

District- Deoghar
In the Court of District Judge-IX, Deoghar.

Present:-Mukulesh Chandra Narain
District Judge-IX, Deoghar.

Dated- the 07th day of August' 2026



CIVIL APPEAL No. - 27/2024
C.N.R. No.-JHDG-01-000800-2024

[Title Appeal arising out of judgment dated
31.03.2023 and the Decree dated 12.04.2023,
in L.A.R. Case No. 90/2005 passed by the
Court of Ld. Civil Judge (Sr. Div.)-II, Deoghar]

Dashrath Pandit, S/o-Late Bansraj Pandit,
R/o village-Kunjishar, P.O., P.S.- Jasidih, Subdivision and District-
Deoghar, at present residing in House No.-137, Ward No.-2, Deoghar
Municipal Corporation, Deoghar, New Middle School, Singhwa
(Mohriyabad), P.O., P.S., Subdivision and District-Deoghar.

.....Appellant/Objector 2nd Set
Versus

- 1. The State of Jharkhand through Deputy Commissioner,
Deoghar, P.O., P.S., Subdivision and District- Deoghar, Pin No.-
814112.**
- 2. Land Acquisition Office, Deoghar, Office situated at D.C. Office
Campus, P.O., P.S., Subdivision and District- Deoghar, Pin No.-
814112.**

----- Respondents 1st Set

- 3. Ranji @ Ranju Devi, W/o- Late Doman Pandit,**
- 4. Rohit Kumar Pandit, S/o-Late Doman Pandit,**
- 5. Rajeev Kumar Pandit, S/o- Late Doman Pandit,**

6. Bhola Pandit, S/o-Late Bhikhari Pandit,

7. Chhotu Pandit, S/o-Late Bhikhari Pandit,

S.L. No. 3 to 7 are R/o Village-Kunjishar, P.O., P.S.-Jasidih,
Subdivision and District- Deoghar(Jharkhand), Pin No.-814142.

----- Respondents 2nd Set/Objector 1st Set

Counsel for the Appellant - Sri Anjani Prasad, Ld. Adv.

Counsel for the Respondent 1st Set - None

Counsel for the Respondents 2nd Set - Sri Baleshwar Pd. Yadav,
Ld. Adv.

J U D G M E N T

[1] Present Civil appeal registered as Civil Appeal No. 27/2024 was filed by the sole appellant Dashrath Pandit against altogether two official respondents i.e. State of Jharkhand through Deputy Commissioner and Land Acquisition Office, Deoghar at D.C. Office Campus as Respondent No.-1 and 2 respectively and also against five private Respondents namely (i) Ranji @ Ranju Devi, (ii) Rohit Kumar Pandit, (iii) Rajeev Kumar Pandit, (vi) Bhola Pandit and (vii) Chhotu Pandit as Respondent 2nd party.

[2] The Civil Appeal was filed being aggrieved by the judgment dated 31.03.2023 and decree signed on 12.04.2023 by Ld. Civil Judge, Senior Division- II in L.A.R. Case No. 90/2005 arising out of L.A. Case No.- 41/2001-02 by which the case before Ld. court below was dismissed on contest without cost and it was held that the petitioner/objector Dashrath Pandit has no title in the acquired land and hence he is not entitled to get any share in the amount of compensation.

[3] The case of the appellant before Ld. court below in brief was that after receiving reference made by District Land Acquisition Officer, Deoghar u/s 30 of Land Acquisition Act in connection with dispute with regard to title over the land acquired for construction of Baidyanath Dham to Dumka Railway Line relating to the land situated on Thana No. 207, J.B. No.-23, Survey Plot No.-445, L.A. Plot No.- 117, Area- 39 Dec. under Mouza Kunjishar, P.S., District- Deoghar

petition was filed by Dashrath Pandit on 28.08.2002 claiming himself to the owner of Khesra No. 445, Area- 39 Dec. on the basis of order passed by the court of Deputy Collector 2nd in Title Suit No. 18/1973 and that his name is mutated and demand is also issued in his name and finding the disputes raised by Objector 1st Party and Objector 2nd Party before Land Acquisition Officer, the matter was referred to Civil Court vide Land Acquisition Reference by District Land Acquisition Officer.

