

**District-Katihar**

**COURT OF CIVIL JUDGE (SENIOR DIVISION)  
BARSOI, KATI HAR**

**Present:- Sri Ram Sujan Pandey**

**Title Suit No. - 02/2015(B)  
C.I.S. No. 101002/2015**

1. Mahesh Kumar Bhagat s/o Late Shiv Pujan Bhagat.  
Resident of village- Bhag Barsoi, P.S. - Barsoi, District- Katihar.

.....Plaintiff.

Vs.

1. Kailash Bhagat s/o Late Shiv Pujan Bhagat.  
2. Ravindra Nath Bhagat s/o Late Shiv Pujan Bhagat.  
3. Devi Prasad Bhagat s/o Late Shiv Pujan Bhagat.  
(No. 1 to 3) all residents of village- Bhag Barsoi, P. S. Barsoi,  
District- Katihar.

.....Defendant 1<sup>st</sup> party.

4. Indrajeet Singh s/o Triloki Singh.  
Resident of mohalla- Amlatola, P. S. & District- Katihar.  
5. Krishna Dhan Sutradhar s/o Late Ashwani Sutradhar.  
Resident of village- Raghunathpur, P. S. Barsoi, District- Katihar.  
6. Md. Juber Alam s/o Md. Shah Alam.  
7. Md. Meraj Alam s/o Md. Shah Alam.  
No. 6 & 7 resident of village- Bughwa, P. S. Kadwa, District- Katihar.  
8. Gaur Krishna Basak s/o Jivan Krishna Basak.  
Resident of village- Chouk, P. S. Barsoi, District- Katihar.  
9. Nishan Kadri w/o Soyab Alam.  
10. Soyab alam s/o Late Abdul Hakim.  
(No. 9 & 10) resident of village- Raghunathpur, P.S. Barsoi,  
District- Katihar.

.....Defendant 2<sup>nd</sup> party.

**Counsel of the Plaintiff:-** 1. Sri Kailash Chandra Sah, Advocate

**Counsel of the Defendant:-** 1. Md. Abrar Ali, Advocate

**Dated:- 19<sup>th</sup> March, 2026, Barsoi**

### **JUDGEMENT**

1. The plaintiff seeks relief that it be declared and decided that the plaintiffs have valid title to the suit land and valid possession of the same as given in the Schedule 'A' property of the plaint. A decree for pre-emption and possession of the Schedule 'A' property (suit land) on payment of 14,85,000 /- (rupees fourteen lakhs eighty five thousand only) to defendant 1<sup>st</sup> party be passed in favour of the plaintiff against the defendant. Thereafter the defendant 1<sup>st</sup> party be directed to execute and register the sale-deed in respect of the suit land in favour of the plaintiff after receiving the sale amount within the time fixed by the court failing which the sale-deed be executed and registered through the process of the court at the cost of the plaintiff. The defendant 2<sup>nd</sup> party being the purchaser of undivided share of the plaintiff and the defendant 1<sup>st</sup> party having no possession over the suit land and the defendant 1<sup>st</sup> party may be restrained from taking possession of the suit land till the disposal of the suit land. A decree for all cost of the suit be passed in favour of the plaintiff against the defendant.

2. The case of the plaintiff in short is that the lands fully described in Schedule 'A' appended on the foot of this plaint be called in hereinafter land in suit or suit lands for the sake of convenience and brevity and is the subject matter of pre-emption which is the homestead land of the plaintiff. The suit land R. S. Plot No. 216 under khata No. 72, measuring an area 2.84 acres situated at Mouza- Bhag Barsoi was joint family property consisting of three sons of Mahabir Bhagat namely Shiv Pujan Bhagat the father of the plaintiff and defendant 1<sup>st</sup> party and Shiv Narayan Bhagat and Bhola Bhagat were recorded in R. S. Record of the right. While Shiv Pujan Bhagat, Bhola Bhagat and Shiv Narayan Bhagat was coming in joint over the land were paying rent of the State of Bihar. Shiv Pujan Bhagat, Bhola Bhagat and Shiv Narayan Bhagat partitioned the land and came in their separate possession. Shiv Narayan Bhagat and Bhola Bhagat while in possession over plot No. 216, khata No. 72 sold their entire share in favour of the Shiv Pujan Bhagat the

