

IN THE HIGH COURT OF JHARKHAND AT RANCHI

S.A. No. 73 of 1997 (R)

Ramphal Tigga and Others	...	...	Appellants
Versus			
Khasru Ghanshi and Others	...	...	Respondents

CORAM :HON'BLE MRS. JUSTICE ANUBHA RAWAT CHOUDHARY

For the Appellants	: Mr. Niraj Kishore, Advocate
	: Ms. Shobha Rani, Advocate
For the Respondents	: A.K. Sahani, Advocate

27/19.09.2025

The learned counsel for the appellants has submitted that the property is relatable to R.S. Khata No. 39 area 9.78 acers in village Zarda, thana Dumri, Dist. Gumla which stood recorded in the name of Magnu Ghansi and Soma Ghansi. Both of them were not related to each other and accordingly each had a share to the extent of 4.89 acres.

2. With respect to the genealogy of Magnu Ghansi, he submits that Magnu Ghansi had three daughters, one died issueless the remaining two were Niro ghansi and Biro ghansi.

Niro had three sons Patru, Khasru and Lasru who were defendant no. 1,2, and 3 respectively.

Biro had three sons who were defendant nos. 4,5 and 6 respectively.

3. So far as Soma Ghansi is concerned, he had two sons Kastu and Mahrang who were defendant nos. 7 and 8.

4. Defendant nos. 7 and 8 executed sale deed to the extent of 1.66 acres vide registered sale deed dated 16.01.1987 (Exhibit-1) to the extent of 1.66 acres in favour of plaintiffs. He submits that the Title of Soma Ghansi was duly recognized by defendant no. 3 earlier when the son of defendant no. 7 , that is, grandson of Soma Ghansi had executed a registered sale deed no. 77 dated 08.01.1986 (Ext, 3). Plaintiffs had applied for mutation vide application as contained in Exhibit-6 and the case was registered and numbered as Mutation Case No. 47R 27/87-88 but the mutation was allowed only to the extent of 0.90 and 1/2 decimal vide Exhibit-6 dated 28.03.1988. In the mutation

proceeding the defendant nos. 1,2 and 3 had also participated and they raised objection. He submits that the circle officer wrongly decided the mutation as if he was deciding the partition suit and thereafter the Title Suit was filed.

5. The learned counsel has submitted that sale deed executed in favour of the plaintiffs were never challenged before the competent court of civil jurisdiction. The learned counsel has submitted that sale deed of the plaintiffs has been declared illegal by both the courts although the same was not challenged in any proceeding and certainly the plaintiffs would not have challenge the same.

6. He has also submitted that the entry in the record of rights i.e. R.S. record has attained finality which was never challenged by the defendants under any proceeding.

7. The learned counsel submits that out of the seven issues framed by the learned trial court, issue no. (3) (4) and (5) are relevant for the purposes of this case which are quoted as under:-

(3) Has the Soma Ghansi's name been erroneously recorded during R.S. Operation in respect of suit Khata and had Soma or his sons any title and possession over the same?

(4) Has the plaintiffs got title and interest over Schedule-A and has defendant no. 7 to 8 got any title and interest left in respect of lands described in schedule B of the plaint?

(5) Is the registered deed of sale dated 16.01.1987 executed in favour of plaintiffs, valid and legal?

Submission on behalf of the respondents

8. The learned counsel for the respondents while opposing the prayer of the appellants and has submitted that in C.S. record of right, the name of only Magnu Ghansi was entered and subsequently in R.S. Record of right, Magnu Ghansi and Soma Ghansi were entered. He has also submitted that they are otherwise not related to each other.

9. The defendant nos. 1 and 2 are descendants of Magnu Ghansi and defendant no. 7 and 8 who are the vendors of the plaintiff are the descendants of Soma Ghansi.

10. The learned counsel submits that the subsequent entry in record of right which related to Magnu Ghansi and Soma Ghansi still only has a presumptive value and is subject to rebuttal. He submits that the necessary evidences were led on behalf of defendant nos. 1 and 2 to rebut the presumption and both the courts after considering the materials on record has held that the entry of the name of Soma Ghansi along with Magnu Ghansi in R.S. record of right was incorrect and only the name of Magnu Ghansi ought to have been there.

11. The learned counsel has submitted that since the vendor of the appellants were the descendants of Soma Ghansi, therefore the sale deeds which has been relied upon by the plaintiffs (exhibit-1) has been found to be ingenuine.

12. He has also submitted that the plaintiffs have to prove their case and any lacuna in the case of the defendants will not have any advantage to the plaintiffs.

13. He has submitted that the judgment of the learned courts reveals that the defendant nos. 7 and 8 had neither title nor possession with respect to the suit property to execute any sale deed in favour of the plaintiffs. He has also submitted that merely because one of the descendants of Magnu Ghansi had purchased the property from the defendant no. 7 and 8, the same does not help the appellant in any manner because defendant nos. 7 and 8 had no right, title and interest to execute the sale deed.

14. The learned counsel has submitted that the main issue is issue no. (iii) and both the courts have given the concurrent findings after considering the materials on record and there is no perversity in the finding.

15. He has also submitted that the mis-match in connection with the name of the land lord in C.S. Record and R.S. Record is sought to be raised by the learned counsel for the appellants, but there is no foundational pleading in the plaint or the written statement in connection with as to who was the previous land lord and therefore such arguments on the part of the appellants is misplaced. The learned counsel has submitted that the plaint does not refer to the entry made

in C.S. Record, rather the entire case of the plaintiffs was referable to the entry made in the R.S. record. It was only in the written statement the reference to the C.S. Record was brought by the defendants. The learned counsel has submitted that it was specifically pleaded in amended plaint in paragraph 6 that R.S. Khata No. 39 corresponds to C.S. Khata No. 37 and this plea of the defendants was sustained by the learned courts while considering the materials on record.

16. The learned counsel has also submitted that it was specifically stated in the written statement that Soma Ghansi was not a part of the family, rather he was working as care taker of the houses in the landlord's house and it was alleged that he has taken advantage of his position to get his name entered in the R.S. record of right without any foundational basis. He has relied upon the judgment passed by the Hon'ble Supreme Court reported in *2023 SC Live Law 999 (P. Kishore Kumar versus Vittal K. Patkar)* Paragraph 11 to 18 and para 23 and 29.

17. Arguments concluded.

18. Judgment is reserved.

19. Post this case for judgement on 13.11.2025 or any other date as may be notified by this court, whichever is earlier.

(Anubha Rawat Choudhary, J.)

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