

IN THE COURT OF CIVIL JUDGE (Sr. Div.), BAISI.
District- Purnea, Bihar

TITLE SUIT No.- 30/2019
CIS No. - 30/2019

IN THE MATTER OF :-

2. Most. Haserun aged about 55 years widow of Late Sayeedur Rahman.

3. Md. Shabbir aged about 55 years.

4. Ziaul Haque aged about 50 years.

5. Zahir Alam aged about 48 years.

6. Shahid Alam aged about 34 years.

Plaintiff no.3, 4, 5 and 6 as sons of Late Sayeedur Rahman all plaintiffs are resident of village Paharia, P.S. Amour, District Purnia.

7. Bibi Aberun Nisha aged about 52 years w/o Md. Azam, D/O Late Sayeedur Rahman, resident of village Meerpur, P.S. Rauta, District Purnia.

8. Bibi Ansari aged 40 years w/o Sabir D/O Late Sayeedur Rahman, Resident of village Lalbari, P.S. Amour, District Purnia.

9. Bibi Gulabarun aged about 38 years
w/o Zahid D/O Late Sayeedur Rahman, resident of village Belka, P.S. Amour, District Purnia.

10. Bibi Nazmin aged 36 years w/o Badrul.
D/O Resident of village Bhargama, P.S. Amour, District Purnia.

11. Bibi Sanjari aged about 32 years w/o Shakir, D/O Late Sayeedur Rahman, of village Madhopur, P.S. Rauta, District Purnia.

12. Bibi Sarwari aged about 30 years w/o Shafique D/O Late Sayeedur Rahman, village Madhopur, P.S. Rauta, District Purnia.

13. Bibi Ruby aged about 28 years w/o Anjarul D/O Late Sayeedur Rahman, village Paharia, P.S. Amour, District Purnia.

..... Plaintiffs.

Vrs.

1. Md. Aiyyub s/o Late Naziruddin.
resident of village Bhargama, P.O. Amour, P.S. Amour, District Purnia.

.....Defendant.

Ld. Counsel for Plaintiffs – Sri Pradeep Kumar Das, Ld. Advocate.

Ld. Counsel for Defendant – Sri Anil Kumar, Ld. Advocate

Date of Judgment: - 08.07.2026

Present: Kumari Saroj Kirty,
Civil Judge (Sr. Div.),
Baisi, Purnea.

JUDGMENT

1. **RELIEFS:** - Present suit has been filed by the plaintiffs, as detailed in plaint, against the defendant fully described in the plaint. Plaintiffs has sought reliefs mainly-

A) For that it may adjudicated and declared by the court that the kebala no. 6902 dated 19.11.2005 (Nineteen day of November Two thousand five) in favour of defendant allegedly executed by plaintiff no.1 and her husband Late Sayeedur Rahman is a fraudulent, invalid and inoperative deed.

B) It may also be declared by the court that the defendant did not acquired any right, title, interest by the said kebala dated 19.11.05. (Nineteenth day of November Two thousand five).

C) For that by passing an order of permanent injunction the defendant be restrained not to disturb the peaceful possession of the plaintiffs over the suit land till the disposal of the suit.

D) For that khas possession of plaintiffs over the suit land be declared by the court in favour of plaintiff after setting aside the sale deed.

E) A decree of cost for the suit be awarded to the Plaintiffs against the defendant.

F) Any relief or reliefs to which the Plaintiffs be found entitled in the opinion of the Court be passed in favour of the Plaintiffs against the defendant.

2. **SUIT LAND:** - The Suit Land described in the last of the Plaint in Schedule A, which is described as under:-

DETAILED OF THE SUIT LAND

Schedule- "A"

Mouza - Bhebhra

Thana no.-

Thana- Amour.

