

BRKH010026812025



Presented on : 08-04-2025  
Registered on : 08-04-2025  
Decided on : 13-03-2026  
Duration : 0 year, 11 months, 5 days

**IN THE COURT OF PRINCIPAL DISTRICT JUDGE**

**At Khagaria, (Bihar)**

**(Presided Over by Shri Rajesh Kumar Bachchan)**

**Civil Miscellaneous Appeal No. 03/2025**

**(Net No.03/2025)**

In the matter of:

1. Most. Kunti Devi  
W/o- Late Dhana Sah
2. Mahendra Sah  
S/o- Late Dukhan Sah
3. Ajay Sah  
S/o- Late Dhana Sah  
All R/o- village- Buddha Nagar,  
Bharatkhand Deodhi, P.S.- Parbatta  
(Bharatkhand), Distt- Khagaria

.....Appellants/Plaintiffs

VERSUS

1. Lal Chand Mahto  
S/o- Late Mahabir Mahto
2. Nitish Kumar  
S/o- Brahmdeo Mahto  
R/o- village- Buddha Nagar, Bharatkhand,  
P.S.- Parbatta(Bharatkhand), Distt. Khagaria

.....Respondents/Defendant First Party

3. Janardan Singh  
S/o- Late Narayan Singh
4. Ashutosh Singh  
S/o- Janardan Singh

Both R/o- Village- Birbanna, P.O.- Chakrami,

*RC Bachchan*

P.S.- Bihpur, Distt.- Bhagalpur

.....Respondents /Defendants Second Party

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

1. The instant Civil Miscellaneous Appeal has been filed under order 43 Rule-1(r) of C.P.C. assailing the order dated 22.11.2024 rendered by the Ld. Court of Civil Judge (S.D.), Gogari, Khagaria (hereinafter referred as 'Ld. Trial Court') arising out of Title Suit No. 114/2023 titled as "Most. Kunti Devi and Ors. v. Lal Chand Mahato and Ors." whereby an application dated 13.05.2024 filed on behalf of defendants under order 39 Rules 1 and 2 has been allowed.

**FACTUAL MATRIX**

2. Plaintiffs have filed suit before Ld. Trial Court seeking decree of declaration of title and confirmation of possession over suit land and if defendants dispossess them, then recovery of possession be also passed with additional prayer that two registered sale deeds both dated 28.04.2023 bearing No. 2043 and 2044 respectively executed by the defendant second party in favour of defendant first party are illegal, forged, fabricated and not binding upon the plaintiffs.
3. Defendants filed their written statement on 20.01.2024 and then on 13.05.2024 filed an application for ad-interim injunction under Order 39 rules 1 and 2 read with Section 151 of C.P.C. stating that plaintiffs often try to interfere and disturb cultivating possession of the defendant first party over Schedule-III of the plaint. They have mentioned in the aforesaid application that plaintiffs have admitted in the plaint that one Bhuvneshwar Prasad Singh had acquired 1 bigha 15 kattha 19 dhur land under khata No.565 khesra No. 2599

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of Mauza Saurh. Defendants have further stated in application that Bhuvneshwar Pd. Singh died leaving behind two sons namely Ganesh Pd. Singh and Narayan Pd. Singh who amicably partitioned plot No. 2599 in which 18 kattha fell in the share of branch of Late Ganesh Pd. Singh from west side and 17 kattha 19 dhur in the branch of Narayan Pd. Singh from East. Defendants have further mentioned that in paragraph 6 of the plaint plaintiffs have admitted that the legal heirs of Late Ganesh Pd. Singh sold 18 kattha of Plot No. 2599 to the plaintiffs in the year 1979. Out of 17 kattha 19 dhur of the land of plot No. 2599 of Late Narayan Pd. Singh, his great grandson Ashutosh Kumar Singh sold out 15 kattha to one Manikant Rajak in year 2017 and the remaining 2 kattha 19 dhur were sold by Ashutosh Kumar Singh and defendant second party to the defendant first party in year 2023 through two sale deeds and put defendant first party in the possession of the same. This purchased land of defendant first party is mentioned in the Schedule-III of the plaint which is subject matter of the suit. Defendant first party have sowed 'Raincha' crop in the Schedule-III land and the plaintiffs with the help of police made failed attempt to loot the same on 20.03.2024. Plaintiffs are in plan to dispossess the defendant first party from the Schedule-III land.