[4] On 06.11.2006 written statement was filed by Doman Pandit & Ors. in the capacity of Objector 1st Party.

It was stated therein that the save and except what has been admitted in this written statement all other allegations made by Op. 2nd party Dashrath Pandit are denied by the Op. parties and put Dashrath pandit to strict proof thereof.

It was further stated that the land situated on Plot no.445 Dhani III class consisting of area 0.69 decimals and plot no.472 also dhani III class area 0.14 decimals of mouza Kunjisar no.260 under J. B. No. 23 were acquired by the Land Acquisition Department for construction of Deoghar-Dumka New Rail line and it is also stated that sum of Rs. 3365.54 paise was awarded as compensation amount in the name of 1st party Doman Pandit and Bhola Pandit and the aforesaid land was recorded exclusively in the name of Sardhu Pandit son of late Phakar Kumhar in the parcha of the last survey settlement known as Gantzer's settlement and a genealogical table was given in Para- 4 of the written statement showing relationship of Op. 1st party Doman Pandit, Bhola Pandit, Chotu pandit with the recorded tenant Sardhu Pandit (Kumhar). It was shown in genealogical table that common ancestor Fakir Kumhar had one son Sardhu Pandit who was recorded tenant of the land and Sardhu Pandit had also one son namely Bhikhari Pandit, who died living behind his three sons namely Doman Pandit, Bhola Pandit and Chhotu Pandit. Amongst whom, Chhotu Pandit was a minor.

It was further stated that the recorded tenant Sardhu Kumhar was all along remained in peaceful actual physical cultivating possession of all the lands under J.B.No. 23 of mouza Kunjisar

including Plot nos. 445 and 472.

It was further stated that recorded tenant Sardhu Kumhar died leaving behind his only son Bhikhar Pandit and also remained in peaceful actual physical cultivating possession till his life time who died leaving behind him these Opposite parties.

It was further stated that the statement as made in Para-4 of the petition of Op. 2nd party dated 12.01.2004 is totally false concocted and baseless and hence denied. It was further stated that it has been wrongly mentioned that Sardhu Kumhar had settled the acquired land situated on Plot no.445 and 472 in the year 1936 to Bansraj Pandit as there is no provision under law for settlement of raiyati jamabandi land being non transferable land and as a matter of fact neither the recorded tenant Sardhu Kumar nor his son Bhikhari pandit have made any settlement of the aforesaid land with Bansraj Pandit, rather all along remained in peaceful actual and cultivating possession over the aforesaid land including other lands under J.B.No. 23 of Mouza Kunjisar and both the plots are dhani land and there is no question of any improvement of the aforesaid land.

The statement as made in Para 5 and 6 of the rejoinder petition on 12.01.2004 was also denied by Op. 1st party and it was stated that just to grab the land, Op. 2nd party managed to file a false case of recovery of possession of dispute lands by Jitiya Panditain and Bhikhari Pandit and both were illiterate and rustic poor villagers and taking advantage of that Defendant 2nd party file the case as alleged and the order dated 03.08.1977 passed in Title Suit no. 18/73 is collusive and it has no genuineness in the eye of law.

The statement made in para 7 was also denied and it was stated that order of Circle Officer, Deoghar, is nothing but a paper transaction and it was stated that Op. party 2nd set never came in possession of disputed land and the claim of possession is hit by Section 20 of S.P.T. Act.

It was further mentioned that Opp. party 2nd set has no right, title, interest and possession over Plot No. 445 and 472 of Mouza Kunjisar and accordingly Opp. Party 2nd set Dasrath Pandit is not entitled to receive a single paise of compensation amount.

On the basis of above it was prayed that the land acquisition department be directed to pay the award amount in lieu of acquired land to Doman Pandit i.e. Opp. Party 1st Set.

[5] On 18.01.2007, written statement was filed on behalf of Dasrath Pandit in which it was stated that save and except what has been expressly admitted in the written statement all other allegations of Opp. Party 1st Set Doman Pandit and others stated in their written statement dated 06.11.2006 is strongly denied.

