

ODNY0C0000632026



Presented on : 20-03-2026
Registered on : 20-03-2026
Date of argument:03.08.2026
Decided on : 13-08-2026
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**IN THE COURT OF
CIVIL JUDGE SENIOR DIVISION 1ST COURT
AT Khandapada,Nayagarh ***
Presided Over by Rashmi Rekha Patra
(Judicial Officer's Code No.OD-00581)

C.S.42/2026

Udhaba Nayak, aged about 60 years,
S/o- Late Parikhita Nayak,
Of Vill/ P.O- Gobardhana Prasad,
P.S- Fategarh, Dist- Nayagarh Plaintiff

Vrs.

1. Smt. Subasi @ Subasini Nayak, aged about 60
years,

W/o- Late Maguni Nayak.

2. Pramod Kumar Nayak, aged about 35 years,

S/o-Late Maguni Nayak,

Sl No. 01,02 are of Vill/P.O-Gobardhana Prasad,

P.S-Fategarh, Dist- Nayagarh.

3. Smt. Susama Jena, aged about 41 years,

D/o- Late Maguni Nayak,
W/o- Abhimanyu Jena,
At- Nilachakra Nagar, Salia Sahi,
P.O- RRL Campus,
P.S- Nayapalli, BBSR, Dist- Khurda.

4. Smt. Sarojini Sahoo, aged about 30 years,

D/o- Late Maguni Nayak,
W/o- Trinath Sahoo,
Vill- Nuapalli, P.O- Bhagabanpur,
P.S- Fategarh, Dist- Nayagarh.

5. Smt. Pratima Nayak, aged about 40 years,

D/o- Late Maguni Nayak,
of Vill- Nilakanthaprasad, P.O- Tarabalo,
P.S- Fategarh, Dist- Nayagarh

..... Defendants

For the Plaintiff : Sri Dhaneswar Mohanty
Advocate, Khandapara.

For the Defendants : Miss Pratikshya Priyadarshini
Advocates, Khandapada.

J U D G M E N T

This is a suit for partition and allotment of share through the process of Court.

2. The case of the plaintiff in short is that the parties are Hindus governed under Mitakshyara School

of Hindu Law. The genealogical table describing the relationship of the parties is reflected below;

GENEALOGY

Bidei Nayak(dead)
|(wife)(dead)

Kirtan(dead)	Parikhita(dead)
(wife) Jannha(dead)	(wife) Indu(dead)
Maguni(dead)	Udhaba(Plff)
(wife) Subasi@ Subasini(D-1)	

Pramod(D-2)	Susama(D-3)	Sarojini(D-4)	Pratima(D-5)
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As per the above genealogical table, one Bidei Nayak the common ancestor of the parties died leaving behind his two sons namely Kirtan and Parikhita as his legal heirs. Kirtan died leaving behind his son namely Maguni who also died leaving behind his wife namely Subasi @ Subasini(D-1), one son namely Pramod(D-2) and three daughters namely Susama(D-3), Sarojini (D-4) and Pratima(D-5) as his legal heirs. Similarly, Parikhita died leaving behind his son Udhaba(plaintiff) as his legal heir.

The suit schedule A land bearing Hal Khata No. 57 having 12 nos. of plots measuring a total area of Ac.03.38 decimals under mouza Gobardhana Prasad stand recorded in the names of Kirtan Nayak and Parikhita Nayak and Hal Khata No. 254 having plot nos. 2178 & 2289 measuring a total area of Ac.0.41

decimals under mouza Gobardhan Prasad stands recorded in the name of Parikhita Nayak. The suit lands are the ancestral properties of the parties and they are in joint possession of the same. On 10.03.2026, in order to avoid future disturbances, the plaintiff approached the defendants for partition of the suit properties but they did not co-operate. Hence, this case.

3. In pursuance of summons issued to the defendants, they entered appearance and filed Written Statement thereby admitting the averments of the plaint and further submitted that the suit lands were amicably partitioned between the parties. In addition to the above, they further submitted that the suit land was amicably partitioned between the parties and in the said partition the defendant nos. 1, 3, 4 and 5 have relinquished their shares in favour of defendant no.2.