3.

father of the plaintiff alongwith the other plots through registered sale-deed dated 07.01.1965 vide sale-deed No. 578 and put the father of the plaintiff in possession of the same. After sale by Shiv Narayan Bhagat and Bhola Bhagat in favour of the father of the plaintiff, the vendor seized their right, title and possession over the plot No. 216 and others plot of Mouza- Bhag Barsoi. Plot No. 216 under khata No. 72 measuring an area- 1.02 acres is the subject matter of this suit and hereinafter be called land in suit or suit land. The plaintiff and defendants 1<sup>st</sup> party are full brothers and they jointly inherited the suit land and came in possession of the same. The defendant 1<sup>st</sup> party executed sale deed in favour of the defendants 2<sup>nd</sup> party through the sale-deeds on 11.10.2014 vide sale-deed No. 14170, 14171 and 14172. The defendant 2<sup>nd</sup> party are neither co-sharer not the adjacent raiyat of the purchased land mentioned in Schedule 'A' on the foot of this plaint. The plaintiff being co-sharer has got pre-emption right to purchase the suit land under the provision of the Hindu Succession Act 1950 and the defendant 2<sup>nd</sup> party are bound to transfer the suit land to the plaintiff at a valuation given in accordance with law. The plaintiff after knowledge of sale-deed applied for certified copy of the sale-deed which the plaintiff obtained on 06.11.2014. The plaintiff requested the defendant 2<sup>nd</sup> party to transfer the land in favour of the plaintiff and receive consideration money but the defendant 2<sup>nd</sup> party put off the request of the plaintiff. The plaintiff put the matter to panchayat but the defendant 2<sup>nd</sup> party didn't obey the panchayat. The Hindu Succession Act of 1950 Section 22 deals with Hindu Law of pre-emption amongst Hindu of Bihar and the same is recognised in the province of Bihar. The plaintiff is ready to pay Rs. 14,85,000 /- ( rupees fourteen lakhs eighty five thousand only) to the defendants 2<sup>nd</sup> party on execution and registration of the sale-deed in favour of the plaintiff and the plaintiff is ready to deposit the same in the court on direction of court for execution and registration of sale-deed by the defendants 2<sup>nd</sup> party in favour of the plaintiff. The cause of action for the suit arose on 11.10.2014 when the defendants 1<sup>st</sup> party executed sale-deed in favour of the defendants 2<sup>nd</sup> party with respect to suit land.

3. Defendant No. 2 & 4 appeared in the case but didn't file any Written Statement and suit proceeded against them u/o VIII Rule 10 CPC. Defendant No. 3, 7, 9 and 10 didn't appear in the case and the suit proceeded ex-parte against them. Defendant No. 1, 5, 6 and 8 appeared in the case and filed Written Statement. The case of the defendant No. 1, 5, 6 and 8 in short is that the plaintiff has no cause of action for the suit against the defendants. It is wrong to say for the plaintiff that the suit land is the homestead land of the plaintiff rather his homestead land is situated in another plot across the State Highway two lane road towards eastern side of the suit land. It is absolutely wrong to say that the plaintiff and the defendant 1<sup>st</sup> party are jointly in possession of the suit land because in amicable family partition the suit land