It was stated therein that Opp. Party 2nd Set Dasrath Pandit had filed his rejoinder petition on 12.01.2004 before the District Land Acquisition Officer, Deoghar and the same may be treated as part of present written statement.

It was further mentioned that the opposite party 1st Set Doman Pandit and others are grandson of the Recorded tenant Sardhu Kumhar alias Pandit but the Opp. Party 1st Set Doman Pandit and others have suppressed the correct genealogy to the effect that Bhikhari Pandit died leaving behind his three sons namely (1) Doman Pandit (2) Bholu Pandit and (3) Chhotu Pandit and also three daughters namely (1) Parmila Devi (2) Murli Devi and (3) Gunjawa Devi and the names of the daughters have been malafidely suppressed by Opp. Party 1st Set to deprive their respective legal share in the land of the Recorded tenant Sardhu Kumhar.

It was further mentioned that District Land Acquisition Officer, Deoghar has made references for only Plot No 445 under Khata No. 23 Mouza Kunjisar, P.S. Jasidih but from the written statement filed by Doman Pandit on 06.11.2006, it is evident that intentionally and malaciously Plot No 472 has also been included which was not the matter of reference.

It was further mentioned that Opp. party 2nd Set Dashrath Pandit also comes from common ancestor from which the opposite party 1st Set Doman Pandit and his brothers are claiming their rights and Opp. Party 1st Set Doman Pandit and his brothers as well as Dashrath Pandit are agnates to each other.

It was further mentioned that the Recorded tenant Sardhu Kumhar (Pandit) made customary settlement of Plot No 445, area

0.39 Decimals and Plot No 472, Area 0.14 Decimals of Mouza Kunjisar in the year 1936 to Gono Kumhar @ Pandit who immediately came in possession and made improvement of the land by further reclamation and made it as Dhani I class, which was earlier of Dhani III class.

It was further mentioned that during the life time of Sardhu Kumar and even after his death for many years, his son Bhikhari Pandit and widow Tetari Kumharin did not object the peaceful possession and occupation of Gono Kumhar, since deceased, who was the father of Bansraj Pandit and the occupation and possession of Bansraj Pandit/Kumhar i.e., father of Opp. Party 2nd Set Dashrath Pandit.

It was further mentioned that at the instigation of some villagers, who were enemy of Bansraj Kumhar since deceased, i.e., father of Opp. Party 2nd Set Dashrath Pandit, instigated Bhikhari Kumhar s/o Sardhu Kumhar and upon the said instigation Bhikhari Kumhar along with his mother Tentari Kumharin filed a Title Suit being Title Suit No 18/1973 in the court of Deputy Collector IInd Court, Deoghar for declaration of their title and recovery of Possession related to Plot No 445 and 472, both Dhani Class III land and in the said case Bansraj Kumhar i.e. father of Opp. Party 2nd Set Dasrath Pandit appeared and claimed settlement of said Plot No 445 and 452 through customary settlement and in the said case Amin was also deputed by the learned court to submit the improvement made in the land by said Defendant Bansraj Kumhar and accordingly report was submitted by the Amin.

It was further mentioned that in Title Suit No 18/1973 after contesting the suit, the plaintiff decided not to contest the suit and resolved their differences with the defendant with the intervention of well wishers of both the parties and compromised the case accepting the continuous possession of Bansraj Kumhar and improvement made in the suit land by Bansraj Kumhar and accordingly on the basis of compromised suit was dismissed.

It was further mentioned that even after the disposal of the said Title Suit, Bansraj Kumhar, since deceased continued his Possession

cultivating the land and on his death his son Dashrath Pandit inherited and succeeded the plot in reference and another plot 472 and has been coming in possession of the said plots of land by growing paddy crops therein and to avoid any future confusion Bansraj Kumhar filed a petition before the learned S.D.O. Deoghar who was the Revenue Authority under S.P.T. Act, to get the land mutated with respect to Plot in reference and another plot 472 by carving out the original J.B. No 23 and for creation of new Jamabandi and Ld. S.D.O. after following the procedure of carving out the said two plots from original jamabandi and fixing rent by creating a separate jamabandi Bansraj Kumhar got the possession and occupation of said plots and it was carved out separately by Anchal Adhikari Deoghar, after making necessary enquiry and a separate Khata No. 23/2 was created in the name of Bansraj Kumhar i.e., father of Opp. Party 2nd Set Dashrath Pandit and after the death of said Bansraj Kumhar Opp. Party 2nd Set Dashrath Pandit is paying the rent of the aforesaid land and was in actual cultivating possession of the land under reference and another Plot No. 472.

