings pending and reopened earlier deemed to be abated.

27. The petitioners thereafter filed **C.W.J.C No. 14219 of 2017** before the Patna High Court the challenging



order dated 25.05.2017 passed by ‘the Tribunal’ wherein vide an order dated **10.11.2022**, the impugned order was quashed and the matter was remitted back to ‘the Tribunal’ for fresh consideration of all the issues raised by the Petitioners.

28. The petitioners thereafter approached ‘the Tribunal’ vide **B.L.T Case No. 162 of 2023** which came to be dismissed vide an order dated **25.07.2024**.

29. The order dated **25.07.2024** passed in the **B.L.T. Case No.162 of 2023 (Yasmin Nehal vs. The State of Bihar)** read as under:

“22. This Tribunal on perusing the order passed by learned Additional Collector, dated 07.03.2015 in Land Ceiling Case No. 82 of 1975-76 finds that learned Collector has considered the case of the petitioners in detail and also considered the various orders passed by different courts and held that land gifted by the landlord or land sold by the landlord was done almost on same day, dated 15.04.1963 and 17.04.1963, which shows that the aforesaid transaction was made with intention to defeat the purpose of land ceiling proceeding. The



learned Additional Collector accordingly affirmed the order dated 29.02.1988 passed by then Additional Collector (Ceiling), Munger and Gazette Notification made under Section 15(1) of the Act, dated 16.09.1988.

23. It is also relevant to mention that Section 45B of Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961 has now been repealed by Gazette Notification dated 02.09.2016. The amended Notification provides that Section 45B of the Ceiling Act, 1961 is now repealed. There is no such provision as Section 45B of the Ceiling Act. By aforesaid notification, new Section has been added as Section 45D, after Section 45C of the Act.

24. Section 45D provides that after repeal of Section 45B, all matters relating to re-opening either before the State Government or Bihar Land Tribunal shall be deemed to have been abated and proceeding already re-opened earlier, under deleted Section 45B and pending



before the Collector or B.L.T shall also stand abated and no fresh matter relating to re-opening of Ceiling Case under Section 45B of the Act now can be entertained.

25. Therefore, in view of the aforesaid notification of Section 45B, the learned Collector in compliance of the order passed in C.W.J.C No. 2943 of 1989 and C.W.J.C No. 12112 of 2005 has considered the case afresh without re-opening the matter on the basis of material available on record and came to the finding by giving cogent reason that landlord had with intention to defeat the purpose of Ceiling proceeding made various transaction in the form of Gift Deed and sale of the land in question almost on the same day dated, 15.04.1963 and 17.04.1963 and has accordingly upheld the earlier order dated 29.02.1988 passed by then Additional Collector, Munger in Land Ceiling Case No. 82 of 1975-76. The learned Additional Collector, Munger has also affirmed the final Gazette Notification



made under Section 15(1) of the Ceiling Act dated 16.09.1988.

Therefore, this Tribunal does not find any illegality in the impugned order dated 07.03.2015 passed by learned Additional Collector, Khagaria in Land Ceiling Case No. 82 of 1975-76/01 of 1987-88/65 of 1994 whereby the order dated 29.02.1988 passed by learned Additional Collector in Ceiling Case No. 82 of 1975-76 and the Gazette Notification dated 16.09.1988 were affirmed.

This application is accordingly dismissed.”

Sanjay Priya

Chairman

(emphasis added)

(C) ARGUMENT ON BEHALF OF THE PETITIONERS:

30. The contention of the petitioners as put forward by the learned Senior Counsel is that ‘the Tribunal’ while passing the order dated 25.07.2024 failed to appreciate that the Additional Collector affirmed the orders dated 29.02.1988 and final notifications dated 16.09.88 ignoring the orders passed by



the Superior authorities as also the Patna High Court inasmuch as the orders/final notifications were already quashed by the High Court in **C.W.J.C No. 2943 of 1989** vide an order dated **12.11.1998**.

