

**IN THE COURT OF RAJ KUMAR PANDEY, CIVIL JUDGE (Sr. Div) II,
Bermo at Tenughat**

**Present:- Raj Kumar Pandey,
Civil Judge (Sr. Div.) II
Bermo at Tenughat .
J.O. Code-00661**

Dated, the 18th July, 2025.

Oringinal Suit No.-38/2017

CNR-JHBT02-0000082017

**1. Raj Kamal Lala S/O Priya Ranjan Lala by faith- Hindu, Category-
General,by occupation- Cultivation, resident of Lala Bhawan
Nawagarh,P.S.-Nawagarh, District Dhanbad State-Jharkhand,**

..... Plaintiff

Vs

1. Asim Chandra Jha

2. Uttam Jha

both sons of Late Prafulla Chandra Jha

3. Ajit Chandra Jha

4. Biru Jha

both sons of Late Amulya Jha

5. Dilip Jha S/O Late Anil Jha

all resident of village-Purni Bagiyari, P.S.-Kasmar, District-Bokaro

**6. Bigan Bhagat S/O Late Yogeshwar Bhagat resident of
Khairachatar P.S.-Kasmar, District-Bokaro (Jharkhand)**

-----Defendants.

Counsel for the Plaintiff :- Mr. B.K.Dey Ld.Advocate.

Counsel for the Defendants :- Mr. Madan Gopal Verma Ld.Advocate.

Suit Valuation:- 7,00,000/-

J U D G M E N T

1. Plaintiff has filed this suit against the defendants for the following reliefs-

(A) After adjudication it be declared that the plaintiff has got Kaiyami raiyati rights over the suit lands and his possession may be confirm over the suit land and if the plaintiff be found dispossess during the pendency of the suit, the order of recovery of possession be passed and the plaintiff be put in khas possession there-over through the process of the court.

(B) An order of temporary injunction restraining the defendants from entering upon the suit lands and interfering the peaceful possession of the plaintiffs over the suit lands till the disposal of the suit.

(C) An order of permanent injunction be passed of the same nature in event of decree of the suit.

(D) A decree for the cost of the suit be awarded in favour of the plaintiff and against the defendants.

(E) Any other relief or reliefs to which the plaintiff be found entitle in law and equity be given to the plaintiff.

2. The brief facts of this case is that, the entire Jagir of village-Bagiyari, Jharmunga, Jamkudar, Basariya and Nawadih P.S.-01 WAY Petarbar, P.S. No. 100, 97, 99, 142 and respectively were purchased by Ram Narayan Lal Seth vide Certificate case No. 47 of 1919-20 and the certificate of sale of land of above said Jagir was granted by the court of Certificate officer Hazaribagh in Execution Certificate No. 475 dated: 05.04.1919 duly issued by the Competent authority vide dated: 10.12.1919 and after purchase the above named purchaser came and continued in possession of entire Jagir of above said village. Thereafter Ram Narayan Lal Seth sold the above said purchased lands to Babu Durga Prasad Bhagat S/O Aditya Prasad Bhgat for a valuable consideration and put the purchaser in possession vide registered Sale deed No. 1771 dated: 05.08.1920. The said purchaser namely Durga Prasad Bhagat sold the entire purchase lands to Jagdamba Prasad Lal S/O Late Diwakar Lal vide registered deed of sale no. 324 dated: 10.02.1921 and put the purchaser in possession and after purchase Jagdamb Prasad Lal remain in Khas possession till his life and use the usufructs therefrom. The purchase lands have been fully described in Schedule 'A' of the plaint. Thereafter Jagdamb Prasad Lala died in the year 1946 leaving behind his five sons namely Kaileshwar Prasad, Prithis Prasad Lala, Shaileshwar Prasad Lala, Hrideshwar Prasad Lala and Satish Prasad Lala who came and continued in possession over the entire purchase lands of Jagdamb Prasad Lala. It is submitted here that the vendor of the Jagdamb Prasad Lala namely Babu Durga Prasad

Bhagat and his vendor namely Ram Narayan Lal Seth who was the auction purchaser of the entire Jagir for the above said Schedule 'A' lands and therefore all the rights of Zamindari was vested to Jagdamba Prasad Lala on purchase and after his death his five sons came and continued in possession of entire Jagir of Schedule 'A' lands. The Schedule 'A' lands were treated as Bakast Land of Jagdamba Prasad Lala and after his death his two sons Kaleshwar Prasad Lala and Prithis Prasad Lala ascertaining to right to hold the said land under their khas possession applied in form 'K' for fixation of rent U/S 6 of the land Reforms Act and therefore publication of Notice in form 'L' and after holding due inquiry thereupon the fair land was determining in their name and rent roll prepared in form 'm'.

Thereafter following the said procedure the said Kaleshwar Pd. Lal and Prithis Pd. Lala applied for fixation of rent thereof and upon their application case Anchal Adhikari assercising the power of collector under the Act bearing Case No. 19 (VI) of 1969-1970 and case No. 24 (V) of 1969-1970 in the said case Mr. R.Ekka Anchal Adhikari Kasmar vide his order dated: 05.11.1969 in case No. 19 (VI) of 1969-70 clearly hold that the said land was a Bakast land in the Survey khatian which was treated as Bakast land of Jagdamba Prasad Lala on purchase. The matter was enquired by Halka Karamcharai and certified by the Circle officer and therefore recommended for fair rent assessment in which no objection was filed against the Istihar and therefore rent was also fixed in the name of Kaileshwar Prasad Lala and Prithis Prasad Lala and also