pertaining to the sale deeds in question is exclusively allotted to the defendant 1<sup>st</sup> party and the plaintiff is allotted his share towards extreme southern side of the suit plot over which he is enjoying his possession. It is absolutely wrong to say by the plaintiff that he is the co-sharer and has got right of pre-emption. The real fact is that the suit land besides other lands of Mouza- Bhag Barsoi under holding of R. S. Khata No. 72 had been partitioned amicably amongst the four brothers and three sisters of the plaintiffs and while so in possession the defendants 1<sup>st</sup> party have sold away the suit land to defendant 2<sup>nd</sup> party for valuable consideration through the aforesaid sale-deed dated 11.10.2014 and since then the defendant 2<sup>nd</sup> party are coming in exclusive possession of the suit lands in their own right and title thereto on payment of rent to the State of Bihar. It is significant to mention here that on account of amicable partition amongst the co-sharers the defendant 1<sup>st</sup> party sold their allotted lands of suit plot No. 216 besides other lands of holding of R. S. Khata No. 72 of Mouza-Bhag Barsoi through different sale-deeds to different purchasers. It is absolutely wrong to say that the plaintiff and the defendants are members of Joint Hindu Family. The plaintiff has also sold portion of his allotted share through registered sale-deed under holding of R S. Khata No. 72 of Mouza-Bhag Barsoi. In fact the plaintiff and the defendant 1<sup>st</sup> party are quite separate in mess, property, occupation as well as, deity. The defendants 2<sup>nd</sup> party have not purchased undivided share of the Hindu Joint Mitakshra Family.

**4. Plaintiff adduced the following documentary evidence :-**

**Exhibit-1 :-** Certified copy of R. S. Khatiyan of Mouza- Bhag Barsoi, R. S. Khata No. 72.

**Exhibit-2 :-** Certified copy of sale deed No. 14170 dated 11.10.2014 executed by 1. Kailash Bhagat 2. Ravindra Nath Bhagat 3. Devi Prasad Bhagat sons of Lae Shvi Pujan Bhagat of village-Bhag Barsoi, P. S. Barsoi, District- Katihar in favour of (i) Nishat Kadri w/o Md. Soyab Raghunathpur, P. S. Barsoi, District- Katihar.

**Exhibit-2/a :-** Certified copy of sale deed No. 14171 dated 11.10.2014 executed by (i) Kailash Bhagat 2. Ravindra Nath Bhagat 3. Devi Prasad Barsoi, District- Katihar in favour of India Jit Singh s/o Sri Trilok Singh of village- Amla Tola, P. S.& District- Katihar.

**Exhibit-2/b :-** Certified copy of sale-deed No. 14172 dated 11.10.2014 executed by (i) Kailash Bhagat 2. Ravindra Nath Bhagat 3. Devi Prasad Bhagat sons of Late Shiv Pujan Bhagat of village-Bhag Barsoi, P. S. Barsoi, District- Katihar in favour of (i)

Krishnadhan Sutrudan s/o Late Ashwani Sutradhan of village-Raghunathpur, P. S. Barsoi, District- Katihar. 2. Md. Zuber Alam 3. Md. Meraj Alam sons of Md. Shah Alam Baghwa P. S. Kadwa, District- Katihar 4. Gaur Krishna Bosak Late Jeewan Bosak of village Rash Chowk, P. S. Barsoi, District- Katihar.

**Exhibit-3 (W-O) :-** Online Rent receipt vide running unique No. 101224032141129516750 in the name of Mahesh Kumar Bhagat and Kailash Prasad Bhagat and Ravindra Nath Bhagat and Devi Prasad Bhagat sons of Shiv Pujan Bhagat up to the year 2024-25.

