

**IN THE COURT OF MUNSIF, TEGHRA, BEGUSARAI,
BIHAR**

Title Suit No. 373/2014

In the matter of:

Rajendra Rai & Ors.

..... Plaintiffs

Versus

Chanda Devi Kejriwal & Ors.

..... Defendants

Presided over by:-

**Shri Shailendra Kumar
Munsif, Teghra, Begusarai**

Present: Ld. Counsel for the Plaintiffs: *Shri Ashok Kumar Singh, Adv.*

Ld. Counsel for the Defendants: *Shri Sanjeev Kamal, Adv.*

ORDER

Pending adjudication of the captioned title suit, an application dated 05.01.2026 was filed on behalf of the Plaintiffs, under Order XXVI Rule-10 read with Sec. 151 of Code of Civil Procedure, 1908, praying therein to “be pleased to appoint survey knowing pleader commissioner in the interest of justice.”

Ld. Counsel for the Plaintiffs submits that the Plaintiffs have filed the instant suit for declaration of title over the land detailed in Schedule-I of the plaint. The Defendants have appeared in this suit and filed their Written Statement and are contesting the suit.

It was also submitted that, on 26.11.2021, the Plaintiff had filed similar application for appointment of S.K.P.C. which was rejected due to the reason that the suit then was at very early stage and even issues were not settled.

It was further submitted that on 08.12.2025, the Plaintiff No.-2 *Ram Suresh Roy* was examined by the Defendants’ Advocate and under para no.-63 of cross examination, for the question- “Can you take the commissioner to the suit land for inspection and scientific measurement and report about possession, it was answered that the answer was affirmative.

Moreover, the Plaintiffs are always ready to get the scientific

Rajendra Rai & Ors. v. Chanda Devi Kejriwal & Ors.

Title Suit No. 373/2014

Date of Order: 09.03.2026

measurement inspection and report with regard to land in question because the Defendants have casted cloud over peaceful physical possession in their W.S.

Ld. Counsel for the Plaintiffs submitted that the Plaintiffs are the legal heirs and successors of Late *Gaya Devi W/o Kusheshwar Roy*. *Kusheshwar Roy* died leaving behind two sons- namely, *Ramdeo Roy* and *Ram Krishna Roy*. The Plaintiffs are the sons and grandsons of *Ramdeo Roy*. The ancestor of Plaintiffs late *Gaya Devi* got land of S.P. No.-852 & 853, *Khata* No.-2125, *Mauza-Gaura, Mahal-Mirzapur Naseeran* for an area of 19 *Katha* 15 *dhoor* besides land of S.P. No.-845, 664, 665, 670 through settlement and the ex-landlord issued rent receipt to *Gaya Devi* for a total area of 03 *Bigha* 18 *katha* 15 *dhoor*.

It was also submitted that the rent receipt issued by *zamindar*, being very old document, sriled and torn out. In survey *Khatiyan*, S.P. No.-852 is described as 19 *Katha*, whereas area of S.P. No.-853 is 01 *Bigha* 15 *dhoor*. Plot No.-852 is the west of S.P. No.-853. Plot No. 854 belongs to *Jhagroo Mishra* according to *Khatiyan* and survey map and south of plot is heirs of *Narsing Lal*.

Furter, the ex-landlord *Chandramauli Dev & Chandrachur Dev* and *Chandra bhooshan Dev* settled 19 *Katha* 15 *dhoor* land to Late *Gaya Devi* adjacent south to S.P. No.-854 of Late *Jhagroo Mishra* and adjacent to station Road *Teghra*. The ex-landlord submitted return in the name of Late *Gaya Devi* appertaining to the land of S.P. No.-852, 853 besides other settled land and register-II was prepared in the name of Late *Gaya Devi*. Late *Gaya Devi* had sold her settled land of S.P. No.-664, 665, 666 for an area of 01 *Bigha* 05 *Katha* to *Feku Mahto, Bhuttu Mahto & ors, S/o Baiju Mahto* who are coming in possession.

It was also argued that the Defendant No.-01 filed petition before *Anchal Adhikari Teghra* in *Jamabandi* No. 324 running in the name of *Gaya Devi* plot No.-852 has wrongly been mentioned hence plot No.-852 should be excluded from her *Jamabandi*. *Anchal Adhikari Teghra* submitted a false and fabricated report to D.C.L.R. *Teghra* without hearing and without personal inspection and without considering the report of *Amin* who has reported that there is difference between sale deed and possession over 01 *Bigha* land to exclude S.P. No.-852 from *Jamabandi* No.-324 on 25.10.2012. The D.C.L.R. *Teghra* has returned the case record to *Anchal Teghra* after verification and reported that

Rajendra Rai & Ors. v. Chanda Devi Kejriwal & Ors.

Title Suit No. 373/2014

Date of Order: 09.03.2026

the Defendants are coming in possession over the land of S.P. No.-852 & 853 to south and Plaintiffs have been coming in possession from North and adjacent to land of *Jhagroo Mishra*. The defendants themselves mentioned in sale deed in eastern boundary that there is railway line. The sale deed of Defendant No.-01 with respect to plot No.-852 and area of 07 *katha* 10 *dhoor* the boundary is given as North- *Ramdeo Rai*, South-*Hariram Bajaria*, East-Railway, West-*Sarak*. Sale deeds of Defendants prove itself the possession of Plaintiffs over plot no.852 & 853 *minjumle* 19 *katha* 15 *dhoor* from north. The Defendants are in possession over 01 *Bigha* land comprising 852 & 853 from southern portion of land of Plaintiffs covered by boundary wall bounded as North-Plaintiff portion of 852 & 853, South-*Warisan Narsing Lal*, East-Railway, West-Road.