by following the same procedure the rent was fixed in case No. 24 (V) of 1969-70 in the name of Kaileshwar Prasad Lala and others by the said Anchal Adhikari and thereafter Kaileshwar Pd. Lala and Prithis Prasad Lala in whose name form 'm' was prepared in respect of several plots of the lands mentioned in Schedule 'A' and on basis of partition deed dated: 16.02.68 executed on 16.04.68 and therefrom by making payment of rent regular rent receipt are being obtained for the lands of Schedule 'A'. In the year 1984-85 the father of the defendant no.1 and 2 and others filed a petition before the Circle Officer, Kasmar for opening of Jamabandi in their name in respect of 21.66 acres of lands out of the lands in respect of which the Jamabandi were already running in the name of Kaileshwar Prasad Lala and others on basis of case No. 19/1969-70 and upon the said application bearing No. 02/1984-85 the petition was allowed and Jamabandi was open in their name. When it came to the knowledge of the plaintiff son of Prithis Prasad Lala namely Pankaj Kumar Lala one of the co-sharer challenged the said order of learned Anchal Adhikari in Misc. case No. 19/1986-87 before learned L.R.D.C. Bermo at Tenughat who by his order dated: 11.08.1987 set-aside.

The order of learned Circle officer, and allow to continue the name of the ancestor of the plaintiff in tenant ledger as before and therefore the father of the plaintiff no.1 and 2 filed the writ Petition bearing C.W.J (M) N. 1928/1987 (R) which was dismissed vide order dated: 11.11.1992 by the Hon'ble High court. Thereafter in a family

arrangement the lands mentioned in schedule 'B' of the plaint which is the suit lands were allotted in the share of the plaintiff - along with other lands which is the part and parcel of ds out of the schedule 'A' lands. The defendants tried to disturb e possession of the plaintiff by laying a false claim r the suit lands mentioned in schedule 'B' leading to a proceeding U/S 107 Cr.P.C. bearing Case No. 97/2015 and in the similar manner a proceeding U/S 144 Cr.P.C. was also initiated for the suit lands of Khata No. 120. 121 and 122 of village-Bagiyari bearing case No. 97/2015 in which the defendant has not claimed any right, title, interest within Khata No. 2 and therefore the said proceeding U/S 144 Cr.P.C. was dropped with observation that party may go for their grievances in civil court vide order dated: 21.09.2015 and therefore a "Criminal case was also filed by the plaintiff against the defendants bearing complaint case No. 405/2015 which is pending the court at Tenughat which cast a cloud on the title of the plaintiff hence the necessity of the suit and thereafter finally on 20.04.2017 the defendants threatened to dispossess the plaintiff from the suit lands. The plaintiff has got perfect right, title, interest and possession over the suit lands and whereas the defendants have got no right, title, interest or possession over any inch of suit lands whereas the defendant on basis of forged, fabricated and illegal documents have laid a false claim upon the suit lands. The plaintiff has got good prima-facie case and the balance of convenience lies in favour of plaintiff in granting the prayer of injunction and if the prayer of injunction would not be granted the plaintiff be put in irreparable loss

which is a constitutional right to him for protecting the property and life and if they will not be restrain, the suit lands would be alienated illegally by the defendants having no right, title or possession over the same which will lead to manipulate litigation with the claimants through the defendants hence the necessity of the suit. The cause of action for the suit arose on 21.09.2015 and 20.04.2015 the date on which the defendant came upon the lands and thereafter day to day at village Bagiyari, P.S.-Kasmar, District-Bokaro. within the jurisdiction of this court.

3. After service of summon defendants No- 1 to 5 appeared and filed written statements. Defendants No- 6 filed separate W.S. The brief of W.S is that the suit is barred by law of Limitation and adverse possession. The suit is hit by section 34 of the specific relief Act. The suit is bad for non-joinder of necessary parties. The suit is hit by the principles of waiver, acquiescence and estoppels. The suit valuation as given in para 15 of the plaint is low and arbitrary when the value of the suit properties at the time of filing of the suit shall not be less than Rs. 25 Lakhs and for which the plaintiff has to pay advalorem court fee thereon, otherwise the suit cannot proceed. The suit of the plaintiff is false and frivolous and has been filed by the plaintiff with a view to take illegal advantage against these answering defendants, save and except which have been specifically admitted herein below of the written statement, the other allegations of the plaint are hereby denied in toto.

Before, to give reply of the averments of all paragraphs of the plaint, the defendants state and submit and it is also admitted facts that the lands of khata No. 120 having its total area 17.85 acre in different ten plots were the BAKAST land of the ex-landlord of village namely Brahma Ojha @ Brahmanand Ojha and accordingly the same were recorded during the last cadastral survey in his name and he had been coming in possession over the same having his Khewat No.8. Similarly the lands of khata no. 121 having area 18.52 acre in different 16 plots were G.M. khas lands of the said ex-landlord Brahma Ojha @Brahmanand Ojha as recorded during the last cadastral Survey, having his said Khewat no.8, and accordingly Brahma Ojha @ Brahmanand Ojha had been coming in possession over the said entire lands of khata No. 120 and 121 even by paying rents and cess his superior landlord of all the same to Thakur Kali Prasad Sing having his Khewat No.2 and as such the ex-landlord Brahma Ojha @ Brahmanand Ojha had got valid right title interest and possession over the said lands of khata no. 120 and 121 besides his other lands. The said ex-land lord Brahma Ojha @ Brahmanand Ojha in exercise of his right, title, interest and possession had settled the entire lands of G.M. Khas land of khata No.121 having the lands area 18.52 acres in different sixteen plots to three sons namely Prafulla Chandra Jha Chandra Jha and Ram Ratan Jha his Amulya by grant of Hukumnama dated 17.05.1926 on getting payment of valuable SALAMI followed by delivery of possession and acceptance of rent, since settlees after settlement the aforesaid namely Prafulla Chandra Jha

