

IN THE HIGH COURT OF JHARKHAND AT RANCHI**S.A. No. 73 of 1997 (R)**

1. Ramphael Tigga (**substituted vide order dated 08.09.2025**)
 - (i) Milred Tigga, daughter of late Ramphael Tigga
 - (ii) Ignasibus Tigga
 - (iii) Pascal Tigga,
 - (iv) Ambrose Tigga
Sons of Late Ramphael Tigga
 - (v) Nirmala Tigga
 - (vi) Chandrika Tigga
Both daughters of late Ramphael Tigga,
All are resident of village – Jarda, P.O. & P.S. Dumri,
District – Gumla
2. Helena Khalko, D/o Johan Khalko
Resident of village Tetartoli, P.S. Dumri, District Gumla

... ... **Plaintiffs/Appellants/Appellants**
-Versus-
1. Patru Ghanshi, son of Karia Ghanshi, resident of village Silli, P.S. Dumri, District Gumla (**Expunged vide order dated 13.04.2000**).
2. Khasru Ghanshi
3. Ramdhani Ghansi
Both sons of Lasru Ghansi
Residents of village Jarda, P.S. Dumri, Dist. Gumla
4. Rangila Ghansi (**Deleted vide order dated 22.11.1999**)
5. Konda Ghansi
6. Phiru Ghansi
Sons of Biro Ghansi and Niro Ghansi
Resident of village Gobindpur, P.S. Dumri, District Gumla
7. Kastu Ghansi, S/o Soma Ghansi
8. Mahrang Ghansi, S/o Soma Ghansi (**expunged vide order dated 28.08.98**)
Residents of village Katima, P.S. Dumri, District Gumla
9. Deputy Commissioner, Gumla

... ... **Defendants/Respondents/Respondents**

CORAM: HON'BLE MRS. JUSTICE ANUBHA RAWAT CHOUDHARY

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

Reserved on 19.09.2025**Pronounced on 13/11/2025**

1. This second appeal has been filed against the Judgment and Decree dated 10.09.1997 (Decree sealed and signed on 20.09.1997) passed by the learned 1st Additional District Judge, Gumla in Title

Appeal No. 31 of 1992 whereby and whereunder the appeal filed by the appellants has been dismissed and the Judgment and Decree dated 18.06.1992 (Decree sealed and signed on 29.06.1992) passed by the learned Additional Munsif, Gumla in Title Suit No.81 of 1991 / 42 of 1988 has been affirmed. The title suit was dismissed by the learned trial court and consequently, the plaintiffs are appellants before this Court.

2. This second appeal was admitted vide order dated 05.05.1998 on the following substantial questions of law: -

- (I) Whether in case of discrepancy between the entries in C.S. and R.S. Record of Rights, the entry in R.S. Record of Right will prevail?*
- (II) Whether, the findings of the courts below that the plaintiffs have not acquired any title to the suit property are based on misconstruction of the title deeds (Exts 1 and 3) as well as Ext.5?*

3. The suit was filed for the following reliefs: -

- a) That the court be pleased to declare the right, title and interest of the plaintiff over the lands in Schedule 'A' and further declare the right, title and interest of defendant Nos. 1 to 8, their respective shares over lands in Schedule B of the plaint.*
- b) That the court be pleased to confirm the possession of the Plaintiffs over lands in Schedule A and in case they are found dispossessed, they be given possession thereof after eviction of any person over them.*
- c) That the court may be pleased to order and award the cost of the suit in favour of the plaintiffs as against the Defendant Nos 1 to 6.*
- d) That the court be pleased to grant any other relief or reliefs to which the plaintiffs are found entitled.*

Schedule-A

Lands taken in sale vide deed No.126 of 1987 dated 16.1.87 in village garda, P.S. Dumri, Thana No.76, District Gumla.

<i>Khata No.</i>	<i>Plot No.</i>	<i>Name of Land</i>	<i>Area</i>
39	285	Bala	0.04 Out of

		Chaura	0.28 decimal
39	287	Bala Don	0.20
	288	Do	0.83
	373	Bhuir Chaura	0.21
	660	Bandh Tanr	0.16
	273	Sinduar Tanr	0.11 out of 0.22 towards North
	374	Bhuir Don	0.11
Total			1.66 acres

Schedule-B

Lands in sale in village Jarda, P.S. Dumri, Thana No.76, District Gumla

Khata No.	Plot No.	Name of Land	Area
39	273	Koinar Tanr	0.11 out of 0.22 decimal
	285	Bala Chaura	0.24 out of 0.28 decimal
	505		1.14
	603	Gharbari	0.05
	604	Makan	0.04
	610	Bag Aam	0.09
	611	Ghar Bari	0.15
	636	Koinar Tanr	0.70
	638	Tangra Don	2.13
	649	Pakri Tanr	0.56
	658	Bandh Do.	0.23
	674	Mahua Tanr	0.20
	841	Khakhari Tanr	0.73
	842	-DO-	0.62
	604/1250	Makan Sahan	0.07
	55	Chhaur Tanr	1.06

Total	8.12 acres
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Arguments of the appellants.

