

*IN THE COURT OF SATYA BHUSHAN ARYA, PRINCIPAL DISTRICT JUDGE, BANKA*  
*State of Bihar & Ors. Versus Ram Prawesh Singh*  
*Title Appeal No. 10 of 2025*  
*Date of Filing : 18.12.2025*  
*Date of Order : 16.04.2026*

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1. *State of Bihar through the Collector, Banka*
2. *District Forest Officer, Babnka*
3. *District Education Officer, Banka*
4. *Block Education Officer, Chandan*

..... *Appellants/Defendants*

*-Versus-*

*Ram Prawesh Singh son of late Bindeshwari Siingh, resident of village Ghutiya,*  
*post Suiya, police station Suiya, district Banka*

.....*Respondent/Plaintiff*

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*Present : - Sri Sri Ambar Mukharjee, G.P., on behalf of the Appellants*

*None for the Respondent/Plaintiff*

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### J U D G M E N T

1. *Disgruntled with the judgment and decree dated 05.04.2024, this title appeal has been filed by the appellants on the ground that (i) the judgment and decree of the learned lower court are bad in law as well as on the facts of this case; (ii) the judgment and decree of the lower court are against the weight of evidence on record; (iii) the learned lower court has gone beyond its jurisdiction and out of pleading of the plaintiff; (iv) the learned lower court has not considered that the defendants/appellants are the department of Forest and AARDASH MADYA VIDLAYA and that the building of AARDASH MADYA VIDLAYA constructed by the department of Education was running on the suit land since more than 55 years; (v) the learned lower court ought to have framed on the point of determination of adverse possession that the defendants/appellants no. 3 and 4 department of School AARDASH MADYA VIDLAYA coming in possession over the suit land without disturbance from any quarter; (v) the plaintiff/ respondent has*

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*not disclosed the date of encroachment; (vi) the learned lower court ought to have dismissed the suit of the plaintiff/respondent as the suit of the plaintiff/respondent being barred by law of limitation; (vii) when building was constructed over the encroached land is not mentioned in the plaint; (viii) learned lower court without giving notice to the appellants/defendants through their government lawyer who was permanently working day to day in each and every court and represent State of Bihar, but court even did not inform government pleader; (ix) the plaintiff in para 6 of the plaint admitted the fact that his father had donated the land mentioned in para II and III of the plaint to defendants but neither the plaintiff filed this suit for claiming compensation nor produce any documents to prove his version about the promise made by the defendants for giving any job.*

- 2. Notice was sent to the opposite party/plaintiff but the envelop containing summons was returned back with the marks "Refuse and Return" by the postal authority. Hence, this is due service. The respondent was proceeded against ex-parte vide order dated 16.01.2026*
- 3. Learned counsel for the appellants in his oral arguments reiterated the contents of the grounds of appeal and submitted that the appellants have all their right to be heard and in the absence of any notice or knowledge of the appellants the suit should not had been decided. It is argued that the appellants are government departments, therefore if there was no direct service, they should had been served according to the provision of "Order V Rule 25 of C.P.C." but there is no service of such kind.*
- 4. Learned Government Pleader drew attention of the court on order dated 21.12.2022, passed by the learned trial court whereby it was proceeded*

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*against ex-parte. It is argued that there is no report of service of summons upon any of the appellants. Learned Government Pleader drew attention of the court on the summons appended in the trial court record to the Block Education Officer which is allegedly received on 25.04.2023, whereas the order of ex-parte is 21.12.2022. It is argued that in absence of service of notice upon the Block Education Officer or on the District Forest Officer the service should had been through proper channel as provided under Order V Rule 25.*

*5. Heard submissions and perused the record. This case has been filed by respondent/plaintiff Ram Prawesh Singh. The case of the plaintiff is that the suit land is C.S. Khatiyani land of plaintiff and the ancestors of plaintiff, namely, late Sardar Singh was the Darmiyani Hakdar as well as Khewatdar of Khewat No. 15 under superior land lord Kumar Kalanand Singh mundarje khewat No. 1. It is alleged that in oral family settlement land of schedule I of the plaint came in the share of late Damodar Singh great grand father of plaintiff who was the full brother of late Sardar Singh. After partition Damodar Singh came in possession of the land. Later on, Damodar Singh died leaving behind his one son Singheshwar Prasad Singh who inherited the schedule I land and acquired right, title and possession over the suit property and after the death of Singheshwar Prasad, the suit land was devolved upon Bindeshwari Singh, Suresh Singh and Navin Singh. Out of them, Suresh Singh died issueless and his share was also inherited by his two brothers. Then, both the brothers orally partitioned the suit land. In the said oral partitioned the suit land fell in the share of plaintiff's father named Bindeshwari Singh. Plaintiff's father Bindeshwari Singh have five sons*