Amulya Chandra Jha and Ram Ratan Jha had been coming in possession over their said entire settled lands area 18.52 acres of khata no. 121 even by regularly paying rent of the same to the ex-landlord Brahmanand Ojha against the grant of rent receipts, of that after vesting of the zamindari, the tenancy the settlees Prafulla Chandra Jha, Amulya Chandra Jha and Ram Ratan Jha in respect of the said settled lands of khata no. 121, acknowledged their tenancy by the State of Bihar who accordingly having opened zamabandi thereof continued to realize rent of the same from the said settlees against the grant of State rent receipts and as such the said settlees had got and acquired valid right, title, interest and possession over their said settled lands area 18.52 acres of khata no; 121 which have been morefully described in schedule "X" below of the written statement. So far as the lands of BAKAST khata No.120 are concerned, it is submitted by the these defendants. That the ex-landlord Brahma Ojha Bramhanand Ojha had been coming in possession over the lands of said khata No. 120 having his Bakast lands and he was also paying rent and cess of the same regularly to his superior ex-landlord, Thakur Kali Prasad Singh having his Khewat No. 2 and as such the ex-landlord Brahma Ohja had got valid right, title, interest and possession over is Bakast lands of said khata No. 120 having his Khewat No. 8. in the meantime Brahmanand Ojha @ Brahmahand Ojha died in the year 1928 leaving behind his three sons namely Prafulla Chandra Jha Amulya Chandra Jha and Ram Ratan Jha having succeeded and inherited came and continued in

possession over the said Bakast lands of Khata No. 120 besides other lands left by their father even by paying rents and cess thereof to the said superior ex-landlord Thakur Kali Prasad Singh and in this way said Prafulla Chandra Jha Ram Ratan Jha were Amulya Chandra and all along remained in continuous possession over the entire land of khata no. 120 on the day, before and after vesting of zamindari. to the State of Bihar who thereafter having acknowledge their names as tenant thereof and having opened zamabandi of the said lands in question, continued to realize rents of the same against the grant of State rent receipts in their names and as such they have got and acquired right, title, interest and possession over the same which have been morefully described in schedule Y" below of this written statement forming part of the same.

It is further submitted by the answering defendants that since after settlement of the lands of khata no. 121 and similarly after Bramha @ Bramhanand Ojha, the death of his said three sons Praful Chandra Ojha and others had been coming in possession over the lands of khata No. 121 as well as the lands of khata No. 120 by exercising all acts of possession thereon peacefully, openly, continuously un-interrupted, adversely and with the hostile knowledge of whole world including the plaintiff and his ancestors and as such they had/have also acquired right and title over the same by adverse possession , on completion of statutory period on 17.5.1938 and 1940 respectively and thereafter by passing of other so many twelve years, in the meantime said Praful Chandra Jha, Amulya Chandra Jha and Ram Ratan Jha died one after

another in which Ram Ratan Jha died issue-less and Praful Chandra Jha died leaving behind his 5 sons namely 1. Ashok Kumar Jha 2. Ashim Kumar Jha 3. Kishore Kumar Jha 4. Uttam Kumar Jha and 5. Samir Kumar Jha and whereas Amulya Chandra Jha died leaving behind his 5 sons namely 1. Anil Chandra Jha 2. Biranchi Kumar Jha Bhushan Jha 4. Ajit Kumar Jha 3. Bibhuti and 5. Sampurnanand Jha and out of them Anil Kumar Jha died leaving behind his widow Most. Pratima Bala Devi and 4 sons namely 1. Dilip Kumar Jha 2. Dipak Kumar Jha 3. Janardan Jha and 4. Lalu Jha and Sampurnanand Jha also died leaving behind his widow namely Most Gita Devi who all also having succeeded and inherited came and continued in possession over the aid entire lands of khata No. 120 and 121 and as such they had/have also got right, title, interest and possession over the same as that of their ancestors. Similarly the heirs of said three brothers after their death Prafull Chandra Jha & others, have also acquired right and title over the entire lands of khata No.121 and 120 by adverse possession for more than several twelve years.

That in view of the above facts and circumstance the plaintiff is not entitled to get any relief, sought for in the plaint and as such the suit is liable to be dismissed.

In reply of paragraph 1 of the plaint these answering defendants state and submit that their ancestors Bramha Ojha @ Brahmanand Ojha was also ex-landlord of the lands besides other, in respect of their lands of khata no. 121 and 120 having his khewat No.8 and he had acquired the

same on 8.6.1993 through a registered Patta from Thakur Kali Prasad Singh as Mokrari and accordingly he had been coming in possession over the same as that of ex-landlord even by paying rent and cess proprietary right to his said superior ex-landlord and accordingly he had been coming in possession over the said lands of khata No. 120 in same as that of the ex-landlord and his proprietary right of his Bakast and G.M. khas lands never been put in auction sale nor the same were purchased by Ram Narayan Lal Seth nor he ever came in possession over the same as alleged by the plaintiff and apart from that the ex-landlord Bramha Ojha @ Bramhnand Ojha was the party in any proceeding of auction sale or otherwise. The statement and allegations made in paragraph 2 and 3 of the plaint are of not true and correct and hereby denied. It is totally false and incorrect to say that Ram Narayan Lall Seth sold his above purchased land to Babu Durga Prasad Bhagat vide registered sale deed no. 1771 dated 5.08.1920 and put the purchaser in possession over the same It is totally false to say that Durga Prasad Bhagat sold the entire purchased lands to Jagdamba Prasad Lalla and the purchaser was put in possession and remained in khas possession till his life and used the fructose therefrom. The statements and allegation made in para 4 of the plaint are not true and correct and hereby denied. The land described in schedule A of the plaint are not the purchased lands of the said alleged purchasers rather same were G.M. khas and Bakast lands of the ex-landlord Brahma Ojha Brahmanand Ojha, who was the proprietor of the same and accordingly he was in possession

over the same and after his death as well as after settlement as stated earlier, his heirs including the answering defendants came and continued in possession over the same.