4. Learned counsel for the appellants has submitted that the plaintiffs were claiming property measuring area 1.66 acres on the basis of registered sale-deed dated 16.01.1987 executed in favour of the plaintiffs by two sons of Soma Ghansi, namely, Kastu Ghansi and Mahrang Ghansi. Kastu Ghansi and Mahrang Ghansi were defendant nos. 7 and 8 respectively. He submits that defendant nos. 7 and 8 had supported the case of the plaintiffs. He submits that after the purchase, the plaintiffs had applied for mutation which was numbered as mutation case no. 47-R-27 of 1987-88 and the mutation was partly allowed only to the extent of 90½ decimals vide order dated 28.03.1988 (exhibit-6). The order of mutation became final and ultimately, the suit was filed seeking declaration of title.
5. The learned counsel submits that as per R.S. record-of-rights, Khata No. 39 had total area of 9.78 acres which stood recorded in the name of Mangnu Ghansi and Soma Ghansi. The property is in village-Jarda, P.S. Dumri, District Gumla.
6. So far as Mangnu Ghansi is concerned, he had only three daughters; Niro, Biro and one more daughter who died issueless. Niro had three sons, namely, Patru Ghanshi, Khasru Ghanshi and Lasru Ghanshi who were defendant nos. 1, 2 and 3 in the suit. Biro had three sons, namely, Rangila Ghanshi, Konda Ghanshi and Firu Ghanshi who were defendant nos. 4, 5 and 6. He submits that the property was purchased from the legal heirs and successors of Soma Ghansi who was shown in the record-of-rights along with Mangnu Ghansi. The descendants of Mangnu Ghansi were the contesting defendants.
7. Learned counsel for the appellants further submits that the son of defendant no. 7, namely, Ranglal Ghanshi had transferred a portion of the property vide registered sale-deed dated 08.01.1986 (exhibit-3) to the defendant no. 3. Therefore, the defendant no. 3 had duly acknowledged that the ownership of the property was with the descendant of Soma Ghansi.

8. The defendants exhibited the C.S. record-of-rights vide exhibit-D and D/1 in which the property was shown only in the name of Mangnu Ghansi. The learned counsel submits that there was discrepancy in exhibit- D and D/1 which ultimately got resolved when the R.S. record-of-rights was prepared and in R.S. record-of-rights the property was shown in the name of Mangnu Ghansi and also Soma Ghansi.

9. The learned counsel submits that the law is well-settled that in case of discrepancy between entry in C.S. record-of-rights and R.S. record-of-rights, the entry in the R.S. record-of-rights will prevail. For this, the learned counsel for the appellants has relied upon the judgment passed by Hon'ble Supreme Court reported in ***AIR 1963 SC 361 (Sri Raja Durga Singh of Solon Vs. Tholu and Others)*** and also the judgment passed by a Full Bench of the Hon'ble Patna High Court reported in ***1987 PLJR 354 (FB)***. He submits that these two judgments have been considered by this Court in the judgment passed in ***S.A. No. 219 of 2022***.

10. The learned counsel for the appellants has also relied upon the judgment passed by this Court reported in ***2003 (2) JLJR 708 (Dwarika Sonar and others Vs. Most. Bilguli and others)***, where one of the substantial questions of law was – “(i) *What will be the effect in law of the two different entries made in the two different survey settlement of records of right under S. 84(3) of the Chotanagpur Tenancy Act.*”. He submits that the said question of law was decided by holding that the subsequent record-of-rights would prevail over the previous one. He has also submitted that it is not in dispute that R.S. record-of-rights is subsequent to C.S. record-of-rights. Learned counsel for the appellants has also placed paragraph 9 of the aforesaid judgment passed in ***Dwarika Sonar (Supra)***.

11. Learned counsel for the appellants has submitted that exhibit- D and D/1 did not relate to the property involved in the present case and were relating to Mouza Barwe shown in the name of the landlord namely, Sk. Bahadur Ali. He further submits that exhibit – A series are the rent receipt issued by Maharaja Pratap. So far as the R.S.

record-of-rights is concerned, the same showed the landlord as Maharaja Pratap and the property has also been shown in Mouza Jarda, P.S. Chainpur, District Gumla.

12. 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 Jarda, thana Dumri, Dist. Gumla which stood recorded in the name of Mangnu 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.

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

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.

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

15. 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) in favour of the 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 (exhibit-3). Plaintiffs had applied for mutation vide application as contained in Exhibit-6 and the case was registered and numbered as Mutation Case No. 47-R-27/87-88 but the mutation was allowed only to the extent of 90½ decimals 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.

16. 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 could not have challenge the same.

17. 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.

18. The learned counsel submits that out of the seven issues framed by the learned trial court, issue nos. (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?

Arguments of the respondents

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

20. The defendant nos. 1 and 2 are descendants of Mangnu Ghansi and defendant no. 7 and 8 are the vendors of the plaintiffs and the descendants of Soma Ghansi.

21. The learned counsel submits that the subsequent entry in the record of rights 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 Mangnu Ghansi ought to have been there.

22. The learned counsel has submitted that since the vendor of the plaintiffs 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.

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

24. He has submitted that the judgments of the learned courts reveal 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 Mangnu Ghansi had purchased the property from defendant no. 7 and 8, the same does not help the appellants (plaintiffs) in any manner because defendant nos. 7 and 8 had no right, title and interest to execute the sale deed.

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

26. He has also submitted that the mismatch in connection with the name of land lord in C.S. Record and R.S. Record is sought to be raised by the learned counsel for the appellants (plaintiffs), but there is no foundational pleading in the plaint or the written statement in connection with as to who was the previous land lord of the suit property 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.

27. 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 rights 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.

Findings of this court.