Recently, in the month of July-August 2021, the Defendants heightend his previous boundary wall. The Defendant No.-01 falsely claimed in para No. 20 of his written statement that he is coming in possession over entire area of S.P. No.-852 and he has also falsely claimed that his vendor had no right to sell the land of S.P. No.- 853 Defendant No.-01 further claims in para No.-28 of w.s. the wall of this defendants situate only on plot no.-852 still some portion of plot No.-852 beyond the boundary wall.

Therefore, it is highly necessary to determine on this point that the Plaintiffs' land situates towards northern portion or not and this is an also important question for consideration that boundary wall situated over the land of S.P. No.-852 & 853 towards southern portion of land of Plaintiff or not. Whether the defendant newly constructed for heightened his wall on his old previous wall or not? It is essential for interest of justice and to decide the real controversy between the parties to get the report of S.K.P.C. of the suit plot. The Plaintiffs are ready to deposit the cost of survey knowing pleader commissioner to report upon-

- A) To report on the physical feature of suit land.
- B) To report whether there is a block of 19 *katha* 15 *dhoor* of suit land *Minjumle* area of S.P. No.-852 & 853 situates adjacent South of S.P. No.-854 and adjacent North to land of defendants.
- C) To report whether there is old boundary wall over the land of defendants and recently construction was made for heightening of boundary wall.
- D) To report any other point or points which may be raised at the spot by the parties.

Per Contra, the Defendants preferred to file rejoinder dated 15.01.2026, wherein, the instant application for appointment of S.K.P.C. has been vehemently opposed.

It was submitted by the Ld. Counsel for the Defendants that at present the trial of present suit is going on and from perusal of the evidence given by the Plaintiff no any fact has been detected which necessitates to file the instant application.

It was also submitted that earlier on 17.10.2023 this Court has already rejected the similar application for appointment of S.K.P.C. holding therein- "There is no dispute regarding the identity of suit property and the Plaintiff has filed the suit for declaration of title."

It was also argued that it is important to submit here that it is the suit for declaration of title only. This is not a suit for dispossession and also not for injunction. Therefore, the appointment of S.K.P.C. is not necessary in any manner whatsoever. Instant application has been filed by the Plaintiff only to collect the evidence which is not permissible in the eyes of law.

Ld. Counsel for the Defendants advanced his argument that since, similar application has already been rejected on 26.11.2021 by this Ld. Court, hence, as per law, Plaintiff is not entitled to re-agitate the same matter again in the suit.

Further, it was argued on behalf of the Defendants that it is most important to submit here that from perusal of the prayer of the Plaintiff it would transpire that Plaintiff is trying to get the physical feature of the suit land through S.K.P.C. meaning thereby the Plaintiff is not aware of the physical feature of the suit land. The Plaintiff also wants to get the identification of S.P. No.-852 and 853 along with 854 and he also wants to know about the old boundary wall standing over the suit land. All of the above suggests that the Plaintiffs are completely unaware of the suit land and all the reports over certain points he wants to know through S.K.P.C. it indicates clearly that Plaintiff is trying to get factual evidence from the suit land which is not permissible.

Ld. Counsel for the Defendants also highlighted that Plaintiffs have filed the suit for declaration of his right and title, for this documentary evidence is mandatory along with material evidence. The Court cannot assist any litigant to get the evidence in his favour. Therefore, the

Rajendra Rai & Ors. v. Chanda Devi Kejriwal & Ors.

Title Suit No. 373/2014

Date of Order: 09.03.2026

instant application is nothing but an attempt to delay the proceeding of the present suit, hence, liable to be dismissed.

Heard both the parties at length. After according hearing to both the parties, it transpires that it is necessary to refer Order XXVI Rule 10A of the Code of Civil Procedure, 1908, which reads:

10A. Commission for scientific investigation.—

(1) Where any question arising in a suit involves any scientific investigation which cannot, in the opinion of the Court, be conveniently conducted before the Court, the Court may, if it thinks it necessary or expedient in the interests of justice so to do, issue a commission to such person as it thinks fit, directing him to inquire into such question and report thereon to the Court.

(2) The provisions of rule 10 of this Order shall, as far as may be, apply in relation to a Commissioner appointed under this rule as they apply in relation to a Commissioner appointed under rule 9.

From the reading of above provision, it transpires that the legislature has empowered the Court to appoint a commissioner to conduct scientific investigation in a suit, pending before it, wherein, such questions are involved which requires such scientific investigation and the same is not possible to conduct before the Court.

Perusal of the record reveals that the instant suit has been filed for declaration of title and not for the recovery of possession. For the purpose, documentary evidences pertaining to title are sufficient to adduce as evidence. Had it been a case of recovery of possession, in the scenario, scientific measurement/investigation could have been warranted for.

Therefore, keeping in view the provision and discussions above mentioned, this Court is not inclined to allow the instant application, in the interest of justice.

With this order, the instant application and respective rejoinder are being disposed of.

Put up on **09.04.2026**.

**Munsif
Teghra, Begusarai
09.03.2026**