The statements and allegations made para 5 of the plaint are not wholly true and correct and hereby denied. It is totally false and incorrect to say that after the death Jagdamba Prasad Lala his said heirs came and continued in possession over the entire purchased lands of Jagdamba Prasad Lala, or Durga Prasad Bhagat. They never purchased or came in possession over Schedule 'A' lands as the same were under proprietary right of Brahama Ojha @ Brahamanand Ojha nor this same were Jagir lands of Jagdamba Prasad Lalla or his vendors and the allegations to the contrary are totally false and fabricated. However the proprietary right of the same was the ex-land lord, Brhama Ojha @ Brahamanand Ojha and after his death his aforesaid heirs came and had been coming in possession over the same as therein proprietary rights as well as their settlement it is further false to say that the right of zamindari in respect of suit property vested to Jagdamba Prasad Lalla and his heirs.

The statements and allegations made in paragraph 6 of the plaint are not true and correct and hereby denied. It is totally false and incorrect to say that in schedule 'A' lands were the "Bakast lands of Jagdamba Prasad Lala and after the death of Jagdamba Prasad Lalla his heirs came in possession over the suit lands and after appealed for fixation of rent in their names rent roll was prepared in Form "M".

The allegations made in para 7 of the plaint are not true and correct and hereby denied. The learned then Anchal Adhikari Mr. R. Ekka incorrectly and falsely hold in his order dated 05.11.1969 in case No. 19(VI) of 1969-1970 that the said land was treated as Bakast land of Jagdamba Prasad Lalla on purchase, when the same land was Bakast land of Brahama Ojha @ Brahmanand Ojha as recorded in survey Khatiyani. In the matter of Rent Assessment case the Halka Karmchari and circle officer without proper inquiry of the record of right illegally and falsely recommended for assessment of Rent of the land in question and accordingly rent was illegally fixed in the name of Kaileshwar Prasad Lala and Pritish Prasad Lala without considering the proper produce of the same in making assessment and fixed of rent in case No. 24 of 1969-1970 in the name of said Koleshwar Prasad Lala and others and in whose name Form "M" falsely prepared in their name in respect of several lands of several plots as mentioned in schedule 'A' of the plaint. It is totally false to say that on basis of partition deed dated 16.02.1968 executed on 16.04.1968 and therefrom by making payment of rent regularly and rent receipt are obtained for land of schedule 'A' land of the plaint.

In further reply of paragraph 7 of the plaint these answering defendants state and submit that fixation of rent and issuing of rent receipts which are in of revenue report which does not create right and title in respect of the lands herein and at the same time all the same has been illegally and falsely done, in view of the facts that the proprietor of said lands of

khata No. 120 and 121 was Brahma Ojha @ Brahmanand Ojha having his Mokrari land as stated earlier, was never sold and purchased in auction sale as claimed by the plaintiffs rather proprietary right of other ex-landlord were sold and purchased in said alleged auction sale and in the proceeding thereof, the said ex-landlord Brahma Ojha @ Brahmanand Ojha or in hiers were parties of the same. However any order and judgment of criminal and revenue court will not binding upon the civil court. The statements and allegation made in paragraph 8 of the plaint are not wholly true and correct. It is true and correct to the extent that in the year 1984-85 the father of the defendant No. 1 and 2 and others filed a petition before the Anchal Adhikari, Kasmar, for opening of Zamabandi in their names in respect of Bakast lands area 21.66 acre rather the said petition was for continuing the zamabandi of same and for issuing state rent receipt as before and accordingly the same order has been passed by learned Anchal Adhikari vide order passed 12.12.84 vide case No. 2/84-85 and during that proceeding the opposite party there of (plaintiff) having appeared filed their objection petition and there after on proper inquiry and the matter of said case it was formed and observed his learned Anchal Adhikari. That though the zamabandi of said same land has also been opened in their names but that zamabandi had opened without any legal basis and as result of which the opening of zamabandi of O.P. Party (plaintiff) was order to be stayed and at the same time it was also order to continuing the opening of zamabandi to issue rent receipt of the same in favour of the applicant

thereof being the father of the defendant No. 1 and 2 and against said orders of the learned Anchal Adhikari the O.P. being the plaintiff has preferred appeal before the appellate court being the L.R.D.C. Bermo at Tenughat who thereafter forwarded the case record to the learned court S.D.M. Bermo at Tenughat for needful but he up till now has not been decided in that matter this case.

In reply paragraph 9 of the plaint it is submitted by the answering defendant that though the father of the defendant No. 1 and 2 had filed a said writ petition before the Hon'ble High Court in the same matter of case of before the Anchal Adhikari but his conducting lawyer before the Hon'ble High Court totally left to take necessary steps in the writ case and therefore the writ petition was dismissed however the said dismissal order of the Hon'ble High Court will not effect the right title interest and possession of these defendants in respect of the lands of khata No. 120 and 121 in suit as the revenue court was for to continue the earlier opening zamabandi and to continued to issue State rent receipts. The statements and allegations made in paragraph 10 of the plaint are not true and correct and not with the knowledge of defendants however partitioned or not portioned as alleged by the plaintiff does not effect the right, title, interest and possession of the defendants in respect of the suit land and at the same time the civil court decides these defendants are not binding by the same.