4. Plaintiffs filed reply to the aforesaid application on 21.05.2024 stating that Bhuvneshwar Pd. Singh had acquired the lands measuring an area 01-15-19 Dhors land of Khata No. 2599 in Mauza Sour. Bhuneshwar Prasad died leaving behind two sons namely Ganesh Prasad and Narayan Prasad and both partitioned the said land and in which area 00-18-00 was allotted in favour of Ganesh Prasad and area 17-19-00 Dhors was allotted in favour of

Narayan Prasad and further Ganesh Prasad Singh sold the lands to the members of the plaintiffs and other four persons in year 1979 and got physical possession over the same. One of the purchaser Most. Kunti Devi got ten Anna share and Muneshwar Sah got 3 Anna share and Gaibi Sah got 1 anna share and Dukhan Sah 3 Anna share and according to proportionate money they jointly got the sale deed dated 18.05.1979 and came in possession over the entire area 00-18-00. They got mutated their names in Anchal Sirista vide Jamabandi No. 1054 and they are regularly paying rent to state of Bihar. Another part i.e. 00-17-19-00 branches of Narayan Prasad Singh namely Ashutosh Kumar Singh sold the lands to Rinkan Kumari, W/o- Sri Manikant Rajak on 04.09.2017 measuring an area 00-15-00 out of area 00-17-19-00 having boundary as in North- Abadhesh Sharma, South:- Chitrnanjan Mishra and others, East- Ram Chaltar Malakar and in West-Bandh. After partition upon the lands of Narayan Prasad Singh Bandh was constructed from Western portion of area 00-17-19-00 land in which the 00-02-19 Dhoores was acquired prior of sale deed executed on 04.09.2017 in favour of Rinkan Kumari. Branches of Narayan Prasad Singh namely Ashutosh Kumar Singh had illegally sold the lands to the Defendant First party through two registered sale deeds by imaginary boundary and the purchasers illegally made claim over the Schedule-III property of plaint. Muneshwar Sah and Gaibi Sah became separated and got their share out of area 00-18-00 land and further Manjoo Devi sold the land to Anjoo Devi on 01.08.2018 through registered sale deed and put her possession to the purchaser Manjoo Devi. On the basis of illegal sale deeds Defendant First Party has not got right, title and possession over their purchased land. As such the

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allegations of Defendant First Party narrated in the injunction petition are totally false and concocted and have no balance of convenience in their favour.

### ARGUMENTS

5. Ld. Counsel for appellants has submitted that the impugned order of the Ld. Trial Court is not maintainable either in law or on facts and is fit to be set-aside. Ld. Trial Court erred in ignoring that it is an admitted fact by both the parties that there was 01-15-19-00 (One Bigha Fifteen Katha Nineteen Dhurs) land in Mauza-Shoudh Khata No.- 565, Khesra No. 2599 belonged to the sons of one Bhuwanehswar Singh. Bhuwaneshwar Singh had two sons namely Ganesh Singh and Narayan Singh, who got partitioned the said land in which Ganesh Singh got 00-18-00-00 (Eighteen Katha) land from western side while Narayan Singh got 00-17-19 (Seventeen Katha Nineteen dhurs) from eastern side. It is also an admitted fact that there is G.N.BANDH between the share of two brothers running north to south and the share of Ganesh Singh exists adjacent west to the said BANDH meaning thereby in the eastern boundary of the share of said Ganesh Singh is BANDH, while the share of Narayan Singh exists in the adjacent west to the said BANDH, meaning thereby the western boundary of the share of Narayan Singh is the said BANDH. Sons of Ganesh Singh sold away 18 Kathas of their share to the plaintiffs (Kunti Devi) through registered sale deed dated 18.05.1979 and delivered possession to the plaintiffs. In the said sale deed of the plaintiffs in the eastern boundary of their purchased land BANDH was written. While branch of Narayan Singh sold away 00-15-00 (fifteen Kathas) land of his share to Smt. Rinkan Devi adjacent east to the said BANDH through sale deed

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dated 04.09.2017 and hence he written in the western boundary as BANDH. The land of said BANDH was acquired after partition between Ganesh Singh and Narayan Singh and land gone in the said BANDH out of the share of Narayan Singh i.e. out of his share 17 Katha 19 Dhooors, that is why there remains no land there in the share of Narayan Singh after sale of 15 Katha land to Rinkan Devi. But even the branch of Narayan Singh sold away the suit land to the defendant first party giving the names of the plaintiffs or purchasers from him in the boundary which clearly shows that the defendants purchased the land out of the plaintiffs land which is the reason of the dispute.

6. Ld. Counsel for defendants/respondents has submitted that suit land was sold by the defendant second party to the defendant first party through registered sale deed and the plaintiffs often try to interfere in the possession of defendant first party. He has submitted that defendants have bonafide case in their favour and appeal of the plaintiffs is liable to be dismissed.
7. Heard. Ld. Counsels for parties and perused the civil miscellaneous appeal and the LCR.

#### **POINTS FOR DETERMINATION**

8. Following point has come up to be determined by this Court:  
“Whether the impugned order is just and proper or interference is required in the same by this Court”.