28. Case of the plaintiffs: -

- a. The lands in the Khata No. 39 with an area of 9 acres 78 decimals of village Jarda, P.S. Dumri, P.S. No. 76, District Gumla were recorded in the names of Mangnu Ghansi and Soma Ghansi.
- b. The recorded tenant Mangnu Ghansi died without any male issue. He left 3 daughters-Niro Ghasin, Biro Ghasin and one third daughter who died issueless after her marriage.
- c. The defendant nos. 1, 2 and 3, namely, Patru Ghansi, Khasru Ghansi and Lasru Ghansi are the sons of Niro Ghasin, W/o Karia Ghansi. The defendant Nos. 4, 5 and 6, namely, Rangila Ghansi, Konda Ghansi and Phiru Ghansi are the sons of Biro Ghasin D/o Manglu Ghansi. Defendant Nos.7 and 8, namely, Kastu Ghansi and Mahrang Ghansi are the sons of recorded tenant Soma Ghansi.
- d. The plaintiffs have acquired right over 1.66 acres by virtue of sale deed dated 16.01.1987.
- e. Originally, the share of the defendant nos. 1 to 6 was one half of the entire property and the share of defendant nos. 7 and 8 was one half of the suit lands and the plaintiffs have acquired right over their sale area of 1 acre 66 decimals from the share of defendant nos. 7 and 8.
- f. The share of the defendant nos.1, 2, 3, 4, 5 & 6 would be 4 acres and 89 decimals and the share of the defendant nos.7 and 8

would also be 4 acres and 89 decimals but after sale defendant nos. 7 & 8 have right over 3.23 acres after deduction of 1.66 acres belonging to plaintiffs as purchasers.

- g. The recorded tenants and their descendants are '**Ghansis**' by caste and Hindus by religion and are governed by the Hindu Succession Act, 1956.
- h. The plaintiffs have acquired valid title over the lands under purchase from the defendant nos. 7 and 8 who were competent and qualified persons for making a transfer by sale. The plaintiffs were in possession of 1.66 acres even before the date of sale from 20 years and are still in possession.
- i. The plaintiffs filed a Mutation Case No.47R 27/87-88 in the court of C.O., Dumri who partly ordered mutation of 0.90 ½ acres which is wrong in law and facts.
- j. The plaintiffs are entitled to their entire area of 1.66 acres under sale as mentioned above. The C.O., Dumri was wrong in assuming jurisdiction of Civil Court in matter.
- k. The cause of action for this suit arose on 06.01.1987 the date of purchase and 28.03.1988 being the date of order wrongly passed by the C.O., Dumri.

29. Case of the contesting defendants: -

- (i) The suit is not maintainable, barred by limitation, waiver and acquiescence, bad for non-joinder and mis-joinder of the parties. The plaintiffs have no cause of action.
- (ii) Entry in the R.S. record of rights was admitted but it was stated that Soma Ghansi had no concern with Mangnu Ghansi, the recorded tenant. At the time of revisional survey (R.S), Soma Ghansi was working as protector of horse stable of the then landlord of village – Jarda and by influence Soma Ghansi got his name entered in the R.S. record of rights but he never came in possession over the lands of khata no.39 of village – Jarda. As soon as he left the service of landlord, he left the village – Jarda and started living at village- Katimba. Similarly, his sons Kastu and Mahrang never lived at village- Jarda and were never in

- possession over any of the lands including the suit lands and R.S. Khata No.39 corresponding to CS No.37, which had been recorded exclusively in the name of Mangnu Ghansi, son of Lepa Ghansi.
- (iii) The plaintiffs have got the deeds of sale executed by defendant Nos. 7 and 8 fraudulently only on the basis of the entry made in the R.S. record of rights which is wrong. The descendants of Mangnu Ghansi (recorded tenant) are the absolute owner of the entire property. The defendants Nos. 7 and 8 have no right, title and interest to alienate the said lands as *neither* their father *nor* the defendants Nos.7 and 8 have ever acquired any title and possession over any of the lands including suit lands of Village – Jarda, P.S. Dumri, hence any transfers made by them are illegal fraudulent, *ab initio void* and not binding upon the contesting defendants.
- (iv) That the entire lands of khata No. 39 of village Jarda were the raiyati lands of the recorded tenant Mangnu Ghansi. Mere entry in the R.S. record of rights does not create any title over any land. If there was any kind of title or interest, the same has been extinguished by way of adverse possession because Soma Ghansi and his sons were never in possession as they were and are not related with Mangnu Ghansi and his heir. The recorded tenant Mangnu Ghansi was the absolute owner of the property and after his death his descendants particularly defendant Nos.1 and 2 are the absolute owner of the property.
- (v) The defendant Rangila was dead and his sons were not impleaded as party in this suit, hence the suit was bad for non-joinder of the parties.
30. The plaintiffs had produced the following oral and documentary evidences in support of their case: -

<i>Oral evidence on behalf of the plaintiffs</i>	
<i>P.W. 1</i>	<i>Birju Baraik</i>
<i>P.W. 2</i>	<i>Nicolas Tigga</i>
<i>P.W. 3</i>	<i>Asiq Mian</i>

<i>P.W. 4</i>	<i>Piyush Oraon</i>
<i>P.W. 5</i>	<i>Banerik Tigga</i>
<i>P.W. 6</i>	<i>Rafail Tigga</i>
<i>P.W. 7</i>	<i>Phani Naik</i>
<i>P.W. 8</i>	<i>Bijay Bhushan Rai</i>