R.S. Khata No.	R.S. Plot No.	Area
237 (Two Hundred Thirty Seven)	304 (Three hundred four)	0.96 (Ninety six decimals)
	305(Three hundred five)	0.10 (Ten decimals)
	306 (Three hundred six)	0.85 (Eighty Five decimals)
	307 (Three hundred seven)	1.42 (One acre forty two decimals)

Schedule- "B"

Sale deed no. 6902 dated 19.11.05 (Nineteenth day of November Two thousand five) purporting to have been executed by Sayeedur Rahman and Bibi Sohagi in favour of the defendant Md. Ayub Defendant.

Mouza - Bhebhra

Khata	Plot	Area
237 (Two Hundred Thirty Seven)	304 (Three hundred four)	0.72 (Seventy two decimals)
	305(Three hundred five)	0.07.5 (Seven decimals Five Kari)
	306 (Three hundred six)	0.15 (Fifteen decimals)
	307 (Three hundred seven)	0.05.05 (Five decimals Five Kari)
		1.00 (One acre)

Boundary sold towards north

N – Baya S – Baya E – Plot no. 308 W – Road Kacha

3. PLAINTIFF'S CASE: - Case of the Plaintiffs as per Plaint is as under; -

1. That one Sayeedur Rahman and his cousin sister Bibi Fahiman D/O Hikmat Ali were jointly recorded in records of right, the lands of Mouza Bhebra of Khata No. 237 (Two hundred thirty seven) plot no.304 (Three hundred four), 305 (Three hundred five), 306 (Three hundred six), 307 (Three hundred seven) measuring an area of 3 (Three) Acres 33 (Thirty three) dec. as a kaimi raiyat, the detail of which are given in Schedule-A below of this plaint and Schedule-B is the subject matter of this suit.

2. That Sayeedur Rahman got share of 96 (Ninety six) share in the suit land and Bibi Fahiman got a share of 31 (Thirty one) dec. only in the suit land of R.S.Khata no. 237 (Two hundred thirty seven).

3. That while coming and possessing the property in Schedule-A below the said Sayeedur Rahman intended to execute a "Will" in favour of his wife Bibi Suhagi, the plaintiff no.1 out of his shares land of Schedule-A.

4. That Sayeedur Rahman as well as his wife Bibi Suhagi were illiterate hence they approached to the neighbour defendant Md. Aiyub who is an Engineer.

5. That the defendant Md. Aiyub is a neighbour of the plaintiff no.1 and her husband Sayedur Rahman and they had good faith upon him.

6. That the plaintiff no.1 and her husband Sayeedur Rahman being illiterate man with heir simplicity often vergin on idiocy and not adopt in worldly ways. On the other hand the defendant is an intelligent, shrewd and crooked man. The plaintiff



no.1 and her husband were often always took help from the defendant and they used to seek advice from the defendant from time to time and they had all material times, no one other than the defendant to take the plaintiff into confidence. The plaintiff no.1 and her husband had full reliance on the defendant and was at his back at call and followed the defendant as a shadow. In a word the plaintiff no.1 and her husband under the thumb of the defendant.

7. That the plaintiff no.1 and her husband Late Sayeedur Rahman decided to execute a deed of "WILL in favour of the plaintiff no.1 and they asked the defendant to give them help in executing and registration of Deed of "WILL" in favour of plaintiff no.1.

8. That the defendant took all the relevant documents concerning the land and brought the plaintiff no.1 and her husband at Amour registration office and the defendant engaged a scribe and some interested persons who were present at registration office at that time.

9. That the plaintiff no.1 and her husband never for a moment till then could entertain an idea that the defendant would betray them or that the stamp with writing thereon was in reality a kebala purporting to a sale of Schedule-B property in favour of the defendant.

10. That the defendant by exercising a fraud on the plaintiff no.1 and her husband as with assistance with their men created a forged kebala in respect of Schedule-B property and also a deed of WILL No. 153 dated 19.11.2005 (Nineteenth day of November Two thousand five) beyond the knowledge of plaintiff no.1 and her husband and got the L.T. I. and R.T. I. of plaintiff no.1 and her husband thereon on false representation and has got the same registered dated 19.11.05 (Nineteenth day of November Five) at registration office. No consideration pass for the said kebala as recited therein and the plaintiff no.1 and her husband did not accepted a single farthing as consideration for the sale deed. The plaintiff no.1 and her husband did not intend to sale the Schedule-B property to the defendant nor they had any necessity to sale the same.