**5. Defendant adduced the following documentary evidence :-**

- Exhibit-A:-** Certified copy of petition of Complaint Case No. 1640/2016 filed in Court of C.J.M. Katihar; Mahesh Kumar Bhagat Vs. Kailash Bhagat & Others.
- Exhibit-A/1 :-** Certified copy of deposition of Pramila Devi (CW-1) wife of Mahesh Kumar Bhagat in Complaint Case No. 1640/2016 filed in Court of C.J.M. Katihar; Mahesh Kumar Bhagat Vs. Kailash Bhagat & Others.
- Exhibit- B:-** Certified copy of Plaint of Title (P) Suit No. 51/2017; Bharti Devi Vs. Mahesh Bhagat & others pending in Court of Sub-judge Barsoi, Katihar.
- Exhibit- B/1:-** Certified copy of Written Statement of defendant No. 1 & 3 in Title (P) Suit No. 51/2017; Bharti Devi Vs. Mahesh Bhagat & others pending in Court of Sub-judge Barsoi, Katihar.
- Exhibit- C:-** Certified copy of order-sheet of Case No. 49M/2024 u/s 163 BNSS ; Mahesh Kumar Bhagat Vs. Gaur Mohan Basak & others pending in Court of Sub-divisional Magistrate, Barsoi, Katihar.
- Exhibit- C/1 :-** Certified copy of petition for initiation of proceeding u/s 163 BNSS in Case No. 49M/2024 u/s 163 BNSS ; Mahesh Kumar Bhagat Vs. Gaur Mohan Basak & others pending in Court of Sub-divisional Magistrate, Barsoi, Katihar.
- Exhibit- D (W-O) :-** Computerized online Jamabandi receipts pertaining to Mouza- Bhag Barsoi, R. S. khata No. 72, Plot No. 216, Revenue thana No. 6, Anchal- Barsoi, District- Katihar for 6 decimal land in name of Ravindra Nath Bhagat and Meera Devi bearing No. 201114700183830 dated 14.01.2026. .

- Exhibit- D/1 (W-O) :-** Computerized online Jamabandi receipts pertaining to Mouza- Bhag Barsoi, R. S. khata No. 72, Plot No. 216, Revenue thana No. 6, Anchal- Barsoi, District- Katihar for 12 decimal land in name of Urmila Dei bearing No. 201114700085949 dated 14.01.2026.
- Exhibit- D/2 (W-O) :-** Computerized online Jamabandi receipts pertaining to Mouza- Bhag Barsoi, R. S. khata No. 72, Plot No. 216, Revenue thana No. 6, Anchal- Barsoi, District- Katihar for 12 decimal land in name of Urmila Dei bearing No. 201114700085947 dated 14.01.2026. .
- Exhibit- D/3 (W-O) :-** Computerized online Jamabandi receipts pertaining to Mouza- Bhag Barsoi, R. S. khata No. 72, Plot No. 216, Revenue thana No. 6, Anchal- Barsoi, District- Katihar for 0 decimal land in name of Devi Prasad Bhagat bearing No. 201114700085946 dated 14.01.2026. .
- Exhibit- D/4 (W-O) :-** Computerized online Jamabandi receipts pertaining to Mouza- Bhag Barsoi, R. S. khata No. 72, Plot No. 216, Revenue thana No. 6, Anchal- Barsoi, District- Katihar for 30 decimal land in name of Urmila Devi bearing No. 201114700085913 dated 14.01.2026.
- Exhibit- D/5 (W-O) :-** Computerized online Jamabandi receipts pertaining to Mouza- Bhag Barsoi, R. S. khata No. 72, Plot No. 216, Revenue thana No. 6, Anchal- Barsoi, District- Katihar for 12 decimal land in name of Bibha Bhagat bearing No. 201114700085889 dated 14.01.2026.
- Exhibit- D/5 (W-O) :-** Computerized online Jamabandi receipts pertaining to Mouza- Bhag Barsoi, R. S. khata No. 72, Plot No. 216, Revenue thana No. 6, Anchal- Barsoi, District- Katihar for 12 decimal land in name of Bibha Bhagat bearing No. 201114700085889 dated 14.01.2026.
- Exhibit- D/6 (W-O) :-** Computerized online Jamabandi receipts pertaining to Mouza- Bhag Barsoi, R. S. khata No. 72, Plot No. 216, Revenue thana No. 6, Anchal- Barsoi, District- Katihar for 12 decimal land in name of Md. Imran & Md. Hamman bearing No. 201114700086023 dated 14.01.2026.
- Exhibit- D/7 (W-O) :-** Computerized online Jamabandi receipts pertaining to Mouza- Bhag Barsoi, R. S. khata No. 72, Plot No. 216, Revenue thana No. 6, Anchal- Barsoi, District- Katihar for 6.45 decimal land in name of Md. Izar Ahmad Naz, Md. Ejaj alam & Md. Manoubar Hussain bearing No.