31. The further submission is that the Courts below wrongly appreciated the order dated **12.11.1998** wherein it was directed to the Collector to take a decision afresh after noticing/hearing the parties including the petitioners. Thus, the Additional Collector(Ceiling), Munger erred in deciding the issue as L.C. Case no. 1/87-88 was already set aside by the Court vide an order dated 17.11.1988 in CWJC No. 8254 of 1988.

32. The submission is that the Courts below ought to have appreciated that both the Ceiling proceedings i.e. 82 of 1975-76 (re-numbered as Land Ceiling Case No. 01 of 2006-07) and 01 of 1987-88 attained finality because reopening of both the ceiling proceedings were quashed by the Court vide an order dated 17.11.1988.

33. The further contention is that as the notifications were set aside by coordinate benches of this Court and not challenged by the respondent authorities, hence it attained finality. Thus, reaffirmation of the order dated 29.02.88 and



notifications dated 16.09.88 by the order in question needs interference.

34. Learned Senior Counsel submits that the Courts below further failed to appreciate that once the Land ceiling proceedings in Land ceiling case no. 82 of 1975-76 were upheld by order dated 04.09.1982 as also by the Board of Revenue, it has attained finality. Hence any findings on transactions taking after recording that it was to defeat the provisions of 'the Act' is illegal and not in consonance with orders passed by the Patna High Court.

35. Learned Senior Counsel submits that the last order dated 12.04.2007 (in CWJC No. 12112 of 2005) restricted the respondents to act in accordance with the orders of the superior authorities and this Court expeditiously. Thus the respondents could not have heard the matter afresh and pass the order in question.

36. Learned Senior Counsel further submits that the Courts below failed to appreciate that landholders gifting the lands or selling it between 15.04.1963 to 17.04.1963 were not made with the purpose to defeat the provisions of 'the Act', but those were genuine transfers well within the ambit of law.

37. In support of the said contention, learned Senior



Counsel relied on the order of the Division Bench of the Patna High Court in the case of **Sudhakar Jha & Ors. vs. The State of Bihar and Ors.** (and analogues cases) [reported in 2024 (3) PLJR 403 (DB)] with reference to **paragraph no. 52** which read as follows:

52. The applications stand disposed of in the following terms:-

(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 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.”

38. She further took this Court to a case of Patna High Court in **Bishwadeva vs. State reported in 1999 (2) PLJR 882** with reference to **paragraph no. 7** which read as follows:

“7. After hearing the parties and on perusal of the record I find substance in the submission advanced on behalf of the petitioner that the proceeding under section 45B of the Act cannot be re-opened only to consider the correctness of the earlier order passed by the competent authority under the Act. Only in case where the earlier order has been passed on incomplete material or fresh material has come to the notice of the authorities from different sources the



proceeding can be re-opened but it cannot be opened only on the ground that the Presiding Officer has not correctly decided the matter as has been done in this case. The orders appended with the writ application clearly show that the authority after having come to the conclusion that injustice has been done to the petitioner by declaring the plots, which were allowed to be retained by him, as surplus land and wrongly distributed to the landless persons, passed an order for release of the land, which was wrongly treated as surplus land, in favour of the petitioner and put him in possession. As such it cannot be said that the order passed in favour of the petitioner is on the basis of the misrepresentation and suppression or on the basis of the incomplete record. Only because some landless persons were dispossessed because of the order passed by the Ceiling Authority to do justice to the land holder, the Collector has no power to re-open the proceeding.”



39. She submits that the Ceiling Proceeding cannot be reopened to consider the correction of the earlier order passed by the competent authority under 'the Act.

40. The third order relied upon by the petitioners is of Full Bench Case of Patna High Court in the case of **Harendra Prasad Singh vs. The State of Bihar & Ors. reported in 1984 BBCJ 879** with reference to **paragraph nos. 9 and 19** which read as follows:

“9. The submission aforesaid, instead of aiding the stand of the writ petitioner, appears to me, in fact, as heavily boomeranging on it. By the settled canons of construction, a Statute has to be construed as a whole and its provisions have to be read harmoniously. When sections 32A and 32B are read together, they seem to run patently counter to the writ petitioner's stand. Both of them, with effect from the 9th of April, 1981, cry a halt to all the earlier proceedings and to begin on a clean slate and to have them disposed of afresh. These again have to be re-determined or decided afresh in accordance with the provisions of section 10 of the Ceiling Act,



i.e., in accord with the changes brought about in the law. As has already been noticed, the whole thrust of the Amending Act was to bring about changes in the substantive law and to effectuate them by directing a re-determination in accordance therewith. The legal pun that is sought to be made out on behalf of the writ petitioner on the ground that section 32B does not employ the word 'abatement' is of no consequence. Indeed it is well settled in legal terminology that the term 'abatement' is usually employed with regard to appeals, revisions, reviews, etc. To say that the original proceeding pending before an authority would abate appears to be inapt legal phraseology. Therefore, the Legislature has employed the term of abatement with regard to appeals, revisions, reviews or references and thereafter directed that the Collector shall proceed with the case afresh in accordance with provisions of section 10 by section 32B. However, when it came to pending proceedings (other than those covered earlier by



section 32A), section 32B provided that (except those which had achieved finality already before the 9th of April, 1981 by express publication under the unamended section 11(1) of the Ceiling Act) these pending proceedings must be disposed of afresh in accordance with the amended law. Far from the fact that nothing would have turned on the non-employment of the word 'abatement' in section 32B, in fact, the reading of both the sections would indicate that the Legislature had in mind the identical results to follow, namely, a re-determination or disposal afresh in accordance with the amended law in either case. Indeed, it was plausibly argued before us on behalf of the respondents that the categoric mandate to decide afresh is even something stronger and larger than mere abatement. The word "abatement" connotes only a ceasing or putting an end to the proceeding. The direction to decide afresh not only wipes away the earlier decision or finding but directs a fresh application of mind and a decision there



after and in a way would even be on a larger and stronger footing. The specious argument resting on the non-employment of the word 'abatement' in section 32B must fail.

19. Once that is held, the clue or, indeed, the answer to the three distinct questions automatically falls into its place. It is accordingly held as under:

(i) Under the mandatory provision of section 32B the Revenue authorities are obliged to dispose of afresh all pending proceedings except those in which final publication under sub-section (1) of section 11 of the Ceiling Act had already been made prior to the 9th of April, 1981, being the date of the commencement of the Amending Act.

(ii) After the enforcement of the Amending Act on the 9th of April, 1981, if the Revenue authority proceeds to publish a notification under the provisions of the old unamended section 11(1) of the Ceiling Act, it would plainly be ignoring and contravening



section 32B and nullifying the object and purposes thereof.

(iii) The failure to dispose of the pending proceedings afresh and the final publication by way of notification under section 11(1) of the old unamended Act after the 9th of April, 1981 would be wholly without jurisdiction and, therefore, non est.”

41. Learned Senior Counsel submits that the last order of the Patna High Court can be construed as that of the respondents having being restricted to giving an opportunity to the parcha holders and was to act only with regard to the orders of Superior authorities/High Court's order.

42. Alternatively, the submission is that following the orders of Patna High Court, it should have been reopened and the respondent Additional Collector should not have just affirmed the earlier orders passed.

43. Learned Senior Counsel concludes by submitting that the order in question in the aforesaid background needs interference.

(D) STATE's CASE:

44. A counter affidavit has been filed on behalf of the



Respondent nos. 2 to 4 duly put on affidavit by the Circle Officer, Gogri, Khagaria.

45. The contention as put forward by the learned State counsel is that the petitioners filed C.W.J.C. No.3487 of 2015 before this Hon'ble Court against the order dated 07.03.2015 passed by the Additional Collector, Khagaria in Land Ceiling Case No.82/1975-76 and 01/1987-88 (Supplementary Land Ceiling Case No.65 of 1994). The said writ petition was heard and dismissed on 04.07.2016 with the liberty to the petitioners to approach 'the Tribunal', for grant of appropriate relief(s) with respect to the lands in question.