11. That the Schedule-B property is located in the village by the side of the road.

The plaintiff no.1 and her husband had paid registration charge for execution and registration of deed of will.

12. That the aforesaid kebala no.6902 dated 19.11.2015 (Nineteenth day of November Two thousand fifteen) is a fraudulent deed collusive



in character and bogus in nature, it is a sham transaction and has not been acted upon. The defendant did not acquire any right, title, interest and possession in suit property on the strength of the said fraudulent sale deed on the contrary the plaintiffs have been possessing the property sought to be conveyed to be aforesaid fraudulent deed.

13. That the plaintiffs did not know about the alleged kebala the defendant kept it secret and was awaiting for an opportune moment.

14. That in the month of April i.e. 20.4.2019 (Twentieth day of April Two thousand nineteen) the children of Bibi Fahiman came and demanded for amicable partition of their shares land when the Amin was measuring the land, then the defendant and his family members told the plaintiff that the defendant already purchased the 1 (one) acre suit land from Sayeedur Rahman and plaintiff no. 1. The plaintiff no. 1 and other family members who are plaintiffs and legal heirs of Late Sayeedur Rahman got bewildered to hear it and immediately rushed to Amour registration office and Purnia registration office and at last took certified copy of the fraudulent kebala on 14.5.2019 (Fourteenth day of May Two thousand Nineteen) and on perusal of it came to learn for first time precisely that they got a kebala and on the sight of the same for the first time that the defendant got a kebala executed by plaintiff no.1 and her Late Husband Sayyedur Rahman on 19.11.05 (Nineteenth day of November Five) in respect of suit land and on the pretext of executing deed of will in favour of plaintiff no.1 by Sayeedur Rahman.

15. That prior to 14.5.2019 (Fourteenth day of May Two thousand nineteen) neither the plaintiff no.1 nor other plaintiffs who are legal heirs of Late Sayeedur Rahman know nothing about the fraudulent kebala. The defendant did not acquired any title in respect of the suit property on the basis of fraudulent sale deed.

16. That on perusal of the sale deed no.6902 dated 19.11.2005 (Nineteenth day of November Two thousand five) it is transpired that plaintiff no.1 has acquired the land through sale deed of 1983 (Nineteen hundred eighty three) but on shifting enquiry the plaintiff learnt that no such sale deed was executed in favour of plaintiff no. 1 by any body else in the year 1983 (Nineteen hundred eighty three) in

08.07.20



respect of such land, hence the sale deed of Schedule "B" land is forged, fabricated, void, abinitio, hence, not binding upon plaintiffs.

17. That the plaintiffs are entitled to declaration that the aforesaid kebala no.6902 dated 19.11.2005 (Nineteenth day of November Two thousand five) is fraudulent, void, invalid and inoperative deed and same is liable to set aside and the plaintiffs are entitled to khas possession of the suit property of Schedule "B".

18. That the cause of action for the suit arose first on 19.11.2005 (Nineteenth day of November Two thousand five) when the fraudulent kebala came into being and thereafter on 25.4.2019 (Twenty fifth day of April Two thousand nineteen) when the defendant first time divulged the fact of the kebala and demanded possession of the suit property at village Paharia within the jurisdiction of this court.

19. That for the purpose of jurisdiction and court fee the suit is valued at Rs. 2,50,000/- (Rupees Two lacs fifty thousand) and Rs. 1,000/- (One Thousand) for injunction and on payment of advalorem court fee pray for the following

Reliefs :-

A) For that it may adjudicated and declared by the court that the kebala no. 6902 dated 19.11.2005 (Nineteen day of November Two thousand five) in favour of defendant allegedly executed by plaintiff no.1 and her husband Late Sayeedur Rahman is a fraudulent, invalid and inoperative deed.

B) It may also be declared by the court that the defendant did not acquired any right, title, interest by the said kebala dated 19.11.05. (Nineteenth day of November Two thousand five).