It was further mentioned that compensation amount with respect to land under reference being Plot No 445, has been wrongly determined as class III Dhani land and Opp. Party 2nd Set Dashrath Pandit submits that on the day of notification for acquisition of the land it was not class III dhani land rather it was class I dhani land and the said nature of class I dhani land is still in existence.

On the basis of the above it was prayed that the compensation of the land should be settled at the rate 1st Class dhani land for which the defendant Dashrath Pandit has filed an application U/s 9 of L.A. Act before District Land Acquisition officer, Deoghar claiming enhancement of rate of land.

It was further mentioned that the Opp. Party 1st Set Doman Pandit and others, have leveled false allegation in their written statement dated 06.11.2006 and it was denied by Opp. Party 2nd Set Dashrath Pandit.

It was further mentioned that the proceeding/suit is also bad for non joinder of necessary parties, in which the Opp. Party 1st Set

Doman Pandit and others have knowingly suppressed and as such the written statement filed by Doman Pandit and others are liable to be rejected for the reason of its being false, baseless and imaginary.

[6] Point for determination in this case is :

(i) As to whether Ld. court below has rightly passed the impugned judgment and decree beyond the mandate of point of reference made by Land Acquisition Officer.

(ii) As to whether Ld. court below was justified in deciding the judgment passed by the court of Deputy Collector 2nd Court in Title Suit No. 18/1973 as collusive and unlawful without any pleading or reference in L.A. Case No. 41/2001-02.

[7] It was submitted by Ld. counsel for the appellant that reference was made by the office of Land Acquisition Officer, Deoghar u/s 30 of Land Acquisition Act for deciding the matter of dispute between the parties with respect to payment of compensation of land acquisition with respect to Plot No. 445.

It was also submitted that Plot No. 445 and 472 were Dhani- III land appertaining to J.B. No. 23 of Mouza Kunjishar No. 260, P.S.- Jasidih, Subdivision and District- Deoghar and were settled by R.T. Sardhu Kumhar in the year 1936 to Gondo Kumhar.

Gondo Kumhar came into actual possession and made considerable improvement and converted into good Dhani-I land.

It was also submitted that in due course of time the widow and the son of recorded tenant Sardhu Kumhar namely Teteri Kumharin and Bikhari Kumhar filed the suit for declaration of title and recovery of possession of the aforesaid land which was registered as Title Suit No. 18/1973 and during the course of hearing of the said Title Suit No. 18/1973, a compromise had arrived between the plaintiffs and defendants and ultimately the suit was decreed in terms of the compromise.

It was further stated that the appellant was plaintiff in the said suit and defendants got the demarcation of Plot No. 445 and 472 and mutation was also allowed in favour of Bansraj Kumhar (Pandit) by creating a new Khata bearing no. 23/2 and rent was also fixed and after the death of Bansraj Kumhar, his son Dasrath Pandit is making

payment of rent of the said land, etc to State of Bihar now, Jharkhand to the Circle Officer, Deoghar.

It was also submitted that the state of Jharkhand acquired the land measuring an area 39 decimals, Plot No. 445 within J.B. No. 23 of Mouza Kunjishar No. 260 and prepared the award in the name of Doman Pandit, which was challenged by the appellant which arises occasion for Land Acquisition Officer to refer the matter to the Civil Court for disposal.

It was further submitted that the parcha was also prepared in the name of Bansraj Kumhar (Pandit), son of Gondo Kumhar which registered on Plot No. 445 and 472 and on the basis of objection raised by the legal heirs of the recorded tenant in T.L. Case No. 36/2008, Bhikhari Kumhar (Pandit) vs. Bansraj Kumhar (Pandit) was registered and after hearing the parties the Id. Settlement Officer, Dumka dismissed the said T.L. Case No. 36/2008 and confirmed the parcha prepared in favour of Bansraj Kumhar (Pandit), who was the father of present appellant, Dashrath Pandit.

