

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.48 of 2020
In
Civil Writ Jurisdiction Case No.14619 of 2019

-
-
1. Munna Devi Wife of Late Bahiro Singh, Resident of Village- Dariyapur, P.S. Dariyapur, District- Saran.
 2. Ram Babu Singh, Son of Late Bhairo Singh, Resident of Village- Dariyapur, P.S. Dariyapur, District- Saran.
 3. Shyam Babu Singh, Son of Late Bhairo Singh, Resident of Village- Dariyapur, P.S. Dariyapur, District- Saran.
 4. Lal Babu Singh, Son of Late Bhairo Singh, Resident of Village- Dariyapur, P.S. Dariyapur, District- Saran.
 5. Tuntun Singh, Son of Late Bhairo Singh, Resident of Village- Dariyapur, P.S. Dariyapur, District- Saran.
 6. Raj Kali Devi, Daughter of Late Bhairo Singh, Resident of Village- Dariyapur, P.S. Dariyapur, District- Saran.

... .. Appellant/s

Versus

1. The State of Bihar through its Principal Secretary, Land Reforms Department, Government of Bihar, Patna.
2. The Divisional Commissioner, Saran Division, Chapra.
3. The District Magistrate, Saran, Chapra.
4. The Additional Collector, Saran, Chapra.
5. The Deputy Collector Land Reforms, Sonapur, Saran, Chapra.
6. Dukhan Singh, Son of Late Deo Kumar Singh, Resident of Village- Dariyapur, P.S. Dariyapur, District- Saran.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Harshvardhan Shivsundaram, Advocate
For the Respondent/s : Mr. Md. Khurshid Alam (AAG12)
For the Respondent No. 6 : Mr. Prakash Chandra Jha, Advocate



**CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
and
HONOURABLE MR. JUSTICE NAWNEET KUMAR PANDEY
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR)**

Date : 07-12-2022

Heard Mr. Harshvardhan Shivsundaram,
learned advocate for the appellants, Mr. Khursid Alam
for the State and Mr. Prakash Chandra Jha for the
respondent No. 6.

The appellants are the pre-emptors, whose
claim for pre-emption was allowed uptill the revisional
authority. Thereafter, the purchaser, who is respondent
No. 6 herein, preferred an application before the Bihar
Land Tribunal viz., BLT Case No. 212 of 2019. During
the pendency of aforementioned BLT case, Section 16 (3) of
the Bihar Land Reforms (Fixation of Ceiling Area and
Acquisition of Surplus Land) Act, 1961 was repealed by
the amending Act, 2019, incorporating Section 16 (4),
which reads as follows:-

*"(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."

A perusal of the provision, referred to above, clearly reflects that after the repeal of sub-section 3 of Section 16 of the Act, all cases or proceeding pending before all authorities would be deemed to be abated.

Regard being had to the aforementioned provision, the learned member of the BLT declared the proceedings to have abated. Before this was done, an application had already been filed by the appellants before the DCLR for execution, namely, directing the



purchaser for re-conveying the land to the appellants/pre-emptors. Those proceedings were dropped pursuant to the declaration made by the BLT. This was challenged before this Court vide CWJC No. 14619 of 2019.

The learned Single Judge vide order dated 24.07.2019, after referring to the provisions contained in Section 16 (4), was of the view that the effect of abatement was complete wiping off of the proceedings under Section 16 (3) of the Act of 1961.

Mr. Shivsundaram, learned Advocate for the appellants has contested on the ground that the rights of the appellants as pre-emptors had already been concretized, and the matter was only left to be executed by the executing court which, in all probabilities, would not be included within the definition of Court, as contemplated in the amending Act.

The aforementioned argument is not acceptable, for the reason that all the courts have been named in



the amending Act, namely, the State Government, the Board of Revenue, BLT, the Divisional Commissioner, the Collector, the Additional Collector and the Deputy Collector Land Reforms. Even High Courts have not been excluded from the interpretation of Courts in the amending clause.

Thus, it cannot be said that the matter pending before DCLR would not be a matter pending before any court. Even otherwise, the wordings of Section 16 (4) is very clear, which says that all cases or proceedings (emphasis provided by us) pending before the authorities shall be deemed to have been abated.

Thus, in the absence of re-conveyance of title to the pre-emptor, the pre-emption proceeding abates. The appellants are but entitled to return of the purchase money together with a sum of equal to 10 per cent thereof, but without any interest. Sub-clause (ii) of Section 16 (4) specifies the aforementioned obligation of the Department, namely, of returning the deposit price of



the land along with 10% of the amount of such purchase price to the pre-emptor.

This being the situation, there is nothing for us to interfere in the matter.

The appeal stands consigned.

(Ashutosh Kumar, J)

(Nawneet Kumar Pandey, J)

SONALI/HR/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	.12.2022
Transmission Date	NA