7.

201114700160718 dated 14.01.2026.

- Exhibit – E :-** Certified copy of sale-deed No. 12354 dated 28.08.2014 executed by Mahesh Kumar Bhagat in favour of Pramila Devi.
- Exhibit – E/1 :-** Certified copy of sale-deed No. 15982 dated 18.11.2014 executed by Usha Devi & Asha Devi ( sisters of the plaintiff ) in favour of Meera Devi & Others.
- Exhibit – E/2 :-** Certified copy of sale-deed No. 19156 dated 19.12.2019 executed by Devi Prasad Bhagat ( brother of the plaintiff ) in favour of Vibha Bhagat.

**6. Following issue was framed in the suit for determination :-**

- (i) Whether the suit property was Joint Family property of defendant 1<sup>st</sup> party at the time of execution of sale-deeds forming basis of the suit ?

7. Heard the Ld. Counsel of both sides. **The Court is satisfied that no further argument or evidence than the parties have at once adduced is required upon the issue which is sufficient for the decision of the suit and no injustice will result from proceeding with the suit forthwith, the Court proceeds to determine the issue u/o XV Rule 3 CPC.** Court is to see whether the plaintiff has been successful in proving his case according to the principle of preponderance of probabilities or not.

**FINDING**

**8. Issue No. (i) Whether the suit property was Joint Family property of defendant 1<sup>st</sup> party at the time of execution of sale-deeds forming basis of the suit :-** Exhibit-1 is the R. S. Khatiyani relating to the suit property which shows that the suit property belonged to ancestors of the plaintiff. Shivpujan Bhagat whose name is there in the R. S. Khatiyani is father of the plaintiff. Exhibit- 2, 2/a, 2/b are certified copies of the sale-deed relating to the suit property in question in respect of which the plaintiff has filed this suit u/s 22 of Hindu Succession Act. Exhibit-3 which has been marked with objection is a computer generated uncertified rent receipt relating to the suit property dated 10.12.2024 which shows that the suit property stands in name of plaintiff and his three brothers. Through Exhibit-1 and 3 plaintiff wants to show that the suit property is his ancestral Hindu Undivided Family Property, so to say that