The statements and allegations made in paragraph 11 are not wholly

true and correct and hereby denied. It is totally false and incorrect to say that the defendants tried to disturb the possession of the plaintiff by laying false claim over the suit land mentioned in schedule 'B' of the plaint. The plaintiff had/has filed the said cases U/s 107 and 144 Cr.P.C. besides a criminal case in respect of the lands of khata No. 120, 121 and 122 and the defendants had also claimed the lands therein of Khata No. 120 and 121 and the plaintiff had filed the said referred cases by making false allegations with a view to take legal advantage against these defendants. The statements and allegations made in para 12 of the plaint are not true and correct and hereby denied it is totally false incorrect to say that the plaintiff has got perfect right title, interest and possession over the suit lands and the defendants have got no right title, interest and possession over any inch of the suit lands and the basis of forged, fabricated and illegal document have laid false claim over the suit land. The statements and allegations made in para 13 of the plaint are not true and correct and hereby denied. It is totally false and incorrect to say that plaintiff has got prima facie case and the balance of convenience lies in favour of the plaintiff in granting the payment of injunction and if the prayer of injunction will not be granted the plaintiff will be put to irreparable loss which is a constitutional right to him for protecting the property and life if they will not be restrained, the suit lands would be alienated illegally by the defendants as they have got no right, title, interest and possession over the same, which lead to multiplicity of litigations with the claimants through the defendants and hence

necessity of this suit. It is further placed to mention here that the defendants that heirs of Brahamnand Ojha have sold some lands of khata No. 120 in suit to one Began Prasad Bhagat and Jagdish Mahto by virtue of registered sale deed in the year of 4914 on getting payment of paying rent of their respective purchased lands against the grant of State rent receipts. Thus the answering defendants and their said purchasers have got valid right title, interest and possession over the suit lands described the schedule 'B' of the plaint.

The defendant No. 6 states and submits as follows:-

(i) By virtue of a registered sale deed no. 1325 dated 06.06.1983 executed by Thakur Kali Prasad Singh the ex-landlord of Village-Purni Bagiari in respect of Khata No. 120 and Plot No. 667 Bramhanand Ojha @ Bramha Ojha purchased 6.92 acres of land and came in khas possession over the same. Thereafter during survey operation the aforesaid lands of 6.92 acres was recorded as Bakast in the survey record of right in the name of Bramhanand Ojha the ex-landlord of Khewat No. 8 of Village-Bagiari and as such Bramhanand Ojha had got valid right, title, interest and possession over his Bakast land of the said Khata No. 120 having his Khewat No. 8

(ii) Bramhanand Ojha died sometimes in the year 1928 leaving behind his three sons namely Prafulla Chandra Jha, Amulya Chandra Jha and Ram Ratan Jha who succeeded and inherited their father and came and continued in possession over the said Bakast lands of Khata No. 120

besides other lands left by their father and paid rent to the said superior ex-landlord Thakur Kali Prasad Singh and they remained in continuous possession over the entire lands of Khata No. 120 before and after vesting of Zamindari.

(iii) That, after vesting of zamindari to the State of Bihar the tenancy of Prafulla Chandra Jha, Amulya Chandra Jha and Ram Ratan Jha was recognized by the State of Bihar and they continued to pay rent to the State of Bihar and obtained rent receipt therefrom.

(iv) Prafulla Chandra Jha, Amulya Chandra Jha and Ram Ratan Jha died one after another in due course. Prafulla Chandra Jha died leaving behind his five sons namely Ashok Kumar Jha, Ashin Kumar Jha, Kishore Kumar Jha, Uttam Kumar Jha and Samir Kumar Jha whereas Amulya Kumar Jha died leaving behind his five sons namely Anil Chandra Jha, Biranchi Kumar Jha, Bibhuti Bhushan Jha, Ajit kumar Jha and Sampurnanand Jha. Anil Kumar Jha also died leaving behind his widow Pratima Bala Devi and four sons namely Dilip Kumar Jha, Dipak Kumar Jha, Janardan Jha and Lalu Jha. Sampurnanand Jha also died leaving behind his widow namely Mossamat Geeta Devi who came and continued in possession with the other surviving heirs of Bramhanand Ojha over the lands of Khata No. 120 & 121 as well.

(v) That, while in such possession Biranchi Kumar Jha, Bibhuti Bhushan Jha, Ajit Kumar Jha, Pratima Debya, Smt. Geeta Debya, Ashok Kumar Jha, Ashin Kumar Jha, Kishore Kumar Jha, Uttam Kumar Jha and Samir Kumar Jha sold and transferred lands area 102 acres under Khata No.

120, Plot No. 667 in mouza-Bagiari, P.S.-Kasmar, Dist-Bokaro on a valuable consideration in favour of the defendant No. 6 Bigan Prasad Jaiswal through a registered sale deed No. 2476 dated 31.05.14 with a definite boundary thereof and the defendant No. 6 was put in possession of the land on the date of purchase thereof.

(vi) That, after purchase of the portion of the suit Plot No. 667 of Khata No. 120 aforesaid mutation in favour of the defendant No. 6 was allowed by the Anchal Adhikari Kasmar and consequently correction slip was issued in favour of the defendant No. 6 who paid rent to the State Govt. for his aforesaid purchased land for which rent receipt was issued to him from the State Govt. and the defendant No. 6 has been regularly paying rent to the State Govt. and have been obtaining rent receipt therefore.

(vii) Zamabandi has been created in favour of the defendant No. 6 in the Anchal office and his name has entered in Register II in the said office in respect of the aforesaid purchased lands.

(viii) Thus the defendant No. 6 has valid right, title, interest and possession over his aforesaid purchased land which is a portion of the suit Khata No. 120 and Plot No. 667 of Village-Bagiari.

(ix) The defendant No. 6 has been given the benefit of crops insurance on the basis of the above land purchased by the defendant No. 6.

The statements made in para-12 of the plaint are false and concocted. The plaintiff has no right, title, interest or possession over any portion of

the suit land and the defendant possesses all valid and legal document.

The statement made in para-14 of the plaint are false and concocted which are denied. The plaintiff has no cause of action for the suit and the cause of action as stated are imaginary and false. The suit is under valued. The plaintiff is not entitled to any relief as prayed for and the suit is fit to be dismissed.

It is, therefore, respectfully prayed that the suit may kindly be dismissed with cost to this defendant.

