

District: Buxar

IN THE COURT OF CIVIL JUDGE (JR. DIV.), DUMRAON

TITLE SUIT NO. - 81 Of 2014

CIS NO. 581 OF 2014

Present:- Prateek Mishra, Civil Judge (Jr. Div.), Dumraon

Dated: 26th May, 2026

1. Tarkeshwar Tiwari S/O Late Gupteshwar Tiwari

Resident of Village & Post – Sonversha, P. S.- Nawanagar, Dist.- Buxar.

.....Plaintiff.

Versus

1. Bhikhaina Devi W/O- Sri Surendra Singh

Resident of Village– Keshri, P. S.- Dhangai, Dist.- Bhojpur (Ara).

Present Resident of Village & Post – Sonversha, P. S.- Nawanagar, Dist.- Buxar.

.....Defendant.

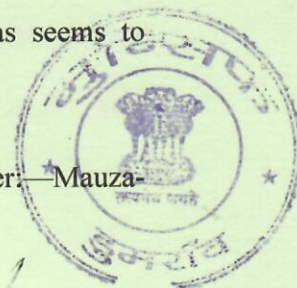
Counsels for the Plaintiff:- Learned Advocates Sri Shyam Narayan Rai, Sri Anand Prakash
Singh

Counsel for the Defendant:- N.A.

JUDGMENT

1. This suit has been filed by the plaintiff for declaration that plaintiff is raiyat of property under dispute in capacity of purchaser of sale deed. If there is any legal restriction in granting aforementioned relief then decree of Rs. 26,800/- in favour of plaintiff and against the defendants may be passed. Payment of cost to the plaintiff as seems to appropriate to the Court.

2. Details of property described in Schedule-1 of the plaint is as under: Mauza-
Lokpur, Thana No. – 452, P.S.- Nawanagar, District- Buxar.



Khata No.	Khesra/Plot	Area A-D	Boundaries
28	51 52 55	0-06 0-12 ³ / ₄ 0-11 Total= 0-29 ³ / ₄	North- Karha South- Kanhaiya Singh East- Sriram Lakshman Janki West- Laldhari Singh

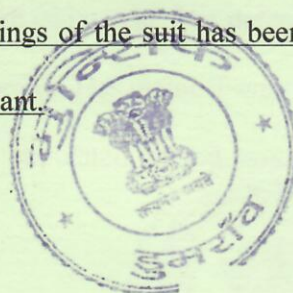
3. **Case of Plaintiff:** - As per plaint, the plaintiff has pleaded that defendant Bhikhaina Devi approached him on 06.06.2007 and prayed for Rs. 25,000/- for medical and other purposes. She also said for execution of baibul-wafa. In respect of said amount. Said baibul-wafa was executed on 06.06.2007 wherein the defendant has promised that she will return money well before 06.06.2013. Till then plaintiff will remain in possession and cultivate the land in lieu of interest of that period.

4. But the defendant has neither repaid the money within stipulated period of baibul-wafa nor plaintiff remains in possession during the period of baibul-wafa. Therefore, plaintiff is entitled for possession on land under dispute and repayment of amount of Rs. 25,000/- along with interest. If money not repaid along with interest then plaintiff is entitled for declaration in respect of land specified in baibul-wafa.

5. The plaintiff has submitted that he is not a money lender in terms of Bihar Money Lenders Act, 1974.

6. The defendant has breached the provisions of baibul-wafa hence this suit.

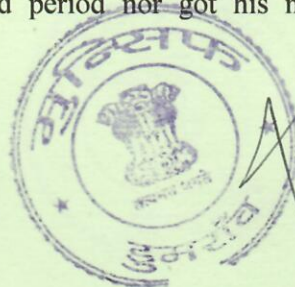
7. The Defendants failed to appear in the suit and gazette publication has been filed by the plaintiff as per order sheet dated 20.11.2018. On even date in margin of order sheet it is mention that proceeding is allowed to be *ex-parte*. Although no such formal order of *ex-parte* is on record but further proceedings of the suit has been maintained as this suit proceedings is *ex-parte* against the defendant.



8. Since no written statement has been filed in the suit, no issue has been framed in the suit.

9. The plaintiff has adduced following witnesses for proving his case: -

- a. **PW-1: Tarkeshwar Tiwari (Plaintiff):** He has supported his claims made in the plaint. He has got exhibited baibul-wafa as Ext.-1. In examination by Court, he has deposed that in his case, possession of land is to be returned to owner on receipt of money before completion of five years.
- b. **PW-2: Dinesh Singh:** He has deposed that he knows both the parties and the land under dispute. He has deposed regarding contents of baibul-wafa and supported claim of plaintiff. He inter-alia deposed that as per baibul-wafa, it was agreed that plaintiff shall be in possession of land till stipulated period for sake of interest. The defendant has not paid money till expiry of stipulated period. The plaintiff was neither in possession of land during pendency of stipulated period nor got his money i.e. Rs. 25,000/-. He has got exhibited legal notice as Ext.-2. In examination by Court, he has deposed that about execution of document dated 06.06.2007. He further deposed that now due to non-payment of money all the dispute arises.
- c. **PW-3: Anil Kumar Pandey:** He has deposed that he knows both the parties and the land under dispute. He has deposed regarding contents of baibul-wafa and supported claim of plaintiff. He inter-alia deposed that as per baibul-wafa, it was agreed that plaintiff shall be in possession of land till stipulated period for sake of interest. The defendant has not paid money till expiry of stipulated period. The plaintiff was neither in possession of land during pendency of stipulated period nor got his money i.e. Rs.



25,000/-. In examination by Court, he has deposed that plaintiff has given Rs. 25,000/- in summer of 2026 to Surendra Singh. Money was given on pledge of land.