4. In order to prove its case, the plaintiff has examined himself as P.W. 1 and proved certain documents like Ext. 1 to Ext.3 (details of which is reflected in the bottom of this judgment having heading “List of documents examined on behalf of the plaintiff”). On the other hand, defendants have examined five numbers of witnesses and proved certain document like Ext. 3/a to Ext.3/d (details of which is

reflected in the bottom of this judgment having heading “List of witnesses examined on behalf of the defendants”).

FINDINGS

5. The plaintiff as PW-1 has categorically deposed substantiating his plaint averments. He has adduced two nos. of RORs vide Ext. 1 & Ext. 2 in respect of the suit lands. Ext.1 stand recorded in the names of Kirtan Nayak and Parikhita Nayak and Ext. 2 stands recorded in the name of Parikhita Nayak.

The fact that the suit land (Ext.1 and Ext.2) are the ancestral properties of the parties is admitted by the defendants in their affidavit evidence. Further the evidence adduced by PW-1 has not been disputed and shaken. So, it can be safely held that Ext.1 and Ext.2 are the ancestral properties of the parties and the same is partible and there is no impediment to partition the same among the parties when they have expressed their intention to sever the jointness.

5.1. During pendency of the suit, the parties entered into a compromise which transpires from the evidence of the parties i.e. P.W.1 and D.W.1 to D.W.5 that on 31.03.2026 the terms of settlement relating to amicable partition of the suit schedule properties have been reduced into writing and brought within the purview of

evidence vide Ext.3, which discloses regarding the allotment of shares among the parties to the suit. Defendants have also corroborated the same in their evidence. Further the defendant Nos.1, 3, 4 and 5 in their compromise petition and affidavit evidence submitted that they have relinquished their shares in favour of defendant no.2. A coparcener may renounce his interest in the coparcenary property in favour of the other co-parceners as a body. [**Thamma Venkata Subbamma (Dead) by L.R. vs. Thamma Rattamma & Ors. AIR 1987 SC 1775**]. Also, keeping in view the legal sanctity accorded to the amicable family arrangement in **Kale Vrs. Deputy Director of Consolidation & others** reported in AIR 1976 SC 807, so also **Tek Bahadur Bhujil Vrs. Debi Singh Bhujil reported in AIR 1966 SC 292**, I am of the considered view that placing reliance on Ext.3, there is no legal impediment to effect partition of suit schedule land. Hence, it is ordered.

O R D E R

The suit be and the same is finally decreed on contest against the defendants, but without any cost, in terms of the arrangement/compromise petition dated 31.03.2026 (Ext.3), which forms part and parcel of the final decree and it is decreed that the property specified in the compromise petition-cum- allotment sheet be

allotted to the plaintiff and defendant no.2. The plaintiff and defendant no.2 are directed to file the stamp papers to draw up the final decree.

Pleaders' fee is assessed at contested scale.

Senior Civil Judge, Khandapara

This judgment is dictated and corrected by me and pronounced in the open court, on this the 13th day of August, 2026 under my signature and seal of this court.

Senior Civil Judge, Khandapara

List of witnesses examined on behalf of the Plaintiff.

P.W.1 Udhaba Nayak.

List of witnesses examined on behalf of the defendants:

D.W.1 Subasi @ Subasini Nayak.

D.W.2 Pramod Kumar Nayak.

D.W.3 Susama Jena.

D.W.4 Sarojini Sahoo.

D.W.5 Pratima Nayak.

List of documents admitted in evidence on behalf of the Plaintiff.

- Ext.1 : Certified copy of Hal ROR bearing
Khata No. 57 of mouza
Gobardhanprasad.
- Ext.2 : Certified copy of Hal ROR bearing
khata No. 254 of mouza Gobardhan
Prasad.
- Ext.3 : Compromise petition.
- Ext.3/1 : Signature of P.W.1 on Compromise
petition.

**List of documents admitted in evidence on behalf of
the Defendants.**

- Ext. 3/a : Signature of D.W.2 on compromise
petition.
- Ext. 3/b : Signature of D.W.3 on compromise
petition.
- Ext. 3/c : Signature of D.W.4 on compromise
petition.
- Ext. 3/d : Signature of D.W.5 on compromise
petition.

Senior Civil Judge, Khandapara