C) For that by passing an order of permanent injunction the defendant be restrained not to disturb the peaceful possession of the plaintiffs over the suit land till the disposal of the suit.

D) For that khas possession of plaintiffs over the suit land be declared by the court in favour of plaintiff after setting aside the sale deed.

E) A decree of cost for the suit be awarded to the Plaintiffs against the defendant.

F) Any relief or reliefs to which the Plaintiffs be found entitled in the opinion of the Court be passed in favour of the Plaintiffs against the defendant.

Schedule- "A" of the Suit land



Mouza - Bhebhra

Thana no.-

Thana- Amour.

R.S. Khata No.	R.S. Plot No.	Area
237 (Two Hundred Thirty Seven)	304 (Three hundred four)	0.96 (Ninety six decimals)
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	307 (Three hundred seven)	1.42 (One acre forty two decimals)

Schedule- "B"

Sale deed no. 6902 dated 19.11.05 (Nineteenth day of November Two thousand five) purporting to have been executed by Sayeedur Rahman and Bibi Sohagi in favour of the defendant Md. Ayub Defendant.

Mouza - Bhebhra

Khata	Plot	Area
237 (Two Hundred Thirty Seven)	304 (Three hundred four)	0.72 (Seventy two decimals)
	305(Three hundred five)	0.07.5 (Seven decimals Five Kari)
	306 (Three hundred six)	0.15 (Fifteen decimals)
	307 (Three hundred seven)	0.05.05 (Five decimals Five Kari)
		1.00 (One acre)

Boundary sold towards north

N - Baya S - Baya E - Plot no. 308 W - Road Kacha

4. The Present Suit filed on Dated 28.06.2019 and admitted on Dated 06.07.2019 and thereafter Summons were issued against the Defendant. Defendant did not appeared thereafter case proceeded ex-parte vide order dated 01-10-2019. Thereafter, Defendant appeared on 16-11-2019 with a prayer to recall the ex-parte order, which was allowed on 16-11-2019. Defendant filed Written Statement on 07-12-2019.

5. DEFENDANT'S PLEADING: -

The pleadings of defendant as per the written statement is-

1. That the suit as framed and filed is not maintainable.
2. That the suit is barred by the principle of waiver, acquiescence and estoppel.
3. That the suit suffers from non-joinder and mis-joinder of parties.

4. That the suit is miserably barred by limitation.
5. That the plaintiff has no cause of action to file the present suit.
6. That the suit is hit by Sec 34 of the Specific Relief Act as the plaintiff sought relief for declaration of his title of suit land but neither claim nor sought recovery of possession of suit land.
7. That the land of Mouza Bhebra, thana no. appertaining to Khata No. 237 (Two hundred thirty seven) Plot No.304 (Three hundred four) area 0.96 (Zero point ninety six) acre, Plot No.305 (Three hundred five) area 0.10 (Zero point ten) acre, Plot No.306 (Three hundred six) area 0.85 (Zero point eighty five) acre and Plot No.307 (Three hundred seven) area 1.42(One point forty two) acre total area being 3.33 (Three point thirty three) acre is recorded in the name of Sk. Saidur Rahman S/o Sirajuddin 96 (Ninety) share and Bibi Fahiman 31 (Thirty One) share. The suit land is part and parcel of this land.
8. That while in possession of the suit land Saidurrahman together with his wife Bibi Suhagi out of need offered the defendant to purchase the suit land. Taking consideration of their need the defendant agreed to purchase the suit land. After proper negotiation the defendant agreed to purchase the suit land. Finally through sale deed No.6902 (Six thousand nine hundred two) dated 19.11.2005 Saidurrahman together with his wife Bibi Suhagi validly and properly transferred the suit land to the defendant and put the defendant in possession of the same. Since then the defendant has been enjoining the usufructs of the suit land to the full knowledge of the defendant.
9. That after purchasing and coming into possession of the suit land the defendant got pucca boundary wall constructed around the suit land. The defendant got the suit land mutated in his name whereby Jamabandi No. 1023 (One thousand twenty three) is created in the name of the defendant. The defendant has been paying rent to the state and obtaining rent receipt thereon.
10. That after transferring the suit land to the defendant Saidurrahman since deceased executed a will with regard to the rest area of the suit Khata on the same date that is on 19.11.2005 in favour of his wife Bibi Suhagi.
11. That after transfer of the suit land to the defendant through sale deed No.6902 (Six thousand nine hundred two) dated 19/11/2005



neither Saidurrahman nor present plaintiff are left with any right, title, interest over the suit land as the same was transferred in favour of the defendant.

