

BRKH010000222019



Presented on : 02-01-2019
Registered on : 02-01-2019
Decided on : 17-04-2026
Duration : 7 years, 3 months, 15 days

IN THE COURT OF PRINCIPAL DISTRICT JUDGE

At Khagaria, (Bihar)

Presided Over by Shri Rajesh Kumar Bachchan

Title Appeal No.- 02/2019

In the matter of :

Kapuri Yadav
S/o- Late Lalji Yadav
R/o- Village- Naunha, P.O. Buchha,
P.S.- Mansi, District-Khagaria

.....Appellant/Plaintiff.

VERSUS

1. Bechan Yadav
S/o- Late Ramji Yadav
R/o- Village- Naunha, P.O. Buchha,
P.S. Mansi, District- Khagaria.

.....Respondent First Party/Defendant First Party.

2. Sri Krishna Yadav
3. Jai Kishun Yadav
4. Haricharan Yadav
5. Parshuram Yadav
All Ss/o- Late Kuldeep Yadav
R/o- Village- Kainjri, P.O.- Kainjri,
P.S. Beldaur, District- Khagaria.

.....Respondent 2nd Party/Defendant 2nd Party.

6. Hemchandra Sah
S/o- Pileshwar Sah
7. Natho Sah

Rajesh Kumar Bachchan

8. Madan Sah
Both Ss/o- Late Mushan Sah
9. Bauku Sah
9. (1) Sudhir Sah
Both Ss/o- Late Siro Sah
10. Sanjay Sah
11. Arun Sah
Both Ss/o- Late Chandeshwari Sah
12. Binod Sah
13. Santosh Sah
Both Ss/o- Late Deonarayan Sah
14. Sanoj Sah
15. Kari Sah
Both Ss/o- Late Jainarayan Sah
All R/o- Village- Kainjri, P.O. Kainjri,
P.S. Beldaur, District- Khagaria.

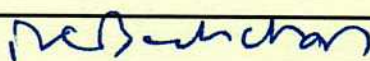
.....Respondent 3rd Party/ Defendant 3rd Party.

:: J U D G M E N T ::

1. The instant Title Appeal has been filed by the appellant assailing the judgment dated 31.07.2018 and decree dated 10.08.2018 rendered by the Ld. Court of Munsif, Khagaria (hereinafter referred as 'Ld. Trial Court) in T.S. No. 27/2014 titled as "Kapuri Yadav V. Bechan Yadav and ors." whereby suit of the appellant/plaintiff has been dismissed on contest against defendant first party and ex-parte against rest defendants.

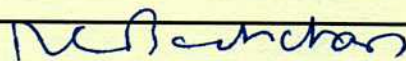
CASE OF THE PLAINTIFF

2. The case of the plaintiff as described in the plaint is that one Mangan Gope S/o Saheb Gope was the Khatiyani Raiyat of Mouza- Kainjri, Tauzi No. 525, Thana No. 131 appertaining to Khata No.



91, Khesra No. 708 area 00-11-14 (Eleven Kathas Fourteen Dhoores) and khesra No. 389 area 00-11-16 (Eleven Kathas Sixteen Dhoores) including other several Khesras. Mangan Gope (Khatiyani Raiyat) died leaving behind one son Matru Gope @ Ghoghay Gope. Matru Gope @ Ghoghay Gope died leaving behind one son Mukti Gope @ Mukti Das and one daughter Kalpi Devi and both inherited the properties left by Mangan Gope. Jamabandi No. 57/60 was going on in name of Mukti Gope which includes disputed Khesra No. 708 and 389.