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*named Nalinikant Singh, Bajrangi Singh, Shri Narayan Singh, Anil Singh and Ram Prawesh Singh. Bindeshwari Singh with consent of all his sons made partition of schedule I land among them and, as such, the suit land fell in the share of plaintiff. Accordingly, his name was mutated in the revenue record. Later on, defendant no. 2 illegally encroached upon the part area of the suit land, which is described in schedule II of the plaint. Likewise, defendant nos. 3 and 4 encroached the part of schedule I land, which is described in schedule no. III of the plaint. In this way, the land described in schedule II and III is the suit land. It is pleaded in the plaint that notice under Section 80 of C.P.C. has been served through registered post but none has been spotted.*

*6. Upon summoning none of the defendants appeared, hence they were proceeded against ex-parte vide order dated 21.12.2022. The plaintiff examined altogether six witnesses in support of his case and five documents as Exhibit 1- Notice of 80 C.P.C. sent to defendants; Exhibit 2- Lagaan Receipt in the name of Ram Prawesh Singh; Exhibit 3- Savik Khatian of Khata 67; Exhibit 4- Order of Chakbandi Officer, Chandan vide case no. 84, 72/161; Exhibit 5, 5 "A", 5 "B", 5 "C"- Postal receipts of notice sent u/s 80 of C.P.C.; and Exhibit 6- Reply of notice of 80 C.P.C. by the Principal of Middle School, Suiya. Learned trial court decreed the suit on the basis of above said documents and oral evidences by passing the following order "Hence in the aforesaid finding this suit is decreed ex-parte without cost. And defendants are permanently injuncted from making any alteration with respect to suit land. Further defendants are directed to vacate the suit land within one month after today. On making default in compliance of the*

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*order of the court plaintiff shall have liberty to get vacate the suit land through executing the decree. O/c is directed to prepare decree accordingly.”*

*7. Now, there are following determination points before this court :-*

- I. whether the appellants were not duly served upon that summons;*
- II. Whether the plaintiff has not proved this case;*
- III. whether the impugned judgment and decree are sustainable or not?*

**Determination point No. I** - *The trial court record is perused. On 24.12.2019, four postal envelopes were sent by the respondent/plaintiff to the (a) Bihar Government, (b) District Forest Officer, (c) District Education Officer, (d) Block Education Officer. Neither any of the envelopes returned unserved nor any report of service has been placed on record. The order sheet dated 07.01.2020 reveals that no order in this regard has been passed by the learned trial court, however it has been mentioned that “the plaintiff absent. O.P. Bihar Government filed attendance but the presiding officer of the court has been transferred”, therefore this order is no order in the eye of law. In this situation, when the regular presiding officer joined, he should had passed proper order in this regard. Then, without bothering for appropriate order on 30.06.2020, there is no effort on the record for sending notice to the defendants/appellants. Then, vide D.B. No. 15/23.02.2022, summons were issued and the next date of hearing was 01.04.2022. The record reveals that in the order dated 01.04.2022, 22.04.2022, 21.05.2022, 05.07.2022, 10.08.2022, 01.09.2022, 21.09.2022, 14.11.2022, 28.11.2022, there is no order about any service report. All of a sudden, in the order dated 09.12.2022, it has been passed that the summons have*

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*been duly served and the matter was adjourned to 21.12.2022. On that day, the following order was passed by the learned trial court : - "वादी तरफ से हाजरी दी गई। प्रतिवादी अनुपस्थित है। दिनांक 06.1.23 वास्ते प्रतिवादी के विरुद्ध वाद में एकपक्षीय कार्यवाही की जाती है।" Then again on 06.01.2023, the following order was passed by the learned trial court : - "वादी के तरफ से अधि० हाजरी दी गई। प्रतिवादी अनुपस्थित है। दिनांक 11.01.23 वास्ते प्रतिवादी के विरुद्ध वाद में एकपक्षीय कार्यवाही की जाती है।"*

*In the opinion of the court there is no service of summons upon the defendants, hence point of determination no. I is decided in favor of the appellants and against the respondent/plaintiff as everyone has right to be heard on the principle of audi alteram partem.*