#### **DISCUSSION, DECISION AND REASONS THEREOF**

9. Plaintiffs have described suit lands in Schedule –III of the plaint as Mauza Shoudh Touzi No. 2992 Thana No. 347 Khata No. 565 Khesra No.2599.

| Area        | North                        | South                    | East             | West        |
|-------------|------------------------------|--------------------------|------------------|-------------|
| 00-01-19-00 | Dasrath Thakur alias<br>Daso | Anju Devi & Manna<br>Sah | Most. Kunti Devi | P.C.C. Road |

| Area        | North                     | South        | East     | West        |
|-------------|---------------------------|--------------|----------|-------------|
| 00-01-00-00 | Anjoo Devi &<br>Manna Sah | Chunchun Sah | Mahendra | P.C.C. Road |

This description corresponds with the description given in the sale deed of 1 kattha 19 dhur which in favour of defendant No.2 and sale deed dated 01 kattha which is in favour of defendant No.1.

10. Undisputed facts scanned from the application dated 13.5.2024 and its reply by plaintiffs dated 21.5.2024 are that one Bhubneshwar Pd. Singh was owner of 1 Bigha 15 Kattha 19 Dhur land and died leaving behind his two sons Ganesh Pd. Singh and Narayan Pd. Singh. On partition Ganesh Pd. Singh got 18 kattha from west and Narayan Pd. Singh got 17 kattha 19 dhur of land from east. Legal heirs of Ganesh Prasad Singh sold 18 kattha to the plaintiffs in 1979 and from the side of Ganesh Prasad Singh, his great grandson Ashutosh Kumar Singh sold 15 katthas in 2017 and thereafter Ahsutosh Kumar Singh sold the suit lands to defendant Nos.1 and 2 through two sale deeds dated 28.04.2023.
11. Plaintiffs have stated in their reply dated 21.5.2024 that Ashutosh Kumar Singh had sold 15 kattha land from 17 kattha 19 dhur to Rinkan Kumari and even prior to sale to Rinkan Kumari, 2 kattha 19 dhur was acquired for Bandh, therefore no land was left to sell in the hands of defendant Second party.
12. In memorandum of appeal the appellants/plaintiffs have stated that there is G.N. Bandh between the shares of Ganesh Singh and Narayan Singh going north to south which is just adjacent to the east side of shares of Ganesh Singh and adjacent to the west side of

the shares of Narayan Singh. Both sale deed in question have PCC rural road in west. As per memorandum of appeal there is Bandh in between the properties of Ganesh Singh and Narayan Singh. Plaintiffs have stated in the plaint that properties of Ganesh Singh is in west whereas that of Narayan Singh in east. Memorandum of appeal also mentions that there is no land available to sell by the defendant second party. Plaintiffs have mentioned in the plaint that schedule-I and II properties have boundaries in east as G.N. Bandh. The plaintiffs have also shown PCC rural road as western boundary of the suit land. The sale deeds in question also mention PCC rural road as western boundary. Plaintiffs have nowhere pleaded in the plaint that the land mentioned in the schedule-III of the plaint how has come to their share. Defendants have made claim over schedule-III lands only. Plaintiffs have mentioned in the plaint that on 09.05.2023 defendant first party came over the schedule-II land to intervene in their possession whereas in the relief of the plaint they are seeking declaration of title and confirmation or possession of the schedule-III land. They have also not mentioned anywhere in the plaint that schedule-III land is part of schedule-II land. Plaintiffs have filed photocopy of order dated 08.08.2023 passed by SDM, Gogari where no order was passed due to error in boundaries of the disputed land.

13. Ld. Trial Court has restrained the plaintiffs from interfering and disturbing the cultivation possession of the defendant first party over the suit land directed both sides to not create third party interest over the properties mentioned in the disputed sale deeds. This was the best order which could have been passed in the facts and circumstances of this case.

*Neelam Chandra*

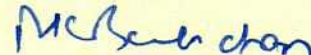
**ORDER**

14. In view of aforesaid findings based on evidences oral and documentary this Court finds that appeal is devoid of merit. Hence, the present Civil Miscellaneous Appeal No. 03/2025 is hereby **dismissed**. Order dated 22.11.2024 rendered by the Ld. Court of Civil Judge(S.D.) Gogari, Khagaria, in Title Suit No. 114/2023 titled as Most. Kunti Devi and Ors. v. Lal Chand Mahato and Ors. is hereby reaffirmed. LCR be sent back to the Ld. Trial Court with a copy of this judgment.

Dictated and corrected by me

  
(Rajesh Kumar Bachchan)  
Principal District Judge,  
Khagaria.  
Dated: 13.03.2026

Dictated

  
(Rajesh Kumar Bachchan)  
Principal District Judge,  
Khagaria.  
Dated: 13.03.2026

|                            |                     |
|----------------------------|---------------------|
| Date of Judgment           | 13-03-2026          |
| Date of Reserving Judgment | 12-03-2026          |
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