3. Mukti Gope died issueless therefore Kalpi Devi was left as sole heir of Khatiyani Raiyat. She was married with Laljee Yadav and two sons namely Kapuri Yadav (Plaintiff) and Ramji Yadav (father of defendant No.1) were born. Kalpi Devi demised on 16.10.1978. Thereafter Kapuri Yadav and Ramji Yadav got $\frac{1}{2}$ share each in land mentioned in Schedule-I of the plaint. Land in share of plaintiff is mentioned in schedule-II of the plaint which is suit land. Plaintiff got half share from northern side in Khesra No. 708 measuring 5 Kattha 17 dhoor and $\frac{1}{2}$ share from the Southern side and in Khesra No. 389 measuring 5 kattha 18 dhoor from southern side.
4. On 25.06.2014 defendant Third party suddenly came to the suit land and started piling work. They said to the plaintiff that they have sale deeds dated 25.01.1969 and 09.11.1985 in their favour. Plaintiff obtained certified copy of the same from the registry office Munger and Khagaria and came to know that father of defendant Second party viz. late Kuldeep Yadav got prepared forged sale deed in the name of his brother Ramji Yadav/father of defendant No.1 on



25.01.1969. The said sale deed dated 25.01.1969 incorporates land of Schedule-I having Khata No. 91 Khesra No. 708 measuring 11 Katha 14 Dhoor and Khata No. 91 Khesra No. 389 measuring 2 katha by mentioning wrong boundaries by father of defendant Second party viz. late Kuldeep Yadav by adopting forged and fabricated ways by entering the name of Ramjee Yadav/brother of plaintiff at the place of vendor.

5. On the basis of said forged sale deed dated 25.01.1969 father of defendant Second party viz. Kuldeep Yadav executed forged sale deeds in favour of defendant third party namely Hem Chandra Yadav (Defendant No. 6), Natho Sah (Defendant No.7), Madan Sah (Defendant No.8), Siro Sah (Defendant No.9), Late Chandeshwari Sah (father of defendant No. 10 and 11), Late Deo Narayan Sah (father of defendant No. 12 and 13) and Late Jai Narayan Sah (father of defendant No. 14 & 15) who are defendant Third party in this suit and created forged and fabricated four sale deeds No. 5858, 5859, 5860 and 5861 on 09.11.1985 whose description is in Schedule –III of the plaint.
6. From the recital of sale deed dated 25.01.1969 it transpires that in contents of sale deed it is mentioned that Mukti Das died issueless and Ramji Yadav is only heir of Late Mukti Das. In fact after death of Mukti Gope @ Mukti Das, Kalpi Devi was legal heirs and successor of Late Mukti Gope @ Mukti Das and she was full owner of plot No. 708 and 389. Mukti Gope was also the maternal uncle of plaintiff Kapuri Yadav. In that forged deed forged “thumb impression” of Kalpi Devi is also shown who never gave thumb

impression over said deed as she was alive on the day of execution and hence except Kalpi Devi Ramji Yadav had no right, title to execute such sale deed of Dokhtari property of Kalpi Devi as Ramji Yadav never executed such forged sale deed in favour of Kuldeep Yadav. It is surprising that as a witness forged signature of plaintiff Kapuri Yadav was also shown on that forged Kewala and other fictitious signature of witness also shown there hence the deed dated 25.01.1969 is completely forged, fabricated, ab-initio void illegal and not binding on plaintiff. Regarding forgery of deed it is notable that the date of birth of plaintiff is 05.03.1964. At the time of forged Kewala dated 25.01.1969 plaintiff was only aged about 5 years than how his signature was made in that forged sale deed. On 25.01.1969 Kalpi Devi was alive hence except Kalpi Devi neither Ramji Yadav nor anybody was owner of Dokhtari property of Plot No. 708 and 389. On sale deed dated 25.01.1969 forged thumb impression was given of Kalpi Devi, forged signature of Kapuri Yadav (Plaintiff) and forged signature of witnesses were made. On 09.11.1985 late Kuldeep Yadav was not valid title holders of Plot No. 708 from forged sale deed dated 25.01.1969 but again without the knowledge of plaintiff he again himself illegally executed four forged sale deeds in favour of some of defendant Third party and some of their fathers which description is mentioned in Schedule-III of the plaint. On 26.10.2014 again on the basis of forged sale deeds mentioned in Schedule-III of the plaint the defendant Third party were claiming the lands of plaintiff and he was dispossessed from the suit land on 10.06.2016.