12. That with regard to the statement made in **Para No.1** of the plaint it is submitted that admittedly the suit land belonged to Saidurrahman since deceased.

13. That the statement made in **Para No.2** of the plaint has already replied in the preceding **Paragraph**.

14. That the statement made in **Para no.3** of the plaint is relates to wishes of Saidurrahman which requires no comment from the defendant.

15. That with regard to the statement made in **Para No.4** of the plaint it is submitted and stated that while in possession of the suit land Saidurrahman and Bibi Suhagi approached the defendant and requested him to purchase the suit land as they were in need of some money.

16. That with regard to the statement made in **Para No.5** of the plaint it is submitted that there had been very good relationship in between the family of Saidurrahman and Bibi Suhagi on the one hand and that of defendant on the other hand.

17. That the statement made in **Para No.6** of the plaint is false and frivolous hence vehemently denied. It is submitted as a neighbor family of Saidurrahman since deceased and of the defendant had been enjoying very good relationship.

18. That the statement made in **Para No.7** of the plaint is false and frivolous. On the other hand Saidurrahman and Bibi Suhagi out of need approached the defendant and offered him to purchase the suit land.

19. That the statement made in **Para No.8** of the plaint is false and frivolous. Fact is that the Saidurrahman and Bibi Suhagi themselves consulted the Scribe and got the sale deed No.6902 (Six thousand nine hundred two) dated 19.11.2005.- After being satisfied with the averment made in the sale deed as well as the said will Saidurrahman and Bibi Suhagi put their signature over the sale deed and only Saidurrahman over the will in the presence of witnesses.

20. That the statement made in **Para No.9** of the plaint is false and

frivolous and made for the purposes of the suit. The sale deed No.6902 (Six thousand nine hundred two) dated 19.11.2005 and the will executed on 19.11.2005 in favour of Bibi Suhagi were drafted on **seParate** stamp. It is submitted that Saidurrahman and Bibi Suhagi rightly and properly transferred the suit land in favour of the defendant and put him in possession of the same.

21. That the statement made in **Para** no.10 of the **plaint** is false and frivolous hence vehemently denied. It is submitted that while in possession of the suit land Saidurrahman together with his wife Bibi Suhagi out of need properly and legally transferred the suit land to the defendant through sale deed No.6902 (Six thousand nine hundred two) dated 19.11.2005 and put the defendant in possession of the same. Since then the defendant has been enjoining the usufructs of the suit land to the full knowledge of the defendant. So far as the said will is considered it was executed by Saidurrahman in favour of his wife and the defendant has nothing to do with that will.

22. That with regard to the statement made in **Para** No.11 of the **plaint** it is submitted that the said deed of will is executed by Saidurrahman in favour of his wife Bibi Suhagi and the defendant has nothing to do with that deed.

23. That the statement made in **Para** no. 12 of the **plaint** is false and frivolous hence denied. Fact is that Saidurrahman and Bibi Suhagi out of need rightly and validly transferred the suit land in favour of the defendant through the sale seed No.6902 (Six thousand nine hundred two) dated 19.11.2005 for valuable consideration.

24. That the statement made in **Para** no. 13 of the **plaint** is false and frivolous hence denied. Fact is that the plaintiff has been having all the knowledge of the transfer of the suit land by Saidurrahman and Bibi Suhagi in favour of the defendant through the sale seed No.6902 (Six thousand nine hundred two) dated 19.11.2005 for valuable consideration and exclusive possession of the defendant over the same.