46. The petitioners thereafter filed a BLT Case No.669/2016 before 'the Tribunal', under Section 45B of the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961 in which an order was passed on 25.05.2017 as under :-

"These applications relates to re-opening of ceiling care, already disposed off, under section 45B of The Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act. 1961. The section 45B of The Bihar Land Reforms (Fixation of Ceiling Area and



Acquisition of Surplus Land) Act, 1961 has been repealed by gazette notification 02.09.2016, the amended notification provides that section 45B of the Ceiling Act, 1961 is now repealed and now there is no such provision as section 45B of the Ceiling Act, through this notification new section has been added as section 45D, after 45C of the 'Act'. Section 45D provides that after repeal of section 45B all matters relating to re-opening either before the State Government or Bihar Land Tribunal shall be deemed to have abated and proceedings already re-opened earlier, under section 45B and pending before the Collector or BLT shall also stand abated and no fresh matter relating to re-opening of Ceiling Cases under Section 45B of the act, now can be entertained. Since the matter is still pending, as such it shall also stand abated. These applications are disposed off. State is being represented by Mr. Dilip Kumar A.G.P.

K.P. Ramaiah

Member Administrative



47. The petitioners thereafter preferred CWJC No.14219 of 2019 (Yasmin Nehal & Ors. vs. The State of Bihar) which was disposed of on 10.11.2022 and the Patna High Court remitted the matter back to 'the Tribunal' for fresh consideration after quashing of the order dated 25.05.2017.

48. This followed the B.L.T. Case No. 162 of 2023 (Yasmin Nehal & Ors. vs. The State of Bihar & Ors.). 'The Tribunal' vide an order dated 25.07.2024 rejected the claim of the petitioners and held amongst the other that Section 45D of 'the Act' provides that after repeal of Section 45B of 'the Act', all matters relating to re-opening either before the State Government or Bihar Land Tribunal shall be deemed to have been abated and proceeding already re-opened earlier, under deleted Section 45B and pending before the Collector or B.L.T shall also stand abated and no fresh matter relating to re-opening of Ceiling Case under Section 45B of the Act now can be entertained.

49. Therefore, in view of the aforesaid notification of Section 45B of 'the Act' that came into force during the pendency of the case, the learned Collector in compliance of the order passed in C.W.J.C No. 2943 of 1989 and C.W.J.C No. 12112 of 2005 has considered the case afresh without re-



opening the matter on the basis of material available on record and came to the finding by giving cogent reason that landlord had with intention to defeat the purpose of Ceiling proceeding made various transaction in the form of Gift Deed and sale of the land in question almost on the same day i.e. between 15.04.1963 and 17.04.1963 and has accordingly upheld the earlier order dated 29.02.1988 passed by then Additional Collector, Munger in Land Ceiling Case No. 82 of 1975-76.

50. Learned State counsel further submits that 'the Tribunal' has rightly observed that in view of repeal of section 45-B of 'the Act', the respondents considered the case afresh without the reopening of the matter on the basis of the materials available on the record and came to a cogent finding which need no interference.

51. He submits that it is not the case of the petitioners that they challenged the order dated 12.09.2007 (in CWJC No. 12112 of 2005) passed by the Writ Court in the Yasmin Nehal (supra) case. Thus the revenue authorities were fully justified in taking up the case and dispose of both the Land Ceiling Proceeding Case Nos. 82 of 1975-76 and 01 of 1987-88 strictly in accordance with the order dated 12.09.2007.

52. Mr. Manoj Kumar, learned State counsel further



submits that the writ petitioners have even failed to inform this Court by providing a genealogy to show actually they belong to which family, Late Syed Jamaluddin Ahmad or Bibi Noor Jahan @ Umme Kulsum. He submits that on this ground alone, the writ petition is fit to be dismissed.

53. Learned State Counsel submits that the order dated 12.09.2007 clearly observed that the Collector, Khagaria district would be well advised to see that both the proceedings are taken up and finalized in accordance with the orders of the Superior authorities and this Court expeditiously.

54. He submits that the respondents rightly took up the matter and after recording the facts of the case came to the conclusion that the decision taken earlier needs no interference.

55. Learned State counsel conclude by submitting that the writ petition lacks merit and as such, is fit to be dismissed.

(E) REPLY OF THE PETITIONERS:

56. The reiteration of the petitioners by way of reply is that the 'The Tribunal' failed to appreciate that the re-opening of the Land ceiling case was already quashed vide order of the Writ Court dated 17.11.1988 in (CWJC No. 8254 of 1988).