CASE OF DEFENDANTS

7. Right to file written statement of Defendant No. 2, 3, 4, 5, 6, 8, 10, 11 and 13 was closed by the Ld. Trial Court vide order date 25.05.2015. Defendant No.7, 9, 9(1), 12 and 14 were proceeded ex-parte vide order dated 28.11.2016. Defendant No.1 has filed his written statement and has supported the case of the plaintiff.
8. Defendant No.1 has stated in the written statement that his father Ramjee Yadav never executed any sale deed on 25.01.1969 in favour of Kuldeep Yadav (father of defendant Second party) and hence if any sale deeds created on 09.11.1985 with respect to Khata No. 91 Khesra No. 708 of Schedule-III property of the plaint in names of some of defendants and some of father of defendants are really forged and fabricated from which defendants Third party never got any right, title from those forged sale deeds as the sale deed dated 25.01.1969 is itself forged, void ab-initio and illegal. The reliefs sought by the plaintiff are correct hence under the facts and circumstances the plaintiff is entitled to all reliefs as prayed for.
9. On pleadings of the parties following issues were settled by the Ld. Trial Court on 29.08.2017:
 1. Is the suit as framed maintainable?
 2. Is the suit hit by law of limitation?
 3. Is the suit hit by principle of estoppel, waiver, and acquiescence?
 4. Whether the plaintiff has got valid cause of action for this suit?
 5. Has the plaintiff properly valued the suit?
 6. Whether the suit suffers from non-joinder and mis-joinder of necessary party?
 7. Whether the plaintiff got valid right, title and interest over the suit land of Schedule-II property as a valid legal heir of Khatiyani Raiyat Mangal Gope?
 8. Whether the plaintiff is entitled to declaration of title and recovery of possession over the suit land from defendant 3rd party?
 9. Whether the plaintiff is entitled to get relief of permanent injunction by passing a decree to restrain the defendants over the suit land?
 10. Whether the alleged sale deeds Number 549 dated 25.01.1969, Sale deed Nos. 5858, 5859, 5860 and 5861 dated 09.11.1969 described in Schedule-III of the plaint are void illegal, forged, fabricated and not binding upon the plaintiffs and same be cancelled?
 11. To what other relief or reliefs the plaintiff is entitled for?

10. Plaintiff and defendant First party have led evidence. After hearing arguments impugned judgment and decree were passed. Aggrieved and dissatisfied with the same. Plaintiff has filed the instant appeal.

ARGUMENTS

11. Ld. Counsel for appellant/Plaintiff has submitted that the Ld. Munsif, Khagaria has erred both the law and on facts in passing the judgment and decree. Ld. Trial Court ought to have held that all the P.W.s. supported the case of the plaintiff and also supported that plaintiff is the legal and valid heir of Khatiyani raiyat and also held that Kalpi Devi was alone share holder of the land left by the Khatiyani raiyat in the suit plot No. 708 and 389 and during her life time Ramjee Yadav had no right to sale any piece of land of Schedule-I of the plaint. Ld. Trial Court ought to have held that from the certified copy of sale deed dated 25.01.1969 (Ext.5) it is clearly proved that genealogy of the Plaintiff/Appellant which was asserted in plaint which was nowhere disputed but illegally ignored the same and like summary proceeding disbelieved the same. Ld. Trial Court hence without any original sale deed dated 25.01.1969 produced by the Defendant 2nd or 3rd set suo moto illegally burden shifted on the head of the plaintiff/Appellant that the plaintiff did not take step about the verification of signature either of Ramjee Yadav or Plaintiff or thumb impression of Kalpi Devi on that sale deed. Ld. Trial Court gave wrong finding that plaintiff did not take any step for the verification by the expert which cannot be possible without original sale deed dated 25.01.1969. Ld. Trial Court also wrongly discussed as during life time of Kalpi Devi, Ramjee Yadav

had no right to transfer the land through registered sale deed dated 25.01.1969 as the sale deed (Ext.5) is itself comes in the category of forged sale deed and the remaining issues were also suo moto decided against the plaintiff when none of the defendants controverted the same.

