

**IN THE COURT OF ADDL. CIVIL JUDGE
(JUNIOR DIVISION), KHALLIKOTE
DISTRICT: GANJAM**

Present: Ms Rajalaxmi Mohanty, B.A.LL.B.(Hons.),

Addl. Civil Judge (Jr. Divn), Khallikote

JO CODE: OD00919

Dated, this the 01st day of August, 2026

C.S. No. 43 of 2021

1. Sri. Bhimsen Nayak, aged about 58
years,
S/o-Late Iswar Nayak,
Occupation-Cultivation,
2. Sri. Jogendra Nayak, aged about 60
years,
S/o- Late Iswar Nayak,
Occupation- Cultivation,
Both are of Village/PO- Kanaka,
P.S- Khallikote, Dist- Ganjam.

.....Plaintiffs

-Vrs-

1. Trinath Nayak, aged about 65 years,
S/o-Late Dama Nayak,
Occupation – Cultivation,

Vill/PO-Kanaka,
PS-Khallikote, Dist-Ganjam.

2. Smt. Sunita Barik, aged about 30
years,

W/o- Jagannath Barik,
Vill-Gokharakuda, PS-Rambha,
Dist-Ganjam,
Occupation-Home maker,

3. Smt. Mamta Swain , aged about 27
years,

W/o- Niranjan Swain,
Occupation – Home maker,
Of Village- Bakutagaon,
PO-Langaleswar,
P.S- Khallikote,
Dist- Gnajam.

4. Smt. Laxmi Sahu , aged about 24
years,

W/o- Rajendra Sahu ,
Occupation – Home Maker,
Vill-Mohanpur, PO/via-Khallikote R.S,
Ps-Khallikote, Dist-Ganjam.

5. Smt. Rasmita Pradhan , aged about 22

years,

W/o- Laxmi Charan Pradhan,

Vill-Puintola, PO/PS/Dist-Ganjam.

6. Sudama Nayak , aged about 41 years,

S/o- Late Jadumani Nayak,

Occupation- Cultivation,

7. Pradeep Nayak , aged about 38 years,

S/o-Late Jadumani Nayak,

Occupation-Cultivation,

8. Sanjaya Nayak, aged about 35 years,

S/o- Late Jadumani Nayak,

Occupation- Cultivation ,

9. Sri. Bipra Nayak , aged about 54 years,

S/o-Late Iswar Nayak ,

Occupation-Cultivation,

Sl Nos. 6,7,8 and 9 are resident of

Vill/PO-Kanaka, PS-Khallikote,

Dist-Ganjam.

.....Defendants

Advocate for the Plaintiffs : Sri. Simanchala Behera,

Ld. Advocate, Khallikote

Advocate for the Defendant No.9 : Sri. Jayaram Das

Ld. Advocate, Khallikote

Advocate for the Defendant Nos.1 to 8: Ex parte

Date of Argument : 27.07.2026

Date of Judgment : 01.08.2026

JUDGMENT

01. The present suit has been filed by the Plaintiffs for declaration of Right, Title, Interest, and Possession of the plaintiffs over the suit land, restraining defendants permanently and declaring the documents created by defendant no.1 in favour of defendant no.2 to 5 as null and void and not binding upon the plaintiffs along with cost and other reliefs in respect of Suit Property situated in Mouza –**Kanaka, Khata No. 156 and Plot No.953** extending to an area **Ac 0.070 Dcmls** which is herein after referred as “Suit Land”.

02. The case of the plaintiffs in short is that the suit land originally belongs to defendant no.1 (Trinath Nayak) and it was recorded in his name. But due to some legal necessity of defendant no.1, he sold the suit land to Iswar Nayak, who is father of the plaintiffs no.1 and 2 and defendant no.9 by

executing registered sale deed vide document no.751/1991 of SRO, Khallikote for a consideration amount of Rs.6000/-. In that sale deed it was conditioned that in the event, if defendant no.1 would refund Rs.6000/- within a period of three years then the suit land to be resold to defendant no.1 by the father of the plaintiffs i.e Iswar Nayak. After completion of stipulated time period when the defendant no.1 did not return the sale consideration i.e Rs.6000/- to Iswar Nayak, then the father of the plaintiffs i.e. Iswar Nayak instituted a Civil Suit vide TS No.22/1996 on 21.03.1996 before this Court and sought for permanent injunction against defendant no.1. In the said suit, the court decreed ex parte in favour of Iswar Nayak on 29.07.1997 and permanently restrained defendant no.1 from entering or interfering with the peaceful possession over the suit land. Meanwhile on 03.09.2007 Iswar Nayak died leaving behind the plaintiff no.1 and 2, defendant no.9, and Jadumani Nayak as legal heirs. Thereafter Jadumani Nayak i.e the brother of the plaintiffs and defendant no.9 also died on 04.06.2021 leaving behind his three sons who have

been added as defendant no.6,7 and 8. As per mutual understanding and family settlement Jadumani Nayak had been allotted a thatched house in respect of his 1/4th share in the schedule property and therefore defendant no.6 to 8 have no right, title or any interest on the suit land. And only the plaintiffs no.1 and 2 and defendant no.9 are the real and exclusive owner of the suit land who are possessing the suit land after death of their father.