It was further submitted that Ld. trial court without considering the document brought on record and the oral witnesses examined on behalf of appellant disbelieved the case of the appellant and dismissed the said reference case as referred by Land Acquisition Officer upon the application made by the father of the appellant namely Bansraj Pandit.

It was further submitted that Id. trial court committed serious error and though reference was made only for an area of 39 decimals of Plot No. 445 within J.B. No. 23 of Mouza Kunjishar No.- 260 but Id. court below illegally traveled beyond the reference made in respect to the said 39 decimals of Plot No. 445 and examined the right, title, interest and possession in respect to Plot No. 472 also which was never made the subject matter of the reference and adjudication thereon.

It was further submitted that Plot No. 472 was neither acquired nor was the subject matter of reference for adjudication but instead the learned Trial Court gave finding over the same.

It was also submitted that under Section 30 of the Land

Acquisition Act, the jurisdiction of the Reference Court is limited to decide the right of the contesting parties to receive the compensation amount. However, in the present case, the learned Trial Court went beyond its jurisdiction and adjudicated the matters relating to rights and titles which had already been decided by competent courts, including the Court of Additional Collector 2nd Court and Settlement Court.

It was also submitted that the Ld. Trial Court also failed to consider that the judgment passed in Title Suit No. 18 of 1973 was never challenged but even then Ld. Trial Court gave finding upon the said judgment though it was not the subject matter of the reference.

[8] On the other hand, Ld. counsel for the Respondent Nos. 3-7 submitted that there is no perverse finding in the impugned judgment and decree passed by Ld. court below.

It was further submitted that admittedly land of Plot No. 445, area 39 decimal was Dhani III class land and it was recorded in the name of Sardhu Kumhar son of Phakar Kumhar exclusively in the parcha of the last survey settlement known as Gantzer Survey Settlement and the respondents are the descendants of recorded tenant Sardhu Kumhar.

It was further submitted that the land of Plot No. 445 is raiyati land and it is non-transferable in nature and there is no occasion for its transfers as it is specifically barred under SPT Act u/s 20 of SPT Act and if any compromise with respect to aforesaid land has taken place in the suit then it is barred by the specific provision of law and the said compromise decree is collusive in nature and the appellant cannot claim his title by way of adverse possession after enactment of SPT Act.

It was further submitted that in a reported judgment by Hon'ble Patna High Court in Raja Mian vs Puran Mian as reported in PLJR 1986, Page No. 1013, it has been clearly held by Hon'ble court that revenue court committed no illegality regarding the collusive compromised decree passed in Title Suit No. 4/1964.

It was also observed that the compromised decree passed in Title Suit No. 4/1964 cannot be taken into consideration and the

appellant have got no right, title and possession over the aforesaid acquired land and Ld. Court below has rightly discarded the compromised decree which was collusive in nature.

It was also submitted that in view of the ratio as decided by Hon'ble Patna High Court though the collusive decree was not challenged by the respondent or any of the legal heirs but that will not effect upon the right, title and possession of the jamabandi raiyat.

It was further submitted that it is the admitted possession that the land of Plot No. 445, area 39 decimal under Jamabandi No. 23 of Mouza Kunjishar No. 260 was recorded in the name of Sardhu Kumhar son of Phakar Kumhar in the last Ganzar Survey Settlement and the same is still existing as raiyati jamabandi and non-transferable in nature and the appellant or his father are nowhere related, connected or attached with the recorded tenant either with Sardhu Kumhar or these respondents and he is completely an outsider from the family of recorded tenant Sardhu Kumhar.

It was also submitted that it is false to say that appellant and respondent nos. 3-7 are agnates.

It was also submitted that the order of Settlement Officer of present Survey Settlement is not admissible under law and the same has not been the order of final publication and conclusion of settlement in view of decision as laid down by Hon'ble Patna High Court.