12. Ld. Counsel for respondent third party has submitted that the impugned judgment and decree are just and proper and no interference is required in the same.

POINTS FOR DETERMINATION

13. After going through the record and hearing submissions of both sides following points arise for determination by this Court:

1. Whether the sale deed bearing No. 549 dated 25.01.1969 is forged and fabricated?
2. Whether any interference is required by this Court in the impugned judgment and decree?

DISCUSSION, DECISION AND REASONS THEREOF

Point Nos. 1 and 2

14. Case of the plaintiff revolves around sale deed dated 25.01.1969(Ext. 5) executed by Ramjee Yadav who was brother of the plaintiff in favour of Kuldeep Yadav. The said sale deed is registered one and certified copy of the same has been placed on record by the plaintiff. The certified copy bears date of preparation as 11.07.2014. Suit of the plaintiff was filed on 22.11.2014.
15. Plaintiff has stated in the plaint that father of defendant second party viz. Late Kuldeep Yadav had created forged sale deed dated 25.01.1969 executed by late Ramjee Yadav who is father of

defendant first party relating the suit land. Plaintiff has also stated in the plaint that in the said sale deed dated 25.01.1969 forged thumb impression of Kalpi Devi has been shown. Plaintiff has further stated in the plaint that he has been shown as a witness in the aforesaid sale deed. It is contention of the plaintiff that his date of birth is 05.03.1964 and at the time of execution of alleged sale deed he was only five years old. It is also contention of the plaintiff that only Kalpi Devi had right to transfer the property and on the date of execution of sale deed dated 25.01.1969 she was alive.

16. From the side of defendant only defendant No. 1 has filed written statement and he has supported the case of the plaintiff. Despite the fact that there is no opposition, the plaintiff has to prove his case and whatever stated by him can not be accepted gospel truth in absence of opposition from the side of defendants. Even then the plaintiff has to prove his case and cannot take benefit from the weakness of the defendants. The burden of proof rests on the plaintiff to prove the wrongful transfer. Section 101 of the Indian Evidence Act says that anyone desiring a court to give judgment on a legal right must prove that the facts supporting that right exist. In other words the initiator of the action must prove his case. He has to prove his case independently.
17. Hon'ble Supreme Court in Union of India v. Vasavi Coop. Housing Society Ltd., (2014) 2 SCC 269 : (2014) 2 SCC (Civ) 66 : 2014 SCC OnLine SC 20 at page 275 has held that :

15. It is trite law that, in a suit for declaration of title, the burden always lies on the plaintiff to make out and establish a clear case for granting such a declaration and the weakness, if any, of the case set up by the defendants would not be a ground to grant

relief to the plaintiff.

18. Sale deed dated 25.01.1969 (Ext. 5) is registered one and a registered sale deed carries a formidable presumption of validity and genuineness under Indian Law. Hon'ble Supreme Court in judgment Hemalatha (deceased) through Lrs vs. Tukaram (deceased) through Lrs and Ors. dated 22.01.2026 has held that registration is a solemn act, not just a formality, meaning courts can not lightly declare a registered deed "sham". The onus is on the party challenging it to prove otherwise. Challenging is a registered deed requires clear, cogent and convincing evidence, not just allegations. A registered documents is presumed to have been executed after due inquiry, as per the Registration Act.