Schedule-'A' lands

(1) Entire Jagir of village-Bagiyari, P.S. No. 100, bounded as;

North- Sarhad Mouza Jamkudar & Manjura

South- Sarhad Mouza Tangtona & Nawadih

East- Sarhad Mouza-Gandke

West- Sarhad Mouza-Mungo & Bagda

(2) Entire Jagir of village-Jharmunga, P.S. No. 97,

North- Sarhad Mouza - Garri & Pathuriya

South- Sarhad Mouza- Manjura

East- Sarhad Mouza- Bir Saram

West- Canbod Mouza Manjura

(3) Entire Jagir of village-Jamkudar, P.S. No. 99

North- Sarhad Mouza-Manjura

South- Sarhad Mouza - Bagiyari

East- Sarhad Mouza- Bagiyari

West- Sarhad Mouza-Manjura & Bagiyari

(4) Entire Jagir of village- Basariya P.S. No. 142

North- Sarhad Mouza- Bagda & Tangtona

South- Sarhad Mouza- Goriyakudar

East- Sarhad Mouza Meramhara

West- Sarhad Mouna- Bagda & Khairachater

(5) Entire Jagir of village-Nawadih P.S. No. 101

North- Sarhad Mouna- Bagiyari

South- Sarhad Mouna- Tangtona

East- Sarhad Mouna- Gopalpur

West- Sarhad Mouna- Tangtona

Schedule-'B' lands

All that lands of village-Bagiyari P.S.- Kasmar, District-Bokaro which
Khata Plot & area as follows:-

<u>Khata No.</u>	<u>Plot No.</u>	<u>Area</u>
120	667 Area	4.00 Acres,
121	666 Area	4.64 acres

Total-		8.64 acres.

**4. On the basis of above pleadings the following issues were
framed for trial-**

S.No	Issues	Findings
I	Whether the suit is maintainable in its present form?	No
II	Whether the plaintiff has valid cause of action?	No
III	Whether suit is barred by law of limitation?	Yes
IV	Whether the Ram Narayan Lal Seth and thereafter Babu Durga Prasad Bhagat had the authority to alienate the suit property and transfer the title to its purchaser?	No
V	Whether plaintiffs are in possession over the suit land and their possession is threatened by the defendants ?	No
VI	Whether plaintiffs are entitled for reliefs as claimed for?	No
VII	Whether the plaintiffs are entitled to any other relief/reliefs as prayed for?	No

5. List of Plaintiff Witnesses

Rank	Name
PW1	Sher Mohamad
PW2	Parmeshwar Sao

PW3	Jai Govind Goshai
PW4	Saket Kumar Lala
PW5	Raj Kamal Lala

Defendant's Witness

D.W-1	Chohan Mahto
D.W-2	Jagdish Chandra Mahto
D.W-3	Suresh Sao
D.W-4	Uttam Kumar
D.W-5	Shankar Thakur
D.W-6	Bigan Bhagat @ Bigan Prasad Jaiswal
D.W-7	Jailal Thakur

List of Plaintiffs Exhibits

A. Plaintiff:

Sr.No.	Exhibits	Description
1.	Exhibit-1	Sale Certificate of Execution Case No. 475
2.	Exhibit-2 2a to 2c	C.C of order sheet passed in C.W.J.C. No. 1628 of 1987, C.C of Sale Deed No-645 of 1922, C.C of Order sheet passed in T.S. No. 33 of 1924, C.C of Order sheet of Case No. 97/2015
3.	Exhibit-3,3a to3c	C.C of Sale Deed No. 1771/1920, C.C of sale deed No. 324/1921, C.C of Sale deed No.

		645/1922, C.C of sale Deed No. 371/390 of 1968 and Deed No. 647/1922.
4.	Exhibit-4	Copy of decree passed in T.S. No. 33/1924

List of Defendant’s Exhibits

1.	Exhibit-A	Register-II
2.	Exhibit-A1	Register-II in the name of Praful chand
3.	Exhibit-B	Pass-book
4.	Exhibit-C	Letter Dt-05.07.2017
5.	Exhibit-D	C.C of Khatiyani
6.	Exhibit-E	C.C of Khewat
7.	Exhibit-F	C.C of sale deed no-2476/14
8.	Exhibit-F1	C.C of sale deed no-1325/83
9.	Exhibit-G	Correction Slip

6. Apart from above documentary evidence, oral evidences has also been given in this case, on behalf of plaintiffs as well as defendants.

Findings:-

Discussions and Analysis:

7. It is axiomatic principle of Law that the Courts are not merely functioning to connive with the Plaintiff .

Sir Lawrence Jenkins,in **Deonandan v. Janki Singh, 1916 (44)**

Calcutta 573: wherein his lordship observed:-

“The fundamental principle of Law is that the plaintiff when he comes to Court must prove his case and he must prove it to the satisfaction of the Court. ”

Both the parties claim possession on disputed land through oral evidences. On point of possession oral evidences are relevant.

The plaintiff has examined altogether five witnesses in the suit.

P.W-1 stated that plaintiff is in possession over disputed land. He further stated in para-21 that a case was instituted between the descendant of Jagdamba Prasad Lala and the villagers and in that case the decree was passed in favour of the purchaser of the land. In para-25 he has stated that Jagdish Mahto and Bigan Bhagat are purchaser of the portion of suit land.

P.W-2 also stated that plaintiff is in possession over disputed land. He stated in para-13 that Brahmanand Ojha was the zamindar prior to Jagdamba Prasad Lala and he has also admitted in para-19 that under Khata No. 120 and Plot No. 667 Bigan Prasad Jaiswal has purchased the land and he is in possession thereof and again stated Bigan Prasad Jaiswal is not in possession, but in para-29 this witness could not say as to how many persons are in possession over the suit land.

P.W-3 also stated the same thing, but did not turn up for cross-examination.

P.W-4 also stated that plaintiff is in possession over disputed land. In para-12 he could not say that the suit relates to which khata but however

in para-14 he has stated that he knew Brahmanand Ojha.

