

**Kamla Devi
Versus
Vijay Laxmi and Others**

**OMP No.21 of 2026 in
Civil Suit No.4 of 2026**

Reserved on: 19.01.2026

23.01.2026 Present: Mr Ajay Sharma, Senior Advocate, with Mr Atharv Sharma, Advocate, for the applicant/plaintiff.

OMP No.21 of 2026

The applicant/plaintiff has filed a civil suit for a declaration that the sale deed dated 18.02.2021 executed by defendant No. 2 through her General Power of Attorney-defendant No. 4 in favour of defendant No. 3, with respect to the suit land described in the plaint, is bad.

2. It has been asserted that Tulsi Ram Sood was the owner of the suit land. He had married Kesri Devi. Vijay Laxmi and Surendra Sood were born to them. Tulsi Ram Sood and Kesri Devi adopted the plaintiff. Kesri Devi died, and Tulsi Ram married Raj Rani. The owner, Tulsi Ram, executed a Will in favour of Raj Rani, which was assailed unsuccessfully in Civil Suit No.24 of 2000, but a finding was recorded in favour of the present plaintiff, Kamla Devi, that she was the adopted daughter of Tulsi Ram. A mutation of the inheritance of the suit property was attested in favour of Vijay Laxmi and Surendra Sood, and the plaintiff was excluded. A family partition was effected

between them, and the defendant no. 2 executed a sale deed in favour of defendant no. 3 based on the wrong mutation. Hence, the plaintiff/applicant has sought an ad interim relief for restraining the defendants from interfering in the suit land, raising construction or alienating it during the pendency of the suit.

3. Mr Ajay Sharma, learned Senior Advocate, assisted by Mr Atharv Sharma, learned counsel for the applicant/plaintiff, submitted that the plaintiff was declared to be the adopted daughter of Tulsi Ram Sood in the previous litigation. She could not have been excluded from the inheritance. The sale deed executed by defendant No.2 through her General Power of Attorney in favour of defendant No.3 is bad, and defendants cannot raise any construction over the joint land. He relied upon the judgments of the Hon'ble Supreme Court in *Zenit Mataplast Pvt. Ltd. Vs. State of Maharashtra and Others*, 2009 (10) SCC 388 and *Sk. Golam Lalchand Vs. Nandu Lal Shaw @ Nand Lal @ Keshri @ Nandu Lal Bayes and Others*, 2024 INSC 676, in support of his submissions.

4. I have given considerable thought to his submissions and have gone through the records carefully.

5. The plaintiff has challenged the sale deed executed by defendant No. 2 in favour of defendant No.3 on

18.02.2021 by filing the civil suit on 05.01.2026. It was laid down by the Hon'ble Supreme Court in *Smt. Dilboo (Dead) by LRs and Others Vs. Smt. Dhanraji (dead) and Others*, 2000 (7) SCC 702, that the date of registration of a registered document is the deemed date of knowledge, and a person cannot extend the period of limitation by saying that he had no knowledge. Article 58 of the Limitation Act provides a period of three years to obtain a declaration. Thus, the suit to seek a declaration regarding the invalidity of the sale deed executed on 18.02.2021 was, *prima facie*, barred by limitation on 05.01.2026, the date of institution of the present suit.

6. The plaintiff claims to be the adopted daughter of Tulsi Ram Sood and Kesri Devi. Vijay Laxmi and Surendra Sood are also the daughters of Tulsi Ram Sood and Kesri Devi. Section 11 of the Hindu Adoptions and Maintenance Act provides the condition for valid adoption, and Section 11(ii) mentions that the adoption of a daughter, when the adoptive father or mother has a daughter living, at the time of adoption, is not valid.

7. There is no averment that Tulsi Ram Sood and Kesri Devi had no daughter alive at the time of the plaintiff's adoption; therefore, the validity of the adoption is also, *prima facie*, suspect.

8. Learned Civil Judge, Junior Division-I, Palampur, held in para 23 of the judgment passed in Civil Suit No. 24 of 2000 that it could not be said that plaintiff Kamla Devi is not the daughter of Tulsi Ram. It was submitted that the question of adoption was decided in the suit and has attained finality.

9. It was laid down by the Full Bench of Patna High Court in *Arjun Singh v. Tara Das Ghosh*, 1973 SCC OnLine Pat 47, that when there is no right of appeal, there can be no *res judicata*. It was held in *Ramesh Chandra v. Shiv Charan Dass*, 1990 Supp SCC 633, that one of the tests to ascertain whether the plea of *res judicata* would apply is to determine whether the party aggrieved could have preferred an appeal against it.

10. The previous suit was dismissed, and Raj Rani, the predecessor-in-interest of defendants No. 1 and 2, could not have preferred any appeal against the finding; therefore, *prima facie*, the submission that the judgment would constitute *res judicata* to bind defendants No. 1 and 2 is also doubtful.

11. In *Sk. Golam Lalchand* (supra), the Hon'ble Supreme Court held that the co-owner can only alienate the share owned by him and not the whole property, which is not the issue in the present case. In *Zenit Mataplast Pvt.*

Ltd. (supra), the ingredients for granting an *ad interim* injunction were mentioned, which are fairly well-settled.

12. Thus, the applicant/plaintiff has failed to make out a, *prima facie*, case at this stage to grant an *ad interim injunction*; hence, no *ad interim injunction* can be granted at this stage.

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13. Be listed before the appropriate Bench, having the roster after winter vacation.

(Rakesh Kainthla)
Vacation Judge

23 January, 2026
(Rajeev Raturi)