<i>Documentary evidence on behalf of the plaintiffs</i>	
<i>Exhibit 1</i>	<i>Sale deed dated 16.1.87 executed by Kastu Ghanshi and Mahrang Ghanshi (both sons of Soma Ghashi and were defendant no. 7 and 8) in favour of the plaintiffs.</i>
<i>Exhibit 2</i>	<i>Signature of Nicolas Tigga (P.W.2)</i>
<i>Exhibit 3</i>	<i>C.C. of sale deed dated 8.1.86 executed by Ranglal Ghanshi in favour of Lasru Ghanshi [defendant no.3.</i>
<i>Exhibit 4</i>	<i>W.S. filed on behalf of defendant Nos.7 and 8</i>
<i>Exhibit 5</i>	<i>C.C. of Khatian dated 9.6.92</i>
<i>Exhibit 6</i>	<i>C.C. of Mutation Case No. 47R 27/87-89</i>
<i>Exhibit 7</i>	<i>Correction Slip</i>

31. The defendants had produced the following oral and documentary evidence in support of their case: -

<i>Oral evidence on behalf of the defendants</i>	
<i>D.W.1</i>	<i>Heer Mohammad</i>
<i>D.W. 2</i>	<i>Gaffar Uddin</i>
<i>D.W. 3</i>	<i>Rassulludin</i>
<i>D.W. 4</i>	<i>Basant Sao</i>
<i>D.W.5</i>	<i>Sahid Mian</i>
<i>D.W. 6</i>	<i>Josheph Oraon</i>
<i>D.W. 7</i>	<i>Gaya Dutta Pandey</i>
<i>D.W. 8</i>	<i>Khashru Ghanshi</i>

<i>Documentary evidence on behalf of the defendants.</i>	
<i>Exhibit A to A/11</i>	<i>Janimdari rent receipts</i>
<i>Exhibit B to B/1</i>	<i>Government rent receipts</i>
<i>Exhibit C</i>	<i>C.C of Case No. M961/90 R/s 144 Cr.P.C.</i>
<i>Exhibit C/1</i>	<i>C.C of Case No. M933/88 U/s</i>

	<i>144 Cr.P.C.</i>
<i>Exhibit D to D/1</i>	<i>C.C. of C.S Khatian in respect of Khata No.37</i>
<i>Exhibit D2</i>	<i>C.C of R.S. Khatian in respect of R.S. Khata No. 39 corresponding to C.S. Khata No. 37.</i>
<i>Exhibit E</i>	<i>R.S. Map</i>
<i>Exhibit E/1</i>	<i>C.S. Map</i>

32. The learned trial court had framed the following issues for consideration: -

- 1. Is the suit maintainable in its present form?*
- 2. Is the suit barred by limitation, waiver and acquiescence?*
- 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 possessions over the same?*
- 4. Has the plaintiffs got title and interest over schedule A land 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 16.1.87 executed in favour of plaintiffs, valid and legal?*
- 6. Has the plaintiff has got valid cause of action for the suit?*
- 7. Are the plaintiffs entitled to the reliefs claimed?*

33. Findings of the learned trial court with respect to **issue no. 3** is summarized as under: -

- a) No where in the plaint or evidence, the plaintiff has tried to show any relation between two recorded tenants Mangnu Ghansi and Soma Shansi in respect of R.S.Khata no. 39.*
- b) The plaintiff has not given any explanation to substantiate as to how the entry of Soma's name was made in R.S. Khatian Ext.5 showing ½ share in the khata.*
- c) The defendant tried to explain in his W.S. that R.S. Khata no.39 corresponds to C.S.Khata No.37 which was in exclusive name of Mangnu Ghansi son of*

Lepa Ghansi. In support of this contention, the defendant has filed the R.S. Khatian and also C.S Khata which were marked exhibits. C.S.Khata No.37 is recorded exclusively in the name of Mangnu Ghansi which was corresponding to R.S Khata no. 39 and conclusively held the fact that suit plots of R.S.Khata No.39 were carved out from the C.S. Khata No. 37 exclusively recorded in the name of Mangnu Ghansi.

- d) The defendant filed the rent receipts granted by the ex-landlord marked Ext A series in which there are several rent receipts issued in the name of Mangnu Ghansi in respect of suit khata 39 showing payment of rent exclusively by recorded tenant Mangnu Ghansi. The defendant has also filed the two state rent receipts in the name of Mangnu showing payment of rent for the whole of the suit land by Mangnu immediately after vesting of the estate granted in the year 1956 and 1958.*
- e) Defendant nos.7 and 8 are sons of Soma who **neither** participated in the trial **nor** examined on behalf of the plaintiff in the suit **nor** any documentary/oral evidence has been produced to substantiate their claim of title and possession over the suit land, **either** prior to the R.S. operation **or** subsequent to that.*
- f) After considering the oral and documentary evidences, the trial court held that name of Soma Ghanshi was erroneously entered in the revisional Record of Right and on account of such entry no title was conferred upon him. As such, entry of name of Soma Ghansi in revisional survey in respect of suit khata no.39 [Ext.D/2 by defendant or exhibit-5 by plaintiff] is wrong and illegal and Soma Ghansi or his sons defendant no.7 and 8 had or has absolutely no title or possession in respect of suit khata no. 39.*
- g) Issue no. 3 was decided against the plaintiffs.*

