

(2019) 12 PAT CK 0165

In the Patna High Court

Case No : Letters Patent Appeal No. 558 Of 2016 In Civil Writ Jurisdiction Case No. 7807 Of 1992

Md. Tauhid And Ors

APPELLANT

Vs

Md. Kadir And Ors

RESPONDENT

Date of Decision : 13-12-2019

Acts Referred:

Constitution Of India, 1950 — Article 226
Bihar Land Reforms (Fixation Of Ceiling Area And Acquisition Of Surplus Land) Act, 1961 — Section 16(3)
Bihar Land Reforms (Fixation Of Ceiling Area And Acquisition Of Surplus Land) Amendment Act, 2019 — Section 2

Citation : (2019) 12 PAT CK 0165

Hon'ble Judges : Sanjay Karol, CJ;Anil Kumar Upadhyay, J

Bench : Division Bench

Advocate : Kameshwar Prasad Gupta

Final Decision : Disposed Of

Judgement

1. Heard learned counsel for the parties.

2. The appellants have prayed for the following relief/s:

"for setting aside the judgment and order dated 22.06.2015 passed by the Hon'ble Single Bench of this Hon'ble High Court presided over by the Hon'ble Mr. Justice Chakradhari Sharan Singh in C.W.J.C. No. 7807 of 1992 whereby the writ application has been dismissed affirming the order dated 30.05.1992 passed by the learned Additional Member, Board of Revenue, Bihar, Patna in Board Revision Case No.33 of 1991, Annexure-7 and affirming the order dated 22.01.1991 passed in Appeal No.242/85-86/03-89 by the Additional Collector, Purnea AND it is further prayed that after setting aside these judgments and orders, the order dated 20.08.1985 passed by the Deputy Collector, Land Reforms, Sadar, Purnea whereby the application under section 16(3) of Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961 was rejected, be

affirmed."

3. Learned Single Judge, not finding favour with the original appellants, while dismissing the petition filed under Article 226 of the Constitution of India, affirmed the order dated 30.05.1992 passed by the learned Additional Member, Board of Revenue in Board Revision Case No. 33 of 1991 (Md. Abid Hussain & Ors. Vrs. Md. Kadir & Ors.). The said order was passed under the provisions of the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961 qua the writ petitioners who claimed themselves to be the adjoining raiyats of the vended plot/s in question.

4. It is seen that now there is a legislative amendment in the Principal Act and by virtue of Section 2 of the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Amendment Act, 2019, 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 any other Court are deemed to have abated.

5. The pre-emptor/purchaser has not been rendered remediless. He is entitled to, by virtue of the amending Act, certain amounts.

6. In view of the change in position of law, we find the present proceeding to have abated.

7. At this stage our attention is invited to the fact that validity of the Amending Act is pending consideration before this Court. Ordinarily, we would have refrained from passing such order, but for the fact that the present appeals pertain to the year 2016, we proceeded to hear the same. However, since validity of the Amending Act is pending consideration before this Court, we grant liberty to either of the parties to get these appeals revived, if need so arises, after final adjudication with regard thereto.

8. With the aforesaid, the present appeal is disposed of as having abated.