Although defendant no.1 had sold the suit land to the father of the plaintiffs in the year 1991 but he again executed registered documents in favour of defendant no.2 to 5 in respect of the suit land. The defendant no.1 sold an area of Ac.0.018 dcml out of the suit land by registered sale deed vide document no.106621012387 dtd.09.04.2021 to defendant no.2. The defendant no.1 sold an area of Ac.0.016 dcml out of the suit land by registered sale deed vide document no.10662101237 dtd.09.04.2021 to defendant no.3. The defendant no.1 sold an area of Ac.0.018 dcml out of the suit land by registered sale deed vide document no.10662101239 dtd.09.04.2021 to defendant no.4. And the

defendant no.1 sold an area of Ac.0.018 dcml out of the suit land by registered sale deed vide document no.10662101236 dtd.09.04.2021 to defendant no.5. Thereafter the defendant nos. 2 to 5 applied for mutation of their land in their favour vide MC No.2106/2021, 2105/2021, 2107/2021 and 2104/2021 respectively and the competent Authority allowed the mutation applications and recorded their names in the ROR. After knowing about the same the plaintiffs issued legal notice to defendants no. 1 to 5 but except defendant no.2 other defendants refused to receive the said legal notice. In view of fraudulent transfer to defendant no.2 to 5 the plaintiffs have instituted this suit.

03. So, the cause of action arose for the suit in the year 2021 when the plaintiffs came to know about the fraudulent transfer of suit land by defendant no.1 to defendant no.2 to 5.

04. On being summoned, the defendants no.1 to 5 have appeared on 24.01.2022 but precluded from filling written statement and defendant no.9 appeared on dtd. 02.08.2023 and filed his written statement and defendant no.6 to 8 have been set ex

parte.

05. Considering the pleadings, the following issues have been framed for proper adjudication of the case.

- I. Whether the suit is maintainable in the or not ?
- II. Whether the cause of action lies in favour of the plaintiffs ?
- III. Whether the plaintiffs and defendant no.9 be declared as exclusive owner and entitled for any declaration of right, title, interest and possession in respect of suit schedule land in their favour ?
- IV. Whether the document no.10662102387 dtd.09.04.2021, 10662101237 dtd.09.04.2021, 10662101239 dtd. 09.04.2021, 10662101236 dtd.09.04.2021 and the ROR issued by Tahasildar, Khallikote as per MC No.2106/2021, 2105/2021, 2107/2021 and 2104/2021 created by defendant no.1 in favour of defendant no. 2 to 5 be declared as null and void and not binding upon the

plaintiffs ?

V. Whether the plaintiffs are entitled to get any order by restraining the defendants permanently from entering and interfering with the peaceful possession of the plaintiffs over the suit schedule land or any portion thereof in any manner ?

VI. Whether the Plaintiffs are entitled for any other relief or reliefs?

In order to prove the case, the plaintiffs have examined two witnesses and produced some documents which are marked as Exhibits. On the other hand, Defendants have not examined any witness on their behalf.

FINDINGS

Issues nos. (i), (ii), (iii), (iv), (v) and (vi)

06. The present suit filed by the plaintiffs is maintainable as the cause of action of the suit has arisen in the year 2021 when the plaintiff came to know about the fraudulent registration deed executed by defendant no.1 in favour of defendant no. 2 to 5 and the suit has been filed within limitation period from

cause of action. Thus the issue No.I has been answered in affirmative.

07. Upon perusal of pleadings of parties, oral and documentary evidence it is found that PW1 (plaintiff no.1) simply reiterated the contents of the plaint.

08. To strengthen the case, the plaintiff No.1 has produced ten documents. Firstly, the original sale deed bearing Regd. No. 751 dtd.15.04.1991 of SRO, Khallikote which is marked as Ext.1, secondly certified copy of order sheets of TS No. 22/1996 which is marked as Ext.2, thirdly sketch map of suit land marked as Ext.3, fourthly certified copy of ROR i.e. Khata No. 156 of Mouza Kanaka which is marked as Ext.4, fifthly rent receipts for the year 2021-2022 and 2022-2023 marked as Ext.5, Ext.5/a and Ext.5/b and lastly office copy of legal notice sent to defendant no. 1 to 5 marked as Ext.6. And the certified copies of RORs of defendant no. 2 to 5 which has been marked as Ext.7 to Ext.10 respectively.

09. PW2 has been examined in this case and he also deposed that he knows both the plaintiffs and the defendants of this case and stated that on 15.04.1991 he was one of the witnesses when one Trinath Nayak

had executed a conditional sale in favour of Iswar Nayak and on that basis the plaintiffs and defendant no.9 are in possession over the suit land. The signature of PW2 on Ext.1 has been marked as Ext.1/a.

