

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17472 of 2016

1. Anil Kumar Srivastava Son of Late Ram Chandra Prasad Resident of Village - Ratanpur, P.O. - Barharwa, P.S. - Majorganj, District- Sitamarhi.
2. Sunil Kumar Srivatava @ Suni Kumar Son of Late Ram Chandra Prasad, Resident of Village - Ratanpur, P.O. - Barharwa, P.S. - Majorganj, District- Sitamarhi.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Commissioner, Tirhut Division, Muzaffarpur.
3. The Collector, Sitamarhi.
4. The Additional Collector, Sitamarhi.
5. The Deputy Collector Land Revenue, Sadar, Sitamarhi.
6. Shivjee Rai, S/o - Bilash Rai, R/o Village - Ratanpur, P.S. Majorganj, P.O. - Barharwa, District- Sitamarhi.
7. Hari Kishore Rai, S/o Shivjee Rai, R/o Village - Ratanpur, P.S. Majorganj, P.O. - Barharwa, District- Sitamarhi.
8. Ram Dulari Devi, W/o Shankar Rai, R/o Village - Ratanpur, P.S. Majorganj, P.O. - Barharwa, District- Sitamarhi.
9. Manju Devi, W/o Late Jagannath Prasad, R/o - Town - Mahishaul Chauk, P.O., P.S. and District- Sitamarhi.
10. Niraj Kumar S/o Late Jagannath Prasad, R/o - Town - Mahishaul Chauk, P.O., P.S. and District- Sitamarhi.
11. Sumit Kumar S/o Late Jagannath Prasad, R/o - Town - Mahishaul Chauk, P.O., P.S. and District- Sitamarhi.
12. Navneet Kumar S/o Late Jagannath Prasad, R/o - Town - Mahishaul Chauk, P.O., P.S. and District- Sitamarhi.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Manoj Kumar Manoj
For the Respondent/s : Mr.Subhash Chandra Yadav



**CORAM: HONOURABLE MR. JUSTICE RUDRA PRAKASH
MISHRA**

ORAL JUDGMENT

Date : 30-09-2024

Heard learned counsel for the petitioner and learned counsel for the respondents.

2. In the instant application, the petitioner has prayed for the following reliefs:

“1. That this application is being filed for issuance of appropriate writ/writs for quashing and setting aside the Order dt.- 25.08.2015 passed in B.L.T Case No.-509 of 2014 passed by Hon'ble Justice (Retd.) Smt. Mridula Mishra, Chairman, The Bihar Land Tribunal Patna and further setting aside the Order dt. 8.07.2013 and 28.11.2008 passed by Respondent no.-2 and 4 in Revision case no.-14 of 2009 and Ceiling Appeal case no. 52 of 2002 respectively and further the Order dt.- 6.08.2002 passed by Respondent no.-5 in ceiling case no.-25 of 2001-2002 (Annexure 6) may be affirmed by commanding the Respondents not to disturb possession of Petitioners on the disputed land, in the interest of justice.”

3. At the outset, it is submitted by learned counsel for the respondents-State that in view of the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land)



(Amendment) Act, 2019 read with judgment of the Hon'ble Supreme Court in the case of *Punyadeo Sharma and Ors. Versus Kamla Devi and Ors.* reported in **2022(1) BLJ 434 (SC)**, the instant application which arises out of pre-emption application stands abated.

4. Relevant paragraphs of the aforesaid judgment in the case of *Punyadeo Sharma* (supra) is quoted hereinbelow:

“4. The question examined by the Division Bench of the High Court was whether an application for pre-emption was filed within three months of the registration as required by Section 16(3) of the Act or was it required to be filed within three months of the day of execution of the sale deed i.e. 9.2.1990. However, the said question does not survive for consideration in view of the subsequent development whereby the right of pre-emption itself has been taken away by the Bihar Act No. 6 of 2019 when the Act was amended. The Amending Act reads thus:

"The Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) (Amendment) Act, 2019

1. Short title, Extent and Commencement. -

(1) This Act may be called The Bihar Land Reforms (Fixation of Ceiling Area and



Acquisition of Surplus Land) (Amendment) Act, 2019.

(2) It shall extend to the whole of the State of Bihar.

(3) It shall come into force immediately.

2. Amendment in Section 16 of the Act, 1961.-

(1) Sub Section (3) of Section-16 of the said Act is hereby repealed.

(2) In the Section-16 of the said Act, the following new sub section-(4) shall be added:-

(4)(i) After the repeal of sub section-(3) of Section-16 of this Act, all cases or proceedings pending before the State Government, the Board of Revenue, the Bihar Land Tribunal, the Divisional Commissioner, the Collector, the Additional Collector, the Deputy Collector Land Reforms or in any other Court, shall be deemed to be abated.

(ii) Pursuant to the repeal of Sub section-(3) of Section-16 of this Act, any purchase money together with a sum equal to 10% thereof. already legally deposited shall be refunded, without any interest, to the depositor.

.....
7. We have heard the learned counsel for the parties and find that the right of pre-



emption, after the Amending Act, abates as Sub-section 4(i) is specifically dealing with all pending proceedings before whatsoever forum. Therefore, the right of pre-emption will stand abated on and after 25.2.2019 including the proceedings which were pending before any forum.

.....
...12. Any other Court is wide enough to include the Constitutional Courts i.e. the High Court and the Supreme Court.....

Thus, keeping in view the object of the Statute, purpose to be achieved and the express language of the Amending Act, all proceedings of pre-emption under the Act pending before any authority under the Act or before any Court shall stand abated.

13. Consequently, the present appeals are allowed. The entire pre-emption proceedings stand abated. It shall be open to the respondents to withdraw 10% of the amount deposited by them in terms of Section 16 of the Act in accordance with law." (Emphasis Supplied)

5. In view of the above, it is ordered that the instant application stands abated and accordingly disposed of.

6. It is further directed that in terms of the aforesaid order, it shall be open to the pre-emptor herein to withdraw the



amount deposited by him in terms of section 16 of the Act in
accordance with law.

(Rudra Prakash Mishra, J)

Raj Kishore/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	04-10-2024
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