10. The plaintiff has got exhibited following documents in this suit: -

a. **Ext.-1: Baibul-wafa:** On perusal of the same, it is noted that same was executed on 06.06.2007 by Bhikhaina Devi in the name of Tarkeshwari Tiwari. It is noted that contention of baibul-wafa is in accordance with plaint under consideration. It is specified in baibul-wafa that possession was handed over to plaintiff. At the same time, it is also mentioned that executor of baibul-wafa Bhikhaina Devi has agreed that she will return full amount during the period 06.06.2009 up to 06.06.2013 and will take back the document. If he fail to repay within time then this document shall be considered as sale deed.

b. **Ext.-2: Legal Notice.**

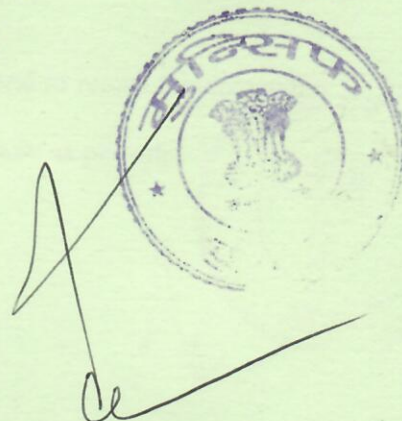
11. **Plaintiff arguments:** - The Counsel of Plaintiff has submitted his written arguments. He has pleaded that plaintiff is entitled for cost of baibul-wafa along with interest. His case has been supported by witnesses adduced and documents presented before the Court. He pleaded for decree in his favour.

Discussion

12. The defendant has not filed any written statement, and therefore no formal issues were framed. Since proceeding in the case is *ex-parte* against defendants, in order to arrive at just conclusion, it is desirable to discuss the facts in the light of evidences adduced by the plaintiff.



13. Ext-1 Baibul-wafa is evident of transaction between plaintiff and defendant. Defendant has taken money of Rs. 25000/- from the plaintiff. It has been agreed between the parties that on non-payment of said amount within stipulated period, this baibul-wafa shall be treated as sale deed.
14. However, as per plaint itself, there are certain anomalies. As per plaintiff he is not in possession of the land under consideration. But as per baibul-wafa, possession was handed over to the plaintiff. The plaint is silent on this particular factual aspect that as and when plaintiff came into possession of land under dispute and when he was dispossessed.
15. Possession of plaintiff on the land under dispute was in lieu of the interest accrued on the loan amount. Plaintiff was supposed to utilize usufruct of the land in that regard. But Plaint is silent on this point also. It is not clear whether plaintiff came into possession of land under dispute after execution of baiwul-wafa.
16. Baibul-wafa having condition that on non-payment of money within stipulated time period, said baibul-wafa will be treated as sale deed. This Court is of the view that for said purpose separate process/procedure has been provided in Civil Procedure Code.
17. As all the condition of baibul-wafa has not been met out. As per claim of the plaintiff itself, he is not in possession of land under dispute. Under situation, baibul-wafa cannot be acted upon in its entirety.
18. So far as issue of repayment of the money is concerned, there is nothing on record which suggests that plaintiff has received his money back. Whereas as per Ext-1, it is evident that money has been paid to defendant. Further, as per testimony of witnesses adduced before the Court, money not returned to the plaintiff.



19. As per condition stipulated in baibul-wafa executor of baibul-wafa that is defendant will take back her document after repayment of money. However, the document has been deposited by plaintiff in the Court. It transpires that money has not been repaid.

20. Although plaintiff has claimed decree for repayment of money along with interest in the suit but there is no such prayer in the plaint regarding interest.

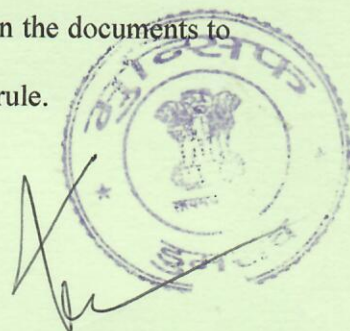
21. In view of the above discussion, this Court is of the view that baibul-wafa under consideration has not been effectuated in its entirety. Hence, same cannot be treated as sale deed executed by defendant in favour of plaintiff.

22. At the same time, this Court is of the view that transaction of money between parties is evident and proved to this satisfaction of this Court. It is also evident and clear that defendant has not repaid the money. Hence, the plaintiff is entitled for decree of repayment of his dues against defendant.

Order

23. On the basis of above discussion, the suit is hereby allowed without contest without cost. In view of the above discussion, the suit is decreed *ex-parte* with the following directions, which shall form the operative part of the judgment:

- I. The defendant is directed to repay the amount of Rs. 25000/- along with 6% simple interest from the date of filing of the suit till today within one month from the date of decree.
 - II. In case of non-payment, the plaintiff shall be entitled for 9% of simple interest on total amount dues as per above direction.
24. The office is directed to prepare decree accordingly and to return the documents to the concerned parties and consign the records to the record room as per rule.





(Prateek Mishra)
Civil Judge (Jr. Div.)
Dumraon, Buxar

Dated- 26th May, 2026

25. Judgment has been pronounced by me in the open Court on 26.05.2026. Office Clerk is hereby directed to prepare decree accordingly. Free copy of Judgments be shared with the parties as per rule.

Typed and Corrected by me.

(Prateek Mishra)
Civil Judge (Jr. Div.)
Dumraon, Buxar

Dated- 26th May, 2026



Date of Judgment/Order	26.05.2026
Date of Reserving Judgment/Order	30.04.2026
Uploading Date	26.05.2026
Uploaded by	Deep Chand