

**IN THE COURT OF THE ADDITIONAL CIVIL
JUDGE (SENIOR DIVISION), KENDRAPARA.**

P r e s e n t: Sri Subha Goutam Mishra, O.J.S.,
Addl.Civil Judge (Sr. Divn.), Kendrapara.
J.O.Code : OD-0500

Dated this the 10th day of August, 2026.

Civil Suit No. 412 OF 2013

(CNR No.ODKE03-000279-2013)

1. Amari Patra(Dead)

1(a). Trilochan Patra, aged 43 years,
S/o-Late Keshaba Patra

1(b). Udaya Patra, aged 40 years,
S/o-Late Keshaba Patra

1(c). Prahallad Patra, aged 24 years,
S/o-Late Keshaba Patra

1(d). Kokila Patra, aged 39 years,
D/o-Late Keshaba Patra

Sl no 1(a) to 1(d) are of
Vill-Ghantiapalli, Po-Jasuapalli
Via-Sri Baladevjew, PS-Mohakalapada
Dist-Kendrapara

1(e). Dadingi Beura, aged 48 years,
W/o-Pramod Pradhan

D/o-Late Keshaba Patra of vill-Potia
Po-Balia, Ps-Mohakalapada, Dist-Kendrapara

2. Sri Bhagabat Gosain Bije Balipal,

Ps-Mohakalapada, Dist-Kendrapara,
Represented through plaintiff No.1

..... **Plaintiffs.**

- Versus -

- 1. Babaji Nayak**, aged 54 years,
S/o-Late Prafula Nayak
- 2. Santilata Nayak**, aged 46 years
W/o- Babaji Nayak
- 3. Kapila Behera**, aged 64 years,
S/o- Late Chaitana Behera,
- 4. Ghanashyam Behera**, aged 61 years,
S/o- Late Chaitana Behera,
- 5. Narayan Pradhan**, aged 57 years
S/o- Late Netrananda Pradhan
Sl No.1, 2 and 5 are of village Srichandanpur
Sl No.3 and 4 are of village-Srichandanpur samil
Patragada All are of Po-Balipal, Via-Sri Baladevjew
Ps-Mohakalpada, Dist- Kendrapara

..... **Defendants.**

Counsel for the Plaintiff: J. Rout &
Associates, Adv.

Counsel for the defendant No.1 & 2 G.B. Jena &
Associates, Adv.

Counsel for Defendants No. 3 to 5 Exparte

Date of Argument ... 05.08.2026

Date of Judgment ... 10.08.2026

JUDGMENT

The above suit has been filed by the plaintiff for declaration of right, title, interest and possession over the suit land and to declare the sale deed bearing No. 2269 dated 23.06.1989 as fraudulent, void and to declare that the defendants have no manner of right, title interest over the suit land and for permanent injunction.

2. The case of the plaintiff is that the suit land originally belonged to Nanda Nayak. As he was in urgent need of money sold the same to one Sukadev Das by executing RSD No. 1687 dated 12.03.1962 and delivered possession. The said Sukadev Das sold the same to Sunei Das by executing RSD bearing No. 3335 dated 18.04.1962 and delivered possession. Sunei died leaving behind her husband Padan Swain and the deceased plaintiff No.1 as legal heirs. Padan Swain died in the year 1998 leaving behind the plaintiff No.1 as his only legal heir. The suit land was recorded in the name of Sunei in the ROR. The plaintiff was in possession over the suit land. The defendant No. 1 and 2 have no manner of right, title, interest over the suit land. The defendant No. 1 and 2 threatened the plaintiff to dispossess him from the suit land by disclosing that they have purchased the suit land from Defendant No. 3 and 4 by alleged sale deed on 18.09.2012. Defendant No. 3 and 4 also purchased the said land from defendant No.5 by Registered Sale Deed No. 2269 dated 12.06.2008. They have mutated the suit land in their favour. The plaintiff nor her father has executed any such

sale deed in favour of defendant No.5. The LTI does not belong to her. The witness, the identified and the scribe are the henchmen of defendant No.5. The alleged sale deed dated 23.06.1989 is void, fraudulent and was not acted upon. It is further pleaded by the plaintiff that the fraud started on dated 23.06.1989 and ended on 18.09.2012. All the sale deeds are void. The plaintiff no.2 is the family deity of the plaintiff. The cause of action arose on 22.06.2013 when the defendant No.1 and 2 gave out threat to dispossess the plaintiff from the suit land. Hence this case.