P.W-5 is plaintiff himself ,he stated that in para-28,he has heard the name of Brahmanand Ojha and from para-29 it is evident that he could not say the total number of plots of the suit khata and he could not say how many raiyat are in possession over the said khata. It is evident from para-30 that he could not say the boundary of each plots of Khata No. 120 as well as Khata No. 121, In para-31 he has admitted that Khata No. 120 is the Bakast land. In para-36 he could not say as to why the Certificate Case No. 47/1919-20 was instituted. He also could not say who were the parties in the said case. In para-42 he has clearly admitted that Khata No. 120 was Bakast land of Brahmanand Ojha and he has also admitted in para-51 that in the sale certificate Khata, Plot and Area of the land was not mentioned. In para-53 he has clearly admitted that the raiyats to whom the lands were settled in the suit khata were in possession over the same and in para-54 he has also admitted that at present in Mouza-Bagiyari the raiyats in whose favour the lands were settled are in possession over the said lands. Further in para-57 he has clearly stated that the houses of the raiyats in whose favour the lands were settled are in existence and he has also admitted in para-58 that his ancestor had sold the lands in the suit khata there was no mention of the lands of Bakast khata or Gairmajurwa Khata. In para-76 he has stated that he has not seen the documents which were filed in the suit on behalf of the defendants. In para-83 he has also stated that in the Certificate Case Brahamanand Ojha was not a party and he has also stated in para-

86 that he himself or his ancestor had never instituted any case for possession over the suit land .

The Defendants have examined altogether seven witnesses in the suit.

D.W-1 is cultivator of disputed land he stated that he did not heard the name of Babu Durga Prasad.

D.W-2 stated that he knows the plaintiff since 2017. This witness is also a purchaser of disputed land.

D.W-3 is cultivator of disputed land of Khata No. 120 was the vacant land of Brahmanand Ojha on which he had special control and he used to get farming done on it. Khata No. 121 was non-cultivated khas land whose owner was Brahmanand Ojha. Brahmanand Ojha died about 100 years ago and after his death his sons Praful Chandra Jha, Amulya Chandra Jha and Ram Ratan Jha used to live on the land of Khata No. 120 and used to do farming and grow crops. Khata No. 120 had some fields and some mounds. Brahmanand Ojha's sons used to grow paddy in the fields and Lahar, Kurthi, Surguja etc. crops on the mound land.

D.W-4 stated that Who made Brahmanand Oma the landlord Bhurya 6. is not known. He was a Chedaisi landlord. Earlier his father was a landlord. It is not known to whom Brahmanand Bank's father used to pay rent, but Brahmanand used to pay rent to Thakur Kali Prasad Singh.

D.W-5 stated that Bigan Prasad Jaiswal had purchased one acre twenty decimal land under Khata No. 120 and Plot No. 667 from Biranchi

Kumar Jha etc. in 2014 through registered deed and after purchasing the land, he became the occupant of it, after purchasing the above mentioned land, Bigan Prasad Bhagat has been cultivating crops on it every year. The above mentioned land is Tand land on which Bigan Prasad Bhagat grows crops like Rahar, Kurthi etc. with the help of labourers.

D.W-6 stated that during the survey, the above land was registered in Mauja-Bagiyari in the name of Brahmanand Ojha as Khata No. 120, Plot No. 667 and Brahmanand Ojha's name was recorded as Zamindar in the Khatian. Brahmanand Ojha had three sons Praful Chandra Jha, Amulya Chandra Jha and Ram Ratan Jha, who after the death of their father, occupied 6.92 acres of land of the above Khata No. 120, Plot No. 667 and the other land of Khata No. 21 and they used to pay land revenue to the former Zamindar, after the abolition of Zamindari, Praful Chandra Jha. Amulya Chandra Jha and Ram Ratan Jha used to pay land revenue of the above land to the Government of Bihar and obtain government receipts.

D.W-7 is a formal witness and he only proved rent receipts.

Issue No. IV & V

8. This is the main issue to be decided which will cloud the land with respect to the matter in dispute among the parties to the suit, therefore it is taken up first for the determination.

The plaintiff claims his title on the basis of sale certificate of execution

case dated 05.04.1919 Exhibited as Ext-1. Thereafter four sale deed exhibited as Ext-3 to 3c.

Admitted facts by plaintiff :-

1. The plaintiff admitted in para-42 of his deposition the land of khata No-120 previously belongs to Bramanand Ojha.
2. He admitted in para-51 that in the sale certificate Khata, Plot and Area of the land was not mentioned.
3. He further admitted in para-53 that the raiyats to whom the lands were settled in the suit khata were in possession over the same and in para-54 he has also admitted that at present in Mouza-Bagiyari the raiyats in whose favour the lands were settled are in possession over the said lands.
4. He also admitted in para-83 that in the Certificate Case Brahamanand Ojha was not a party and he has also stated in para-86 that he himself or his ancestor had never instituted any case for possession over the suit land .

Section 58 of the Indian Evidence Act, 1872, specifically states that "No fact need be proved in any proceeding which the parties thereto or their agents agree to admit at the hearing, or which, before the hearing, they agree to admit by any writing under their hands, or which by any rule of pleading in force at the time they are deemed to have admitted by their pleadings".

From perusal of case record and admission of plaintiff it is proved that

land of khata No-120 previously belongs to Bramanand Ojha. in the sale certificate Khata, Plot and Area of the land was not mentioned. In the Certificate Case Brahamanand Ojha was not a party and the plaintiff himself or his ancestor had never instituted any case for possession over the suit land .

Section 26 of the Bihar and Orissa Public Demands Recovery Act, 1914, deals with Purchaser's title:-

(1)Where property is sold in execution of a certificate there shall vest in the purchaser merely the right, title and interest of **the certificate-debtor** at the time of the sale, even though the **property itself be specified**.