34. Findings of the learned trial court with respect to **issue no. 4 and 5** is summarized as under: -

- i. The plaintiff has based the claim of his title and possession on a registered deed of sale executed by defendant nos.7 and 8 sons of Soma Ghansi which is dated 16.7.87 [Ext. 1]. Ext.3 is the C.C.of sale deed executed by Ranglal Ghansi son of Kastu (defendant*

- no.7) in favour of Lasru Ghansi, contesting defendant no.3(since deceased) which is in respect of half area of suit plot no.273,285 and 287 whereas the subsequent sale deed made in favour of these plaintiffs by Kastu and Mahrang is in respect of the whole area of suit plot no.287 while the area of plot no.273 is half only out of total area 22 decimals. So these two sale deeds Ext.1 and Ext.3 taken together goes to show that both are only paper transactions.
- ii. Neither there was any pleading nor there was any document to show that there was partition between the two recorded tenants and there was nothing to show how the Ranglal had any right to execute such deed Ext.3 which seemed to have been purposely created.
 - iii. Ext 6 and 7 are the mutation order and correction slip passed in respect of half of the purchase land in favour of the plaintiffs on the basis of the R.S. survey entry made in the name of Soma. This order Ext.6 also does not speak about the possession of the two vendors sons of Soma Ghansi and makes the Soma's name in R.S. the basis of title which is wrong and illegal.
 - iv. None of the plaintiffs witnesses has spoken about the possession of Soma or his sons over the suit lands on the contrary it is pleaded by the plaintiffs that they are in possession for 20 years prior to execution of their sale deed in their favour in the year 1987 but P.W. 3 in his evidence speak about plaintiffs possession since 30 to 35 years in his evidence but the plaintiff himself in his evidence does not speak of any such period nor there is any paper to that effect.
 - v. The evidence of the plaintiffs' witnesses was found to be contradictory.
 - vi. The sale deed Ext.1 with respect of the whole plot was without any partition which has neither been pleaded by defendant nos.7 and 8 in their W.S. nor has come in evidence as such has been executed by the two vendors only with a view to create colour of title which apparently the vendor or their father Soma Ghansi could not have get on account of such wrong entry. The defendant on the other hand through his two survey khatians Ext. D and D/1 rent receipts granted by Ex-landlord and State of Bihar Ext. A and B series coupled with consistent statement of the villagers examined as D.W. 1, D. W.

2, D. W. 3, D. W.5 and DW. 6 has spoken about the claim of title and possession of these contesting defendants since the time of their father Mangnu Ghansi.

- vii. On the basis of evidence, facts and reasons, the learned trial court held that plaintiffs have absolutely no claim of title and possession in respect of the suit and described in Schedule A of the plaint and the sale deed Ext.3 made in their favour was held to be void, and illegal. Defendants no.7 and 8 accordingly has got claim of title and possession left in lands of schedule. These two issues were decided in favour of the defendants and against the plaintiffs.

35. Learned 1st appellate court framed the following points for determination: -

1. Is the suit as framed maintainable?
2. Have the plaintiffs/appellants got any cause of action for the suit?
3. Was the name of Soma Ghanshi wrongly recorded during R.S. operation in respect of the suit khata and had Soma or his sons (defendants no.7 and 8) any title in and possession over the suit lands?
4. Have the plaintiffs/appellants got any right, title and interest in the land of schedule A of the plaint.
5. Have the defendants nos. 7 and 8 got any right, title and interest in respect of the land described schedule B of the plaint?
6. Is registered sale deed dated 16.1.87 executed by defendant no.7 and 8 in favour of plaintiffs/appellants valid and legal?
7. Are the plaintiffs/appellants entitled to the reliefs as claimed for?

36. Findings of the learned 1st appellate court with respect to **point no. III** is summarized as under: -

- a. Undoubtedly, the names of Mangnu Ghashi and Soma Ghanshi are there in the R.S. Khatian in respect of Khata No.39 containing the disputed land.
- b. The learned counsel for the plaintiffs but could not show as to how Soma and Mangnu are related.
- c. In C.S. khatian name of only Mangnu Ghanshi is there in respect of C.S. Khata no.37 corresponding to R.S. Khata No.39.

- d. *No plausible explanation could be given as to why name of Soma Ghanshi did not figure in C.S. Khata alongwith Mangnu Ghanshi if he was a co-sharer of Mangnu Ghanshi.*
- e. *Defendants strongly urged that Soma Ghanshi is a stranger to the family of Mangnu Ghanshi and Soma was working as a protector of Horse stable of the ex-landlord and he took advantage of his position and brought survey Amins and Karamcharis in his collusion and got his name entered alongwith Mangnu in the R.S.Khatian in respect of the disputed land.*
- f. *Exts. D series and Exts. E series conclusively prove the case of the contesting respondents that suit plots of R.S.Khata No.39 have been carved out from C.S.Plots of corresponding C.S.Khata No.37. These documents further prove that Soma is a stranger to the family of Mangnu Ghanshi and, therefore, his name could not be mentioned in C.S.Khatian rather his name was subsequently got entered in R.S.Khatian by manoeuvring. Ext.A series also indicate that it was only Mangnu Ghanshi who made payment of rent in respect of the suit plots to the ex-landlord. Even the two Govt. rent receipts Ext. B series indicate that rent of the suit land was paid exclusively by Mangnu Ghanshi after vesting of the State in the year 1956-58.*
- g. *The learned trial court has rightly pointed out that defendants no.7 and 8, who are admittedly sons of Soma Ghanshi, did not dare participate in the trial on behalf of the plaintiffs.*
- h. *No cogent oral or documentary evidence has been filed on behalf of the plaintiffs or sons of Soma Ghanshi to show their claim of title and possession over the suit lands either before the R.S. operation or subsequent to that.*
- i. *All the material witnesses for the plaintiffs have admitted that defendants no.7 and 8 have been living in a different village namely Katimba. They have also admitted that Soma Ghanshi alongwith his sons had left the village and had been living in another village. There is no iota of evidence to show that the recorded tenant Soma Ghanshi or his sons defendants no.7 and 8 ever remained in possession of the disputed land after R.S. operation rather a story has been cooked up that the plaintiffs had been coming in possession of the disputed land as Bataidars of two sons of Soma Ghanshi over the suit lands for 20 years prior to the execution of Ext. 1, the*