25. That the statement made in **Para** no.14 of the **plaint** is made for the purpose of the suit and is false and frivolous. Fact is that the plaintiff has been having all the knowledge of the transfer of the suit land by Saidurrahman and Bibi Suhagi in favour of the defendant through the sale seed No.6902 (Six thousand nine hundred two) dated



19.11.2005 for valuable consideration and exclusive possession of the defendant over the same.

26. That the statement made in **Para** no.15 of the **plaint** is false and frivolous and has already relied in the preceding **Paragraph**.

27. That the statement made in **Para** no. 16 of the **plaint** is false and frivolous as well as vague hence denied. Fact is that Saidurrahman and Bibi Suhagi out of need rightly and validly transferred the suit land in favour of the defendant through the sale seed No.6902 (Six thousand nine hundred two) dated 19.11.2005 for valuable consideration.

28. That the statement made in **Para** no.17 of the **plaint** is false and frivolous hence denied. Fact is that Saidurrahman and Bibi Suhagi out of need rightly and validly transferred the suit land in favour of the defendant through the sale seed No.6902 (Six thousand nine hundred two) dated 19.11.2005 for valuable consideration. Hence the said sale deed is a genuine and bonafide document which should not be set aside.

29. That the plaintiff has no cause of action to file the instant suit as mentioned in **Para** No.18 of the **plaint** rather the cause of action is imaginary and false.

30. That the plaintiff valued the suit arbitrary low in **Para** No.19 of the he **plaint** as actual value of the suit land is not less than Rs.15 (Fifteen) lakhs. Hence the plaintiff is required to properly value the suit and pay ad-voleram court fee thereon.

31. That in any view of matter the instant suit is fit to be dismissed.

6. **ISSUES:** - On the basis of pleadings of parties, following issues were settled for determinations :-

- I. Is the suit as framed and filed maintainable?
- II. Have the plaintiffs got valid cause of action to file this suit against the defendants ?
- III. Whether the suit is barred by laws of Limitation ?
- IV. Whether the suit is barred by principle of estoppel, Waiver and acquiescence?
- V. Is the suit barred by law of limitation and principles of estoppel, waiver and acquiescence?
- VI. Is the suit bad for non-joinder of necessary parties?
- VII. Whether the alleged sale deed No. 6902 dated 19-11-2005 is without paying consideration amount to the vendors?
- VIII. Whether Bibi Suhagi acquired any right, title, interest over any portion of the schedule "B" land through any sale deed in the year 1983 according to

- contains of the alleged sale deed No. 6902?
- IX. Whether the registered sale deed bearing No. 6902 dated 19.11.2005 executed by Saidur Rahman and his wife Bibi Suhagi in favour of defendant is genuine, legal and valid?
- X. Whether the plaintiffs are entitle to get relief as prayed in the plaint ?
- XI. To what other relief or reliefs the plaintiffs are entitle too?

7. Evidences adduced by the Parties:

7.1 Evidence adduced by Plaintiffs - In order to prove the Case, the Plaintiffs have adduced both Documentary as well as Oral Evidence.

Documentary Evidence :-

- Exhibit 1** - Signature of Katib Nasim Akhtar on Wasiyatnama deed.
Exhibit 1/A - Signature of Md. Touhid Alam.
Exhibit 1/B - Signature of Md. Hanif.
Exhibit 2 - Certified copy of R.S. Khatyan of Khata No. 237 of Mouza Bhebhra.
Exhibit 3- Certified copy of Sale Deed No.6902 dt 19.11.2005.

Oral Evidence

- PW1** – Shahid Alam,
PW2 – Sk. Fazlu,
PW3 – Md. Mahfooz Alam,
PW4 – Md. Touhid Alam,

7.2. Evidence adduced by Defendant - Defendant has also adduced Documentary and Oral Evidence.

Documentary Evidence :-

- Exhibit A** – Sale Deed No. 6902 dated 19.11.2005.
Exhibit B – Rent Receipt No. 3304189.
Exhibit C – Rent Receipt No. 0444184.