From perusal of Ext-1 it appears that Brahma Nand Ojha is not the certificate debtor and disputed property bearing plot No-120 and 121 did not mention or specified in the certificate. More so no description of any land has been given in the sale certificate. **Therefore, the sale certificate is not binding on the defendants or their ancestors.**

Section-101.Burden of proof- Whoever desires any court to give judgment as to any legal right or liability dependent on the existence of facts which he asserts, must prove that those facts exist.

Plaintiff must be proved chain of title of property :-

Chain of title is often described as the sequence of historical transfers of title to a property from the current owner all the way back to the original owner. This also applies to land without a home on it. A chain of title should always reflect continuous, unbroken ownership.

chain of title is the sequence of historical transfers of [title](#) to a [property](#). It is a valuable tool to identify and document past owners of a property and serves as a property's historical ownership timeline.

The "chain" runs from the present owner back to the original owner of the property. In situations where documentation of ownership is important, it is often necessary to reconstruct the chain of title.

The plaintiff is required to prove his case through clear, cogent, and convincing evidence. They cannot rely on the defendant's failure to present a defense or evidence to succeed in their claim .

A registered sale deed, while essential, doesn't automatically guarantee ownership if it's not acted upon. For a sale deed to be fully effective and transfer ownership, it needs to be accompanied by other actions like taking possession of the property and potentially paying the full consideration. If a sale deed is registered but not acted upon, it might not be sufficient to establish complete ownership, especially if there are issues with the seller's title or if other legal requirements are not met.

Even if a sale certificate is issued after an auction, it doesn't automatically transfer ownership. The certificate is a formal document that confirms the sale, but it needs to be followed by further actions.If the executant has no right, title, or interest in the property, the registered document cannot effect any transfer.

In a declaratory suit, the question of **title** as well as other connected issues have to be gone into separately and meticulously and the sale deed which was the basis of the plaintiff's claim should have been examined in its proper perspective so that to substantiate that the vendor of the sale deed had **title** to execute the sale deed in favour of the vendee which is the foundation stone of the entire plaint case and **chain** of **title** should have been **complete**. A declaration of **title** plaintiff is bound to produce all the **title** deeds which are necessary to

trace his **title**. Declaration cannot be granted unless each link in the **chain is complete**.

Further more in order to establish the claim of the absolute and exclusive ownership, plaintiff is required to establish complete chain of ownership, which finally culminates in his favour. **In the present case it is still a mystery before this court, that who was the original owner of the suit property?**

The Apex Court has been repeatedly asserting that the Mutation Entries neither confer any title nor are a conclusive proof of ownership. The Courts have clearly spelt out that the mutation entries are important only for collection of revenue/municipal taxes and should not be haloed in a manner to interpret impeccable legal ownership.

The Apex Court has recently in the case of **Commissioner, Bruhath Bangalore Mahanagra Palike vs Faraulla Khan** in SLP (C) No.5743/2020 on 25 January 2021 reiterated that mutation entries do not by themselves confer title which has to be established independently in a declaratory suit in the competent civil court.

It is settled law that a vendor cannot convey a better title in favour of the vendee. (ref. Ram Lal Vs. Phagua (2006) 1 SCC 168; Vishwanath Prasad Vs. Rajender Prasad AIR 2006 SC 2965). Though this principle of law is subject to certain exceptions provided in the

Transfer of Properties Act, however, since plaintiff has not taken plea that his case comes under any of such exceptions, therefore, this court is not required to discuss those exceptions. In that situation the general law prevails and operates even in the present case. In view of these findings, I come to conclusion that plaintiff is not entitled for the declaration that he is absolute and exclusive owner of the suit property.

Plea of Adverse possession by plaintiff :-

Plaintiff took plea of adverse possession in his pleadings as well as his deposition. Plea of title and a plea of adverse possession can not be raised together. In the case of **Narasamma vs A.Krishnappa (Dead)** **The. Lrs. AIR 2020 SUPREME COURT 4178 the Hon'ble Apex Court** held that a plea of title and a plea of adverse possession cannot be advanced simultaneously, particularly when based on the same date. This is because a claim of title implies recognition of ownership, while adverse possession requires a denial of the true owner's title, these pleas are mutually inconsistent and cannot be raised together. Pleas of title and adverse possession cannot be advanced simultaneously and from same date as it would amount to contradictory pleas.

In present suit it is contradictory pleadings by plaintiff because adverse possession denial of the true owner's title. In view of these findings, I come to conclusion that plaintiff is not entitled for the declaration that

he is absolute and exclusive owner of the suit property.

Therefore, these issues are decided against the plaintiff.

Issue No. I,II & III

09. In view of the issues decided above it becomes clear that the suit is not maintainable as framed and the plaintiff has no any valid cause of action for this suit. From perusal of Ext-2 it appears that **in 1996** Hon'ble Patna High court held that-

It is well settled that mere pending of a Jamabandi does not confer title. Similarly, the cancellation of Jamabandi will not deprive the petitioners of their title, if they have any. Since such action on the party of the Revenue authorities creates a doubt about their title, **the petitioners will be well advised to seek their remedy before the Civil Court and get their right, title and interest to the lands declared.** Therefore, this suit is also barred by limitation. Accordingly, this issue is being decided against the plaintiff.

Issue No. VI & VII

10. After going through the above discussion, it is clear that the plaintiff is not entitled to any relief or reliefs as claimed by him.

Accordingly it is ordered-

ORDERED

That the plaintiff's suit is hereby dismissed on contest without cost.
Office is directed to prepare decree accordingly.

Judgment Pronounced in the Open Court.

Self Typed and Corrected by me.

(Raj Kumar Pandey)

Civil Judge (Sr. Div.) II

Bermo at Tenughat .

Dated, the 18th July, 2025.

J.O. Code-00661

(Raj Kumar Pandey)

Civil Judge (Sr. Div.) II

Bermo at Tenughat .

Dated, the 18th July, 2025.