**Determination point No. II** – *The perusal of para no. 6 (2<sup>nd</sup>) of the plaint which is pivotal point of the entire case which is reproduced here for ready reference "यह कि वन विभाग के मांग पर वादी/ पूर्वज ने इस मौखिक शर्त पर वाद पत्र सिडूल 1 वाली जमीन का पार्ट रकबा वन विभाग को दिया कि विभाग में परिवार के एक सदस्य नलिनी कांत सिंह जो वादी के बड़े भाई थे, को सेवा ;नौकरीद्ध में रखना था । इसके आलोक में वन विभाग ने उक्त नलिनी कांत सिंह को तत्काल अस्थायी सेवा में रखा भी किन्तु बाद में हटा दिया और जमीन भी नहीं छोडा और न ही जमीन का मुआवजा ही वादी परिवार को भुगतान किया, फिर भी जमीन अतिक्रमण कर रखा है, जो संविदा को कायम न रखने की स्थिति में गैरकानूनी है । वन विभाग द्वारा अतिक्रमित जमीन को वाद पत्र के अन्त में सिडूल 2 में दिखाया जाता है"*

*From bare reading of this paragraph only, it is very much clear that for whatsoever reason, in any manner the land was transferred in favor of the forest department by the ancestor/father of the plaintiff, in this situation, the plaintiff at the most could claim for compensation and title suit for possession is not at all maintainable.*

*Further, bare reading of the plaint reveals that there are number of*

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*transactions that the land is transferred from time to time inter se various persons but in none of the paragraphs any date, time, year has been mentioned by the plaintiff, therefore there was no reason for the learned trial court to believe the plaintiff's version. Plaintiff has to stand on his own legs and has to prove his case, irrespective of the weakness of the defense. In **Smt. Lado Versus Rajender Singh 2018(4) Law Herlad 3111**, it has been held by the Hon'ble Supreme Court, "It is a settled position that the plaintiff has to prove his/ her own case and stand on his/ her own legs. Merely because the respondents were proceeded against ex-parte before the learned trial court cannot by itself be a ground to allow the plaintiff's suit".*

*Then, the operating para of judgment, which is also vague is reproduced here for ready reference "In the light of above oral and documentary evidences plaintiff has successfully established his case as he sought in reliefs. Plaintiff established his right, title and ownership mentioned in relief no. 1 through savik khatiyon of khata no. 67 and khesra no. 1191 which is exhibited as Ext. No. "3" and Malgujari receipt on the name of Ram Prawesh Singh which is exhibited as Ext. no. "2". All other Exhibits included Ext. I, II and III have established the case of the plaintiff.*

*But, this court is of the opinion that every judgment should be reasoned. That point of this court finds bolster from, the law, **Union of India Versus Essel Minning & Industries Limited (2005) 6 SCC 675**, wherein it has been held that the judgments delivered by the courts must be speaking and reasoned. For a qualitative judgment, it is sufficiency of*

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*reasons recorded in support of the conclusions or findings arrived at by the court that matters and not the number of pages in the judgment.*

*Likewise, in K.V. Rami Reddi Vs Prema 2008(2) Apex Court Judgments 561 (S.C.) : 2008(3) Civil Court Cases 012 (S.C.), it is held, "Judgment – Meaning – The declaration by a judge of his intention of what his 'judgment' is going to be, or a declaration of his intention of what final result it is going to embody, is not a judgment until he had crystallized his intentions into a formal shape and pronounced it in open court as the final expression of his mind as it held in It is further held that Judgment should be self contained document from which it should appear as to what were the facts of the case and what was the controversy which was tried to be settled by Court and in what manner – Process of reasoning should be reflected clearly in the judgment by which the Court came to the ultimate conclusion".*

*In this case, there are only two documents by which the plaintiff tried to prove his ownership in respect of suit land i.e. Exhibit 3 & Exhibit 4. Out of which Exhibit 3 is khatiyani slip that is not the proof of ownership and even it does not contain name of the plaintiff or his father. And Exhibit 4 is nothing but an order of consolidation officer, wherein also there is no name either of plaintiff or defendant; therefore, none of these documents prove the case of plaintiff.*

*Keeping in view the above this point of determination is also decided in favor of the appellants and against the respondent/plaintiff.*

**Point of determination no. III**– *As a sequence of above discussions and after going through entire facts and law; and ruminatively cogitating*

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*over the entire facts and circumstance of the case, this court is of the considered opinion that the impugned judgment passed by the learned Court is not sustainable in the eyes of law. Hence, the appeal of the appellant is hereby allowed. The impugned judgment and decree under challenge are set aside.*

*8. File be consigned to the record room and that of trial court be sent back with a copy of this order.*

*Satya Bhushan Arya  
Principal District Judge, Banka  
Dated- 16.04.2026*

*This judgment contains nine pages, all are signed by me.*

*Satya Bhushan Arya  
Sessions Judge, Banka  
Dated- 16.04.2026*

<i>Date of Judgment/ Order</i>	
<i>Date of Reserving Judgment/ Order</i>	
<i>Uploading Date</i>	
<i>Uploaded by</i>	