Oral Evidence

- DW1** – Md. Mofil,
DW2 – Md. Hasim,
DW3 - Md. Nazim,
DW4 - Md. Kaji,
DW5 - Abdul Salam,
DW6 - Md. Ayub Alam,
DW7 - Md. Rizwan Alam

FINDINGS

8. ISSUE NO. I, II, III, IV, V, VII, IX AND X :-

These issues are the main issues and co-related to each other so, these are taken together at first. The plaintiffs have filed this suit for adjudication and declaration that the Sale Deed No. 6902 dated 19.11.2005 in favour of Defendant allegedly executed by the Plaintiff No.1 (now deceased) and her husband Late Saidur Rahman is a fraudulent, invalid and inoperative Deed and Defendant did not acquired any right, title, interest by the above mentioned Deed dated 19.11.2005 and also pray for permanent injunction against the Defendant and also for declaration of khas possession of the Plaintiffs over the suit land. In the support of case, the Plaintiffs have produced oral

evidence as well as documentary evidence. The Plaintiffs have produced altogether four witnesses to prove his case. **P.W. 1- Shahid Alam** (Plaintiff No.6) has supported the case of the plaintiffs in his examination-in-chief. He has stated in **Para 31** of his cross-examination that "Saidur Rahman had seven (7) daughters, four (4) sons and two (2) wives". Further in **Para 35** of his cross-examination he has admitted that "Saidur Rahman had executed deeds in favour of both wives but he has not revealed the year of execution of sale deed to second wife". In **Para 36** of his cross-examination he has stated that "he has seen the "Wasiyatnama" executed in favour of first wife Bibi Suhagi" and further in **Para 40** of his cross-examination he has stated that "no family members were present at the time of execution of "Wasiyatnama". Further in **Para 41** of his cross-examination he has stated that "he came to know about Wasiyat in the year 2019". Also in **Para 42** of his cross-examination he has stated that "Saidur Rahman died in the year 2013". In **Para 44** of his cross-examination he has stated that "Saidur Rahman told me about "Wasiyatnama" after one year of execution and later on he has stated that he told this fact one- two years ago of his death". Also in **Para 46** of his cross-examination he has stated that "I used to deposit the rent and obtain the rent receipt of the suit land prior to the year 2000". Further, In **Para 47** of his cross-examination he has stated that "mutation of the suit land is running in the name of Saidur Rahman and Fahiman". Further he has stated in **Para 52** of his cross-examination that "Ayub has fenced the suit land in the year 2007". There are contradictions in the statements of **P.W 1** hence, his evidence is not trustworthy. **P.W.2 - Sk. Fazlu** has supported the case of the Plaintiffs in examination-in-chief. In **Para 2** of his cross-examination he has stated that "he does not know any personal matter of Saidur Rahman" but in **Para 4** of his cross-examination he has stated that "he had executed "Wasiyat" in favour of his wife". He had further stated in **Para 5** of his cross-examination that "he had heard about Deed but he had not seen the said Deed". Thus, this witness is also hear say witness and not reliable. **P.W.3 - Md. Mahfooz Alam** has supported the case of the Plaintiffs in examination-in-chief. In **Para 13** of his cross-examination he has stated that "he heard that Saidur Rahman had executed "Wasiyat" in favour of his wife but he had not seen the "Wasiyatnama". As such, this witness is also hear say witness. **P.W.4 - Md. Touhid Alam** has supported the case of the Plaintiffs in examination-in-chief. He has identified the "Wasiyatnama Deed", his signature over the said Deed as witness as well as signature of another witness Md. Hanif on the said "Wasiyatnama" which were marked as Ext. - 1, Ext. - 1/A and Ext. - 1/B respectively. Further, in **Para 09** of his cross-examination he has stated that "Saidur Rahman was percipient person. Wife of Saidur Rahman, Bibi Suhagi was also percipient person". He also stated in **Para 10** of his cross-examination that "the children of Saidur Rahman were also sensible persons." Also in **Para 25** of his cross-examination he has stated that "Apart from this Wasiyatnama, I had signed at some other places. I cannot tell over which document I had signed. Later I came to know that my signature was obtained on the Deed (Kewala)". Further stated in **Para 27** that "I hold the post of Mukhiya. Whenever I sign, I read before putting signature. I am educated person." Further in **Para 29** of his cross-examination he has stated that "it is true that I after much deliberation, signed the Kewala (Deed) which Saidur Rahman had executed in the name of the Defendant. He further says that he signed it unknowingly." On the other hand, the Defendant adduced seven witnesses in support of his case. **DW1 - Md. Mofil**, **DW2 - Md. Hasim**, **DW3 - Md. Nazim**, **DW4 - Md. Kaji**, **DW5 - Abdul Salam**, **DW6 - Md. Ayub Alam** (the Defendant) and **DW7 - Md. Rizwan Alam**. The witnesses for the Defendant have fully supported the pleadings of the Defendant in their examination-in-chief. **D.W. 1 - Md. Mofil** has stated in **Para 13** of his cross-examination that "He has heard about Kewala (Deed) some eighteen years ago." Furthermore, nothing has emerged in cross-examination of the witnesses that contradicts their testimony.