3. The claims of the plaintiff were contested by defendant No.1 & 2 and they filed written statement. In their W.S. they denied the averments of the plaint. The suit land belonged to Sunei Swain mother of Amari Patra and Sunei Swain died leaving her husband Padan Swain and Amari Patra as her legal heirs. While Padan Swain and Amari Patra were in possession over the suit land, for their legal necessity they had alienated the suit land to Narayan Pradhan vide RSD dated 23.06.1989. The vendors received the consideration amount and delivered possession of the suit land on the very day of execution of the RSD. While the said Narayan Pradhan was the rightful owner and in peaceful possession over the suit property he had alienated the suit land to Ghanashyam Behera for his legal necessity vide RSD No. 2269 dated 11.06.2008 on acceptance of consideration money. The said Ghanashyam Behera who is the defendant No. 3 & 4 again alienated the suit land &

other lands to defendant No.1 & 2 vide RSD dated 18.09.2012 and delivered possession. The defendant No.1 and 2 are cultivating the suit land and are in possession over it. The plaintiffs have no manner of right, title interest and possession over the suit land. Hence they prayed for dismissal of the suit.

4. In view of the inter-se pleading between the parties the following issues are settled.

ISSUES

- (i) Whether the suit is maintainable in its present form?***
- (ii) Whether there is any cause of action to file the present suit?***
- (iii) Whether the plaintiff is entitled to declaration of right, title interest and possession over the suit land?***
- (iv) Whether the sale deed No.2269 dated 23.06.1989 is fraudulent, void, invalid and the plaintiff is entitled to declaration that the defendants have no manner of right title interest and possession over the suit land in pursuance of the sale deeds?***
- (v) Whether the plaintiff is in possession over the suit land and the defendants threatened the plaintiff to enter into the peaceful possession of the plaintiff over the suit land?***
- (vi) Whether the plaintiffs are entitled to any other relief(s)?***

5. In order to prove the case, the plaintiffs have examined 3 witnesses on their behalf and exhibited 7 documents which are marked as Ext.1 to 7. The defendant No.1 examined 2 witnesses from his side and exhibited documents from Ext.A to E which are described at the foot of the judgment.

Findings

Issue No. III & IV

6. Since these issues are of Paramount consideration and the entire case depends on it they are taken up at the outset for consideration. P.W. 1 who is the Sub-Registrar of Marshaghai produced the office copy of the RSD dated 18.09.2012 and the register containing the details of RSD No. 2269. He stated that the documents which he produced were registered by following the due procedure under Registration Act. P.W.2 corroborated the averments of the plaintiff. During cross examination he deposed that Padan is his maternal grandfather. Narana Pradhan is the father of Padan. Trilochan Patra is his elder brother. P.W.3 stated in his evidence in chief that Amari Patra was in possession over the suit land till her death and after her death the plaintiffs are in possession. The defendants were never in possession over the suit land at any point of time. During cross examination he has stated that Trilochan Patra is one and only person in his village. D.W.1 supported the averments of the W.S. During cross examination he admitted that the defendant No.1 is cultivating the suit land D.W.2 who is the defendant No.1 supported the averments

of the W.S. During cross examination he stated that he has not seen any other document of suit land. He mutated his purchased land in the year 2012 in his name. Thus from the oral testimony of the witnesses it is to be seen whether the sale deed supports the claim of the plaintiff or the claim of the defendant. Ext.1 is the sale deed executed by Padan Swain and Amari Patra in favour of defendant No.5 in which the vendors put their LTI. The son of the original plaintiff was a witness to the said sale deed. Ext.2 is the RSD register of sale deed produced by P.W.1. Ext.3 is the sale deed executed by Kapila Behera and Ghnayam Behera in favour of defendant No. 1 and his wife. Ext.4 is the ROR which stands recorded in the name of Bhagabat Gosain Sunei Swain being the Marfatdar. Ext.5 is the mutation ROR in respect of defendant No. 1 and 2. Ext.6 is the rent receipt. The counsel for the plaintiff stated that the LTI on Ext.1 i.e. the RSD executed by Padan Swain and Amari Patra in favor of defendant No.5 creates a cloud as both were illiterate and Amari Patra has filed the original suit by putting his signature. The counsel for the defendant stated that the plaintiff could have disproved the sale deed by producing attesting witnesses and the vendors and any person acquainted with the sale deed but the plaintiff has failed to do so. It is the settled principle of law that the plaintiff has to prove his own case and he cannot stand on the weakness of the defendants. In this case the property was originally recorded in the name of Sunei Swain who was the original owner as admitted by the plaintiff. After his death the property was devolved upon her husband and