10. The defendants have not adduced any evidence rather defendant no.9 admitted the averments of the plaint.

Analysis of Evidence adduced

11. The plaintiff has produced the original registered sale deed (Ext.1) where it is mentioned that defendant no.1 namely Trinath Nayak (defendant no.1) on 15.04.1991 sold a land to Iswar Nayak (father of plaintiffs and defendant no.9 and grandfather of defendant no.6 to 8) situated at Mouza Kanaka extending to an area of Ac.0.650 Dcml of Survey No.327 and Khata No.156 for a consideration amount of Rs.6000/- which is duly executed and in order. Coming to Ext.2 i.e the order sheet of this court in TS No.22/1996 where the court has decreed ex parte in favour of the plaintiff who is the purchaser of the above mentioned sale deed i.e. Iswar Nayak and permanently restrained the defendant i.e Trinath Nayak who is the vendor in the above mentioned sale deed.

From the above documents it is clear that an area of **Ac.0.650 Dcml** from Khata No.156 of Mouza Kanaka has been transferred by way of sale and as per the provision of law. Ext.3 is a sketch map for the suit land but the area mentioned for Plot No.953 of Mouza Kanaka is **Ac.0.070 Dcml**. Ext.4 which is the ROR of the suit land stands recorded in the name of defendant no.1 (Trinath Nayak), the said ROR contains 05 nos of plot and an area of total Ac.1.308 Dcml. So there arises a doubt regarding the area of the suit land as Ext.1 (RSD) mentions the area of the suit land to be Ac.0.650 Dcml but the ROR of the suit land (Ext.3) has a total area of Ac.1.308 Dcml and 05 nos of plots and particularly plot no.953 (suit land) has an area of **Ac.0.070 Dcml**. And the plaintiffs have not produced any document to show that the plot no.953 of Ext.3 is the same which has been transferred by way of sale by defendant no.1 to Iswar Nayak (Ext.1). Further the plaintiff has not produced any Yadast report to show that plot no. 953 is same as that of Survey No.327. As Ext.1 mentions about Survey No. 327, Khata No.156 of Mouza Kanaka and an area of Ac.0.560 Dcml but Ext.3 contains 05 nos of plots and none of the plots

resembles with that of area which has been mentioned in Ext.1. In such a situation it is difficult to ascertain as to which plot/land of Khata No.156 has been sold to the father of plaintiffs. Although Plaintiff No.1 has issued legal notice to defendant no.1 to 5 (Ext.6) but has not produced any document to prove that plot no.953 of Khata No.156 of Mouza Kanaka has been transferred by defendant no.1 to his father. Moreover, the plaintiffs have deposed that as per mutual understanding and family settlement one of their brothers i.e. Jadumani Nayak (after his death his legal heirs i.e defendant no. 6 to 8) had been allotted a thatched house in respect of their share of property but there is no evidence oral or documentary to prove the same.

12. Defendant no.2 to 5 have mutated their respective share of land by instituting case before competent Authority and the plaintiff has produced those certified copy of RORs. As discussed above there is doubt regarding the area of the suit land and the plaintiffs have not produced any document to prove that the suit land was transferred to the father of the plaintiffs by defendant no.1 and defendant no.1 again

has fraudulently sold that suit land to defendant no.2 to 5. So the documents i.e. the sale deeds created by defendant no.1 in favour of defendant no.2 to 5 cannot be declared as null and void as the plaintiffs have failed to produce cogent evidence to support their claims. And in common course of natural events it may be presumed that the competent authority after verifying only have issued the RORs in favour of defendant no. 2 to 5.

Thus, Issue No.II, III, IV, V and VI are answered in negative and against the plaintiffs.

Hence it is ordered.

ORDER

The suit filed by the Plaintiffs is dismissed against the Defendants without any cost.

Pleader fee be assessed at contested scale.

The judgment is typed to my dictation, corrected and signed by me and pronounced in the open court today on this 01st day of August, 2026 given under my hand and seal of the Court.

Addl.C.J.(J.D.), Khallikote

List of witnesses examined on behalf of the Plaintiffs

PW1 Bhimasen Nayak

PW2 Jogindra Biswal

List of witnesses examined on behalf of the Defendants

NIL

List of Exhibits marked on behalf of the Plaintiff

- Ext.1 Original registered sale deed bearing No.751/15.04.1991 of SRO, Khallikote (four sheets)
- Ext.1/a Signature of PW2 on Ext.1.
- Ext.2 Certified copy of order sheets of TS No.22/1996 (ten sheets)
- Ext.3 Sketch Map
- Ext.4 Certified copy of ROR bearing Khata No.156 in Kanaka Mouza
- Ext.5 Rent receipts for the year 2021-22
- Ext.5/a Rent receipts for the year 2021-22
- Ext.5/b Rent receipt for the year 2022-2023
- Ext.6 Office copy of legal notice send to defendant nos. 1 to 5.
- Ext.7 Certified copy of ROR bearing Khata

- No.414/585 of Mouza Kanaka
- Ext.8 Certified copy of ROR bearing Khata
 No.414/586 of Mouza Kanaka
- Ext.9 Certified copy of ROR bearing Khata
 No.414/587 of Mouza Kanaka
- Ext.10 Certified copy of ROR bearing Khata
 No.414/588 of Mouza Kanaka

List of exhibits marked on behalf of the Defendants

NIL

Addl.C.J.(J.D.), Khallikote