sale deed. There is no evidence to show that there was any partition between the two recorded tenants.

- j. The contesting defendants have filed plethora of documents to show that the disputed lands belonged exclusively to Mangnu Ghanshi and after his death his heirs have been coming in possession of the same. The witnesses examined on behalf of the contesting defendants, namely, D.Ws.1, 2, 3, 5 and 6 have fully supported the case of the contesting defendants on the point of title as well as their possession over the disputed land. They all are independent witnesses and there was no reason to dis-believe their testimonies. They have stated very clearly that Soma Ghanshi belonged to a different village and was brought to village Jarda by the ex-landlord to work as a Protector of Horse Stable. This fact has been established from the circumstances as also from the evidence of some of the witnesses examined on behalf the plaintiffs themselves.*
- k. Thus, the learned lower court has rightly held that the name of Soma Ghanshi was wrongly entered in the R.S. record of rights and on account of such entry no title could vest in him. The entry of the name of Soma Ghanshi in Ext.D/2 in respect of khata no.39 is wrong. Ext.5 has illegally been prepared. Soma Ghanshi or his two sons defendants No.7 and 8 cannot be permitted to have title in the disputed land on the basis of a few documents, which do not conclusively support the case of the plaintiffs. Soma Ghanshi cannot be declared as a co-sharer of Mangnu Ghanshi simply because his name finds mentioned, that too, illegally in R.S. Khatian in respect of the disputed land. The point was decided against the plaintiffs.*

37. Findings of the learned 1st appellate court with respect to point nos. V and VI is summarized as under: -

- A. The plaintiffs have based the claim of their title and possession on the strength of Ext.1, the registered sale deed executed by defendant no.7 and 8.*
- B. the statements of P.W.2 and 6 clearly indicate that there was something fishy in respect of purchase of the disputed land by virtue of Ext. 1. Both the witnesses are making contradictory statements on the point which speaks a lot against the case of the plaintiffs.*
- C. Learned counsel for the appellants has tried to lay emphasis on Ext.3 to show that it was executed by*

Ranglal Ghansi son of defendant no.7 in favour of Lasru Ghanshi contesting defendant no.3(since dead) which is in respect of half area of plots no.273, 285 and 287. The learned counsel for the appellants tried to impress upon the court that if Soma had no interest in the disputed land, how could Lashru purchase half of the said plots from Ranglal son of defendant nos.7. The learned trial court has discussed this point very correctly. The subsequent sale deed (Ext.1) executed in favour of the plaintiffs by Kastu Ghanshi and Mahrang Ghanshi is in respect of the entire area of plot no.287. If half of this plot had already been sold by Ranglal, son of defendant no.7 then where was the occasion for Kastu and Mahrang to sell the entire area of plot no.237, to the plaintiffs.

- D. This clearly shows that even Ext.3 was manufactured. Exts.1 and 3 both have rightly been characterized by the learned trial court as paper transaction. These deeds do not speak even a word about any partition between the two recorded tenants nor defendants no.7 and 8 in Ext.4 have spoken about the same.*
- E. Ext.6 and 7 are the mutation orders and correction slip respectively in respect of half of the purchased land in favour of the plaintiffs on the basis of R.S.survey entry made in the name of Soma Ghanshi alongwith Mangnu Ghanshi.Ext.6 does not speak about the possession of the two sons of Ghanshi. If Soma had no title in the suit land as discussed above, how could the sale deed Ext.1 which is totally illegal confer any title on the plaintiffs? because what a person does not possess cannot give to other. Further, Ext.1 appears to have not come into force. In fact, it was never acted upon. This fact becomes clear from the evidence of PWs.2,3,4,5 and 6 themselves. The learned trial court discussed their evidence in his judgement and the 1st appellate court did not find any reason to interfere with the findings.*
- F. The plaintiffs have stated that prior to their purchase, they had been coming in possession of the disputed land as Bataidars of Soma Ghanshi but the witnesses examined on their behalf on the point were not found to be competent. P.W.2 says that he has not seen any paper of Bataidars. He has further said that Bataidars had been coming in possession for 30-35 years whereas the plaintiffs have stated that they had been coming as Bataidars for 20 years.P.W.3 has stated that Soma was the Protector of Horse stable of the ex-landlord. He*