daughter who became the rightful owner of the suit property. The sale deed was executed in the year 1989 and the plaintiff has come up with the suit after lapse of over 20 years. In the said sale deed the son of Amari Patra was a witness and at that time he did not challenge the validity and authenticity of the said sale deed. Though the plaintiff shows that the cause of action arose on 2013 but prior to that several transactions were held and the defendant No. 1 and 2 are the subsequent purchasers and they have derived title from the rightful owner. Since the son of the original plaintiff was a witness to the sale deed, he is estopped to challenge the validity of the said sale deed. Besides that the original owner who filed the suit was the executant of the suit. It was not pleaded specifically by him that the said deed was obtained by force or fraud. It would be in the fitness of thing to life the decision of the Hon'ble Court in **2014(2) Civil LT 236 TP Act, 1882- Section 54-** An executant of a document is presumed to have read and understood the document prior to its execution, but he can avoid it, if it is proved that, it was obtained by fraud or force. No one can pass better title than he himself has. In this case the vendor herself transferred the property and her son is a witness to the said sale deed in favour of Narayan Pradhan. Subsequently she challenges the said deed. She is estopped to challenge the same. Here the original plaintiff executed the sale deed and in pursuance to that several sale deeds were executed and the defendant No. 1 & 2 mutated the suit land in their name. The son of the original plaintiff is a witness to the sale deed. That

means the execution of sale deed was within his knowledge. Hence the suit is barred under law of Limitation. Hence the RSD is valid and by virtue of it valid title passed on to the vendees. The plaintiffs cannot claim title over the suit land. The RSD No. 2269 is declared a valid one. In the light of above analysis these issues are answered against the plaintiffs.

Issue No.I, II, V & VI

7. Since the main issues were answered against the plaintiffs and the defendant No.1 and 2 have acquired valid title over the suit land, the issue with regard to permanent injunction cannot be granted against the real title holder. With regard to the maintainability of the suit and cause of action, it is to be stated that the plaintiffs have acquired no title over the suit land. Hence the suit is not maintainable and they have no cause of action to institute the suit against the present defendants. Hence these issues answered against the plaintiffs. Since the plaintiff is not entitled to the relief sought for, the plaintiff is not entitled to any other relief. Hence ordered.

ORDER

The suit of the plaintiff be and the same is dismissed on contest against defendant No. 1 & 2 and exparte against defendant No. 3 to 5 and in the circumstances without any cost. Pleders' fee be assessed on contested scale.

Addl.Sr.Civil Judge, Kendrapara.

The judgment is dictated and corrected by me, the same is pronounced in the open court today i.e. on 10th day of August, 2026 under my hand and seal of this court.

Addl.Sr.Civil Judge, Kendrapara.

List of witnesses Examined on behalf of the plaintiff:

P.W.1 Manoj Kumar Behera
P.W.2 Prahallad Patra
P.W.3 Adikanda Das

List of witnesses examined on behalf of the defendants :

D.W.1 Krushna Chandra Nauri
D.W.2 Babaji Nayak

List of Exts. Marked on behalf of the Plaintiff:

Ext.1 The certified copy of RSD No.2269 dated-
23.06.1989 executed by Bhagabat Gosain
marfat Padan Swain in favour of Narayan
Pradhan.
Ext.2 The details about the RSD No.2269, dated-
23.06.1989 executed by Bhagabat Gosain
Marfat Padan Swain in favour of Narayan
Pradhan mentioned in page no.16 to 20 vol-
44 of 1989 register book-1.
Ext.3 The certified copy of RSD No.10961202172
dtd-18.09.2012 executed by Kapila Behera,
Ghanashyam Behera in favour of Babaji
Nayak.
Ext.4 The certified copy of MS ROR No. 423 of
Mouza-Sankhapada.

- Ext.5 The certified copy of the Mutation ROR No.
446/112 of Mouza-Sankhapada.
- Ext.6 Rent receipt of Khata No.423.
- Ext.7 The Parcha in respect of Mouza-Sankhapada.

List of Exts. Marked on behalf of the Defendant :

None.

Addl.Sr.Civil Judge, Kendrapara.

Schedule suit land

Village-Sankhapada, Ps/Tahasil-Mohakalpada

Dist-Kendrapara

Khata No-423

(Mutation Khata No.446/112)

Plot No.653 Ac0.53 decimal

(Corresponding Sabik Khata No.28 and Sabik plot No.
623)

Addl.Sr.Civil Judge, Kendrapara.