57. Moreover, the respondent authorities have failed to appreciate that the transfer of lands were accepted by the



Additional Collector, Munger in 1982 and such transfer was confirmed again in revision proceedings before the Board of revenue in 1986. It as such became final and can not be meddled with by the respondent authorities by reaching to a different conclusion in absence of any fresh material.

58. Similarly, 'Parchas' were issued based on such reopened proceedings, and pursuant to such flawed notifications, regarding which the petitioners had approached the Hon'ble Court in CWJC No. 12112 of 2005.

59. However, learned Senior Counsel on query was unable to throw light on the submissions put forward by the learned State Counsel about the status of the petitioners inasmuch as they represent which ancestor, late Syed Jamaluddin or late Bibi Noor Jahan @ Umme Kulsum.

(F) FINDINGS:

60. This Court has gone through the facts of the case and the submissions put forward by the respective parties. It has further taken note of the fact that vide an order dated **12.09.2007 in CWJC No. 12112 of 2005**, the Patna High Court remanded the matter back to take decision as per the orders/directions given by the Superior Authorities/court orders.

61. This Court has also taken note of the fact pointed



out by the learned State counsel that the petitioners nowhere in the writ petition have stated as to which lineage they belonged to: late Syed Jamaluddin or late Bibi Noor Jahan @ Umme Kulsum. Learned Senior Counsel for the petitioners also failed to throw light on this point.

62. Further, it has to be taken note of the fact that the order dated **12.09.2007** passed by the Writ Court in the [**CWJC No. 12112 of 2025 (Yasmin Nehal vs. The State of Bihar)**] was never challenged by the petitioners and as such all the previous orders passed in the matter got merged with the order passed.

63. The Additional Collector, Khagaria took up the matter, went into the proceedings and on the basis of the materials available on records and having gone through it came to the finding that the transfers were made with an intent to defeat the purpose of the ceiling proceedings, passed the order dated 07.07.2015 in question.

64. So far as the order of the Division Bench of Patna High Court in the case of **Sudhakar Jha** (supra) is concerned, this Court has to agree to the conclusion arrived at by the Court that in absent of the words 'or in any other Court', in section 45D of 'the Act', the pending cases have to be disposed/decided



by the Court. 'The Tribunal' accordingly took up the matter and decided it on 25.07.2024 on merit.

65. Regarding the case of Division Bench in the case of **Harendra Prasad Singh** (supra), the same deals with section 32B of 'the Act' and records that after the amendment, all the cases have to be decided afresh. However, with respect to the case of the petitioners, the same is not applicable as the matter was considered and decided in the year 1988 and thereafter also in the year 2015.

66. So far as the case of **Bishwadeva** (supra) is concerned, it has nothing to do with the present case. In the **Bishwadeva** (supra) matter, the Patna High Court held that under section 45B of 'the Act', the matter cannot be reopened only to make the correction of the order. Here, the matter was actually taken up for consideration pursuant to the order passed by the Court on 12.09.2007 in the **Yasmin Nehal** (supra) case.

67. This Court reiterates that the base of the entire case is the order dated 12.09.2007 passed by the Patna High Court in CWJC No. 12112 of 2005 and it authorized the respondents to act strictly in line with the order of the Superior Authorities and Patna High Court. The Additional Collector (Ceiling), Khagaria accordingly passed the order in question.



(G) CONCLUSION:

68. In the aforesaid background, this Court is of the opinion that the orders passed by the Additional Collector, Khagaria on 07.03.2015 and stamped by ‘the Tribunal’ vide an order dated 25.07.2024 need no interference.

69. The writ petition lacks merit and is dismissed.
Interim order stands vacated.

70. I.A. if any, also stand disposed of.

71. Let a copy of the order be sent to the Collector, Khagaria for perusal and needful.

(Rajiv Roy, J)

vinayak/-

AFR/NAFR	NAFR
CAV DATE	15.04.2026
Uploading Date	18.04.2026
Transmission Date	