It was further submitted that during the course of acquiring lands for link railway line on the land it was found by the competent authority that respondent nos. 3-7 are in peaceful, actual, physical and cultivated possession of Plot No. 445, area 39 decimal including the land of Plot No. 472 and accordingly Land Acquisition Authority had made award in favour the respondent nos. 3-7.

It was further submitted that with respect to mutation of land in favour of appellant, it has been held by Hon'ble Jharkhand High Court that payment of rent or order of mutation of raiyati land will not create any right, title over the raiyati jamabandi land.

It was also submitted that Id. Trial court after going through the entire material available on record has rightly held that alleged decree

passed in Title Suit No. 18/1973 as relied by appellant is completely collusive decree in nature and absolutely declined the contention of the appellant.

In support of its contention Id. Counsel relied upon decisions as reported in 1987 (35)BLJR91, Rajo Mian and Ors. Vs Puran Mian and Ors. decided on 30 May, 1986 and judgment of Patna High Court in Ram Narain Sah vs. The State of Bihar & Others passed on Feb. 7, 1975.

[9] It is evident that out of several respondents as named in memo of appeal respondent no. 1 is The State of Jharkhand through Deputy Commissioner, Deoghar and respondent no. 2 is Land Acquisition Office, Deoghar but despite sending specific letter to D.C., Deoghar, nobody turn up on behalf of respondent no. 1 and 2 whereas respondent no. 3-7 were the objector first party before Id. Court below and appellant was objector second party.

[10] From the perusal of lower court record it transpires that LAR Case No. 90/2005 was registered on the basis of reference made by District Land Acquisition Officer, Deoghar, u/s 30 of Land Acquisition Act with respect to the dispute arises between the parties with respect to title over the acquired land for construction of Baidyanath Dham to Dumka railway line and the dispute of ownership has arises in L.A. Case No.- 41/2001-02 between the parties with respect to land of Thana No. 207, Jamabandi No. 23, Area 39 decimal, Mouza Kunjisar of Plot No. 445 corresponding to Survey Khatiyar No. 23, L.A. Plot No. 117 classification of land Dhani III and the dispute between the parties were mentioned as Doman Pandit, Bhola Pandit, Chotu Pandit, all sons of Bhikhari Pandit vs. Dasrath Pandit son of Late Bansraj Pandit.

It further transpires that after appearance both the parties had filed their objection by way of written statement and both the sides also produced documentary and oral evidence which were as follows:-

(i) Evidences adduced by the Objector 1st Set Doman Pandit & others in original L.A.R. Case :-

(a) Oral evidence :

(i) O.P.W.- 1 Bhola Pandit

(b) Documentary Evidence :

Exhibit 1 : Certified copy of Purcha of Jamabandi No.-23 of Mouza-Kunjisar No.-260.

**(ii) Evidences adduced by the Plaintiff/Petitioner/Objector
2nd Set Dashrath Pandit in original L.A.R. Case :-**

(a) Oral evidence :

- (i) A.W. 1 Prabhu Pandit,
- (ii) A.W. 2 Guni Pandit and,
- (iii) P.W. 3 Dashrath Pandit,

(b) Documentary Evidence :

Exhibit A to A/29 : Rent receipts.

Exhibit B : Certified copy of order dated 03.08.1977 passed in Title Suit - Bhikhari Kumar & others Vrs. Bansraj Kumhar.

Exhibit C : Certified copy of order dated 04.02.1983 of Mutation Case No.-70/1979-80 in the Court of SDO, Deoghar, District-Santhal Pargana.

Exhibit D : Certified copy of order dated 26.08.2008 passed in T.L. Case No.-36/2008 - Bhikhari Thakur Vrs. Bansraj Pandit, before the Assistant Settlement Officer, Dumka.

[11] After hearing the parties Id. Court below passed the impugned judgment and accordingly decree was prepared which is under challenge in the present appeal.

[12] It further transpires that in the impugned judgment altogether five issues were framed by Id. Court below to be decided which were as follows:-

- (1) Is the suit as framed maintainable ?
- (2) Has the plaintiff valid cause of action for filing the present suit ?
- (3) Whether the O.P.'s Doman Pandit and others are the legal heirs of the recorded tenant Sardhu Pandit & Fakir Pandit ?