31. It is a settled position of law that a registered Sale Deed carries with it a formidable presumption of validity and genuineness. Registration is not a mere procedural formality but a solemn act that imparts high degree or sanctity to the document. Consequently, a Court must not lightly or casually declare a registered instrument as a "sham". Adopting the principles enunciated in Prem Singh and Ors. vs. Birbal and Ors., (226) 5 SCC 353, Jamila Begum (Dead) Through Lrs. vs. Shami Mohd. (Dead) Through Lrs. and Anr., (2019) 2 SCC 727, and Rattan Singh and Ors. v. Nirmal Gill & Ors., (2021) 15 SCC 300, this Court reiterates that the burden of proof to displace this presumption rests heavily upon the challenger. Such a challenge can only be sustained if the party provides material particulars and cogent evidence to demonstrate that the Deed was never intended to operate as a *bona fide* transfer of title.

34. The person alleging that a registered Deed is a sham must satisfy a rigorous standard of pleading by making clear, cogent, convincing averments and provide material particulars in his pleadings and evidence. This Court is of the view that the test akin to a test under Order VI Rule 4 CPC is applicable to such a pleading and clever drafting creating illusion of cause of action would not be permitted and a clear right to sue would have to be shown in the plaint.

19. Plaintiff has admitted his signature over Ext. 5, signature of Ramjee Yadav and thumb impression of Kalpi Devi also there. Plaintiff did not summon the original record of sale deed dated 25.01.1969 from the office of the Registrar where the impugned sale deed dated 25.01.1969 was registered to prove his forged signature and also of

Ramjee Yadav and thumb impression of Kalpi Devi. All witnesses of the plaintiff have stated the aforesaid sale deed dated 25.01.1969 as forged and fabricated but no effort was made by the plaintiff to prove the forgery or fabrication except bald statement of the witnesses. Plaintiff claimed that at the time of execution of sale deed Ext. 5 Kalpi Devi was alive and she had died on 16.10.1978 but her death certificate was not produced by the plaintiff.

20. In view of above discussion, this Court arrives at conclusion that the plaintiff has failed to prove that sale deed dated 25.01.1969 (Ext. 5) is forged and fabricated. Point No. 1 is decided against the plaintiff/appellant.
21. Plaintiff claims that he got half share from northern side in Khesra No. 708 measuring 5 Kattha 17 dhoor and $\frac{1}{2}$ share from the Southern side and in Khesra No. 389 measuring 5 kattha 18 dhoor from southern side. There is no document on record that the suit land was in his share. Plaintiff has not stated about the date of partition between him and Ramjee Yadav. There is no document of partition except bald statement of plaintiff. Ld. Trial Court has passed well articulated and reasoned judgment and this Court finds no reason to interfere in the same. Point No. 2 is also decided accordingly.

ORDER

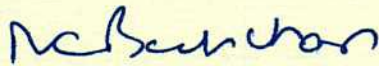
22. In view of aforesaid findings based on evidences oral and documentary T.A. No. 02/2019 of is hereby **dismissed**. Judgment dated 31.07.2018 and decree dated 10.08.2018 rendered by the Ld. Court of Munsif, Khagaria in T.S. No. 27 of 2014 titled as

“Kapuri Yadav v. Bechan Yadav & Ors”, is affirmed. Office is directed to prepare the decree. Let a copy of judgment along with LCR be sent to the Ld. Trial Court.

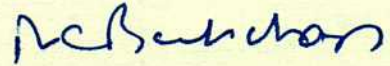
Judgment pronounced in open court. Record of appeal be consigned to the record room.

(Dictated and corrected by me)

(Dictated)



(Rajesh Kumar Bachchan)
Principal District Judge,
Khagaria.
Dated 17.04.2026



(Rajesh Kumar Bachchan)
Principal District Judge,
Khagaria.
Dated 17.04.2026

Date of Judgment	17-04-2026
Date of Reserving Judgment	16-04-2026
Uploading Date	20-04-2026
Uploaded by	Sushant Kumar (DEO)