further says that Soma's sons Kastu and Mahrang left the village 10 years back. He further says that he has not seen any paper regarding Bataidari etc. He even does not describe about the disputed land. He is unconcerned with the land. **P.W.4** gives new story and says that Mangnu and Soma got their lands partitioned. When, where and how? This fact has not been pleaded. So this statement is a figment of imagination of this witness. He further says that he had taken the disputed land from Soma on mortgage, which was subsequently given back to Soma. No paper of such mortgage has been given. There is no witness on the point. It has also not been pleaded. He does not name the father of Soma. He does not give any detail about the family of Soma. He does not say as to when the partition took place and from whom he heard about it. **P.W.5** does not know anything about the disputed land. He even does not know the name of the father of Kastu and Mahrang. So all these witnesses are unreliable and have been prepared by the plaintiffs to support their false claim of title and possession. **P.W.6** is one of the plaintiffs he does not speak a word that Soma and Mangnu Ghanshi were brothers. I have discussed his evidence on the point of talk of purchase of the disputed land. This witness is wholly un-reliable.

On the contrary all the **DWs** who have deposed on the point of title and possession of contesting defendants are fully reliable. The learned trial court has rightly relied on their evidence.

- G. Ext.1, sale deed in question is an illegal document as the vendor of the plaintiffs, defendants no.7 and 8, themselves did not have any right title and interest either in the disputed land or in the lands detailed in schedule B of the plaint. These two points were decided against the plaintiffs.

38. Findings of the learned 1st appellate court with respect to **point now. IV** is summarized as under: -

It is crystal clear that the plaintiffs do not have any title in the disputed land on the basis of the Ext. 1 because the vendors of the plaintiffs themselves did not have any title and interest in the disputed land. Ext.1 is an illegal document and further it was never acted upon, as it is clear from discussions while deciding other issues. The learned trial court has rightly held that the plaintiffs did not get any right, title and interest in the suit Land of schedule. A on the basis of Ext. 1.

39. The learned 1st appellate court with respect to **point nos. I, II and VI** held that it was abundantly clear that the plaintiffs have no cause of action for the suit and the suit as such is not maintainable. Further they are not entitled to any reliefs because the very document on the basis which they have sought reliefs is illegal.

40. The 1st appellate court confirmed the judgement and order of the learned trial court and dismissed the appeal.

1st substantial question of law –

(I) Whether in case of discrepancy between the entries in C.S. and R.S. Record of Rights, the entry in R.S. Record of Right will prevail?

41. In the judgement passed by this Court reported in (2003) 2 JLJR 708 (HC) (*Dwarika Sonar and others –vs- Most. Bilguli and others*) it has been held by referring to the judgement passed by the Hon'ble Supreme Court in the case of *Sri Raja Durga Singh of Solon v. Tholu*, AIR 1963 SC 361 that where there is conflict in the two entries in the record of rights, it is the latter entry which must prevail. It was further observed that where new entry takes the place of the old one, there shall be presumption of correctness of the new entry until and unless it is established to be wrong or substituted by another entry. Paragraph 9 of the aforesaid judgement is quoted as under: -

“9. As noticed above, the admitted fact is that the revisional survey records of rights was finally published in the year, 1966 and the records of right in respect of the suit property was published in the name of the defendants. The question, therefore, that falls for consideration is as to what will be the effect in law of the two different entries made in the two different survey settlement of records of right, namely, cadastral survey and revisional survey records of right. It is well settled that if there is conflict between two entries in the records of right then the latter records of right will prevail. A similar question arose before the Supreme Court in the case of Sri Raja Durga Singh of Solon v. Tholu, AIR 1963 SC 361 where their Lordships held that where there is such conflict in the two entries, it is the latter entry which must prevail. It was further observed that where new entry takes the place of the old one, there shall be presumption of correctness of the

new entry until and unless it is established to be wrong or substituted by another entry.”

42. In view of the aforesaid judgments, there is no doubt that in case of discrepancy between the entries in cadastral Survey record of rights and revisional survey record of rights, entry in revisional survey record of rights, which is subsequent point of time, shall prevail. ***The 1st substantial question of law is accordingly answered.***

43. The consequences of aforesaid finding by this Court with regards to the 1st substantial question of law is also required to be considered. It has to be seen as to how the learned courts have considered these entries in the records of rights. This is due to the reason that subsequent entry in R.S record of rights would be presumed to be correct until and unless it is established to be wrong.

44. Section 84 of the Chhota Nagpur Tenancy Act deals with presumption as to final publication and correctness of records of right. Section 84 of C.N.T. Act is quoted as under: -

“84. Presumptions as to final publication and correctness of record-of-rights - (1) In any suit or other proceedings in which a record-of-rights prepared and published under this Chapter or a duly certified copy thereof or extract therefrom is produced, such record-of-rights shall be presumed to have been finally published unless such publication is expressly denied and a certificate, signed by the Revenue Officer, or by the Deputy Commissioner of any district in which its local area, estate or tenure or part thereof to which the record-of-rights relates is wholly or partly situate, stating that the record-of-rights has been finally published, under this Chapter shall be conclusive evidence of such publication.

(2) The [State] Government may, by notification, declare with regard to any specified area, that a record-of-rights has been finally published for every village included in that area; and such notification shall be conclusive evidence of such publication.

(3) Every entry in a record-of-rights so published shall be evidence of the matter referred to in such entry and shall be presumed to be correct until it is proved, by evidence, to be incorrect.”

45. The perusal of Section 84 of the C.N.T. Act reveals that the State Government may by a notification declare with regard to any specified area, that a record of right has been finally published for every village included in that area and such notification is conclusive evidence of such publication. Sub-Section 3 provides that every entry in records of right so published shall be evidence in the matter referred to in such entry and shall be presumed to be correct until it is proved, by evidence, to be incorrect.