(4) Whether the land plot No.-445 & 472 has ever been settled by the recorded tenant in favour of Bansraj Pandit ?

(5) Whether the order passed in T.S. No.-18/1973 is collusive one?

[13] It further transpires that issue no. 3, 4 and 5 were taken up together by Ld. Court below which were :-

'whether Doman Pandit and others are the legal heirs of recorded tenant Sardhu Pandit and Fakir Pandit,

whether land of Plot No.-445 & 472 of Jamabandi No.-23, Mouza-Kunjisar have ever been settled by recorded tenant Bansraj Pandit,

whether order passed in Title Suit No. 18/1973 is collusive or not.

[14] It further transpires that Plot No. 472 was not the subject matter of the reference but Id. Court below had taken Plot No. 472 by way of issue No.(4) with Plot No. 445 though only Plot No. 445 was under reference to be adjudicated and there was no occasion for Id. Court below to give any finding with respect to right, title, interest and possession upon Plot No. 472.

It further transpires that save and except the parcha exhibited by objector first party Doman Pandit as Ext.-1, not even a single chit of paper has been brought on record on behalf of objector first party Doman Pandit and it was the contention of objector first party that the decree passed by the court of Deputy Collector Second Court, Deoghar in Title Suit No. 18/1973, dated 03.08.1987 is a collusive decree though it was filed by the father of the objector first party as plaintiff in the suit and certified copy of final order and compromise decree were duly marked as Exhibit-B on behalf of objector second party as it appears that in the year 1973, Deputy Collector was the competent authority to decide the suit and it was the plaintiff i.e., father of the objector first party itself, who had filed the suit and on the basis of compromise the said suit was dismissed in terms of compromise and the compromise petition shows that land of Plot No. 445, area 39 decimal and the land of Plot No. 472, area 14 decimal out of a total area of 39 decimal of Mouza Kunjisar was held to be

settled by Sardhu Kumhar in favour of Bansraj Kumhar and on the basis of above the suit was dismissed.

[15] It further transpires that Id. Court below has held that aforesaid decree passed by the court in Title Suit No. 18/1973 was a collusive decree.

It was held that the compromise decree merely sets the seal of the court on the agreement of the party but it is evident that Id. Court below failed to appreciate the fact that even after passing of final order by the court of Id. Deputy Collector Second Court, Deoghar, in Title Suit No. 18/1973 filed on behalf of father of the objector first party as plaintiff against the father of objector second party as defendant, the suit was dismissed and thereafter no further step was taken by the plaintiff side or objector first party and even in the land acquisition reference case also no specific prayer was made for setting aside the aforesaid final order dated 03.08.1977 passed in Title Suit No. 18/1973.

Thus, Id. Court below has no occasion to go into the propriety of order dated 03.08.1977 passed in Title Suit No. 18/1973 and the bunch of documents produced by objector second party clearly shows and established the fact that since long rent receipt are being issued in the name of objector second party for the land of Plot No. 445 along with other lands and Id. Court below was not justified to travel beyond the mandate of reference which was only for adjudicating the right, title and possession upon Plot No. 445, area 39 decimal and not beyond that.

Thus the judgment passed by Id. Court below is completely beyond the jurisdiction of the court as made in Land Acquisition Reference Case No. 90/2005 and thus the judgment passed by Id. Court below is hereby set aside and it is held that the objector second party i.e., appellant are said to be in possession of land of Plot No. 445 area 39 decimal which are said to be acquired by the Land Acquisition Office for laying down Railway Line of Baidyanath Dham, Dumka vide L.A. Case No. 41/2001-02 corresponding to L.A. Plot No. 117, Survey Plot No. 445, Area 39 decimal.

[16] Accordingly, with the above appeal is allowed.

There shall be no order as to cost.

Let a copy of this judgment along with entire trial court record be sent to the trial court for information and needful.

Dictated & corrected,

Sd/

(Mukulesh Chandra Narain)
District Judge- IX, Deoghar.

Dated- 7th August, 2026