Accordingly, these issues are decided against the Plaintiffs and in favour of the Defendant.

9. ISSUE NO. VI:-

On going through the materials available on case record it appears that the R.S. Khatiyani of the suit land recorded in the name of Saidur Rahman and his cousin sister Bibi Fahiman, D/O Hikmat Ali but the Plaintiffs knowingly failed to implead him or legal heirs of Bibi Fahiman as a party to this suit, despite her (Bibi Fahiman)

being a co-tenant of Saidur Rahman, further more they have wrongly and illegally claimed a declaration of khas possession over the suit land i.e. entire 3 acre 33 decimal land of Khata No. 237 of Mouza - Bhebhra, including Plot no. 304, 303, 306 and 307 hence, the present suit suffers from a defect of necessary parties.

As such, this issue is decided against the Plaintiffs.

10. ISSUE NO. VIII & XI :-

On perusal of case record it appears that these issues have not been pressed by any parties during the course of argument of the Suit. Accordingly, these Issues are also decided.

On going through the above discussions, It transpires that the Suit property was joint undivided property of Saidur Rahman and his cousin sister Bibi Fahiman and with an ulterior motive Saidur Rahman executed a "Waslyatnama" in favour of his wife Bibi Suhagi in the year 2005 and on the very same day of year 2005 Saidur Rahman and his wife Bibi Suhagi executed a Deed in favour of the Defendant Md. Ayub. Thereafter, the Defendant mutated the same land in his favour and paying the rent to the State of Bihar and obtaining the Rent Recelpts. It also appears that the above development was in the knowledge of the Plaintiffs in the year 2007 but the instant Suit was brought by the Plaintiffs in the year 2019 and as such the instant Suit is barred by Law of Limitation. The Plaintiffs have neither mentioned any fact about the share of Bibi Fahiman, the cousin sister of the Plaintiff Saidur Rahman, nor they have made her a party in the instant suit nor there is any mention about the name of second wife. These all are doubtful.

11. Accordingly, it appears that the contradictions between pleadings and the depositions of the Plaintiffs and their witnesses clearly demonstrate that the Plaintiffs have failed to prove their case.

Further, as regarding Relief (E) & (F) the Plaintiffs are not entitled to a Decree for cost and any other relief or reliefs.

ORDER

Hence, in the light of discussions made and determination of the Case herein before, it is hereby ordered that

The Present Suit is dismissed on contest without cost. No order as to cost and no other relief or reliefs is given to Plaintiffs.

PRELIMINARY DECREE BE PREPARED ACCORDINGLY.

Announced in the Open court today on Dated 08.07.2026.

Kumari Saroj Kirty
Civil Judge (Sr. Div.)
Baisi (Purnea) 08.07.26
Date: 08.07.2026

Typed, Corrected and signed by me.

K Kirty
08.07.2026
Civil Judge (Sr. Div.)
Baisi (Purnea)
Date: 08.07.2026