suit property is his undivided co-parcenary property. But the documents exhibit marked by the defendants narrate a different story which is evident from bare perusal of the same. Exhibit- B is plaint of Title (Partition) Suit No. 51/2017 in which the sister of the plaintiff have filed a Partition Suit prior to the filing of this suit which includes the suit property too. Exhibit- B/1 is the written statement filed by the plaintiff in which in Para-6 he has stated that the property had already been partitioned by the father of the plaintiff in his lifetime on 02.02.1997 and he along with his brothers came in possession of the shares allotted to them as absolute owner. Exhibit-A is the certified copy of Complaint Case No. 1640/2016 filed by the plaintiff against defendants of this case in Court of Ld. Chief Judicial Court, Katihar which is presently pending in court of A.C.J.M. Barsoi . From Para-2 of the complaint petition it is evident that this complaint petition has been filed due to dispute over the suit property of this case. Exhibit- A/1 is the certified copy of deposition of Pramila Devi w/o Mahesh Kumar Bhagat, the plaintiff of this case, who on oath in the Court has stated in Para-2 under the heading cross-examination that the suit property is not held in jointness by his husband and his brothers. Partition has taken palce between them. Her husband has got her share of land in the Southern side. The brothers of his husband namely Kailash Prasad Bhagat and Devi Prasad Bhagat have got their share in the northern side and the other brother Ravindra Bhagat has got his land between Kailash Bhagat and Devi Bhagat. In Para-3 she has stated that work shop is running on land of Kailash, Devi and Ravindra Bhagat. Her husband land on the Sourthern side is lying vacant. His share is even today marked and surrounded by pillars. Exhibit-C is certified copy of order of initiation of proceeding u/s 163 BNSS in case No. 49M/2024 passed by Court of Sub-divisional Magistrate, Barsoi in which plaintiff Mahesh Kumar Bhagat is the first party and defendant No. 8 of this present suit is the 2<sup>nd</sup> party. Exhibit-C/1 is the petition given by Mahesh Kumar Bhagat for initiation of proceeding in which in Para-3 he has clearly stated that family partition had taken palce in life time of his father Shivpujan Bhagat by metes and bounds. Exhibit-D to D/7 which have been marked with objection are the rent receipt dated 14.01.2026 relating to the suit property which show that the name of the persons who have purchased the suit property has been entered in the Governemnt Revenue records. These revenue receipts are just for the purpose of collection of revenue by the government from the land and not for any other purpose, this fact has been stated by Hon'ble Apex Court in several judgement; as such these documents carry no much relevance for the purpose of adjudication of this matter. Exhibit- E is the certified copy of the sale-deed executed by Mahesh Kumar Bhagat the plaintiff of this case in favour of Smt. Pramila Devi in relation to R. S. Khata No. 72 which is also the same khata of the suit property and in Para No. 6 of the said deed he has himself stated that family partition has taken place and people are in possession according to the partition and he is selling the said land from his

share. Exhibit-E/1 is a sale-deed executed by Usha Devi and Asha Devi the sisters of the plaintiff in favour of Meera Devi, Urmila Devi and Devi Prasad in respect to the property of R. S. Khata No. 72 of which suit property is also a part and in Para No. 6 of the sale-deed they have supported the statement of the plaintiff that partition has taken place in the family by metes and bounds from before. Exhibit- E/2 is certified copy of the sale-deed executed by Devi Prasad Bhagat defendant No. 3 of this case in favour of Vibha Bhagat in respect of property of R. S. Khata No. 72 of which the suit property is also a part and in the body of the deed in Para No. 6 it is stated that family partition has taken place of the property of the said khata and all are coming in their possession according to the said family partition. From perusal of the documents filed by the defendants it is evident that it is the plaintiff who has at several places himself stated that partition has already taken place in the family by metes and bounds and all the co-parceners are in separate possession of their shares. When the plaintiff himself admits through this documents that partition had taken place in the family by metes and bounds and people are in separate possession of their share, he can't claim a right u/s 22 of Hindu Succession Act because u/s 22 of Hindu Succession Act preferential right to acquire a property can only be exercised in case of Hindu Undivided Property held in jointness and here plaintiff himself has stated that family partition by metes and bounds has taken place on 02.02.1997; Accordingly this issue is decided against the plaintiff.

### **ORDER**

The suit is dismissed on contest with cost of Rs. 40,000 /- (rupees fourty thousand only) payable equally @ Rs. 10,000 /- (rupees ten thousands only) to all contesting defendants i.e. defendant No. 1, 5, 6 and 8.

Dated: 19.03.2026

Civil Judge (Sr. Div.)  
Barsoi, Katihar

### **Certificate**

This judgement has been dictated, checked & corrected by me.

Dated: 19.03.2026

Civil Judge (Sr. Div.)  
Barsoi, Katihar

Court of Civil Judge (Sr. Div.)  
Barsoi, Katihar  
Judgment T. S.-02/2015 (B)  
CIS No. 101002/2015

10.