46. Thus, perusal of Section 84(3) reveals that there is presumption regarding correctness of entry made in records of right so published in terms of sub-Section (2) and there is a presumption regarding its correctness, but certainly Section 84 does not provide that such entry in the records of right would be conclusive proof of the matters mentioned therein. The entry is only presumed to be correct until it is proved, by evidence, to be incorrect and thus the entry made in records of right has a presumption of correctness and it can be proved, by evidence, to be incorrect. Accordingly, it is also to be examined that having held as aforesaid that entry in R.S record of rights being subsequent entry would prevail and it will be presumed to be correct until it is proved by evidence to be incorrect, it has to examined that the said presumption has been rebutted by the contesting defendants and what would be the effect of such presumption on the findings recorded by the learned courts. ***However, this aspect of the matter will be considered along with answer to the 2nd substantial question of law which is based on appreciation of some of the materials on record.***

2nd substantial question of law.

(II)Whether, the findings of the courts below that the plaintiffs have not acquired any title to the suit property are based on misconstruction of the title deeds (Exts 1 and 3) as well as Ext.5?

47. The particulars of the exhibits referred to in the 2nd substantial question of law are as under: -

<i>Exhibit no. 1</i>	<i>Sale deed dated 16.1.87 executed</i>
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	<i>by Kastu Ghanshi and Mahrang Ghanshi (both sons of Soma Ghashi and were defendant no. 7 and 8) in favour of the plaintiffs.</i>
<i>Exhibit no.3</i>	<i>C.C of sale deed dated 8.1.86 executed by Ranglal Ghanshi [son of Kastu Ghansi who in turn was son of Soma Ghansi] in favour of Lasru Ghanshi [defendant no.3 -son of Niro Ghansi who in turn was daughter of Mangnu Ghashi.]</i>
<i>Exhibit no.5</i>	<i>C.C. of R.S. Khatian dated 9.6.92</i>

48. So far as the 2nd **substantial question of law** is concerned, the same relates to alleged misconstruction of aforesaid three documents i.e. two title deeds (Exhibits-1 and 3) and R.S. khatian (Exhibit-5).
49. The plaintiffs claim title over the property by virtue of Exhibit-1 which was executed by defendant no. 7 and 8 who in turn were sons of Soma Ghansi. Exhibit-1 is the sale deed no. 126/87 dated 16.01.1987 in connection with the property at Mouza Jarda in Gumla bearing Khata No. 39, Plot no. 285. Exhibit-3 is sale deed dated 08.01.1986 executed by Ranglal Ghansi, S/o Kastu Ghansi in favour of Lasru Ghansi, S/o Karia Ghansi for 35 decimals of land in Mouza Jarda in Khata No. 39, portions of plot nos. 273, 285 and 287, which is 11 decimals out of 22 decimals, 14 decimals out of 28 decimals and 10 decimals out of 20 decimals in plot nos. 273, 285 are 287 respectively. This Court has gone through the sale deed exhibit-3 and finds that the same has been executed by referring to the fact that the rent receipt was issued in the name of the predecessor.
50. Exhibit-5 is the C.C. of R.S. Khatian dated 9.6.92 in which the suit land is recorded in the name of **Soma Ghanshi and Mangnu**

Ghashi which is required to be presumed to be correct in view of answer to the 1st substantial question of law and it has to be examined as to whether the defendants have been able to prove such entry to be incorrect through materials brought on record. It has also to be seen as to whether the findings of the learned courts that the plaintiffs have not acquired any title to the suit property from the sons of Soma Ghanshi (defendant no.7 and 8) suffer from misconstruction of the title deeds (exhibit-1 and 3) as well as Ext.5.

51. The learned courts have recorded a concurrent finding based on materials on record, both oral and documentary, that Soma Ghanshi and Mangnu Ghanshi were not related to each other and Soma Ghanshi was working in the horse stable of ex-landlord and after the publication of the R.S. record of rights Soma Ghanshi left and went to another village to live there. While coming to these findings the exhibit-1,3 and 5 have no role to play and these findings are not in dispute even during the course of hearing of this case.

52. The insertion of the name of Soma Ghansi in R.S. record of rights in addition to the name of Mangna Ghansi was in question and admittedly in C.S. record of rights the name of Soma Ghansi was not there and the property stood exclusively in the name of Magna Ghansi. The learned courts after scrutinizing the materials on record came to a finding that there was no basis for entry of Soma Ghansi in the R.S record of rights over and above the name of Mangnu Ghashi.

53. This Court is of the considered view that once the entry of the name of Soma Ghanshi in R.S record of rights was directly in dispute, the C.S. record of rights was also required to be considered to find out as to whether there was any basis for such an entry of the name of Soma Ghansi in R.S Record in addition to the name of Mangnu Ghashi. This would be the position inspite of the law that entry in R.S Record of rights (exhibit-5) is presumed to be correct being subsequent in point of time. There is no material on record and there is no plausible explanation as to why name of Soma Ghanshi did not figure in C.S. Khata alongwith Mangnu Ghanshi if he was a co-sharer of Mangnu Ghanshi and further there is no material on record to show

as to the basis on which the name of Soma Ghansi was entered in R.S record of rights.

54. This is over and above the fact that Ext.-A series revealed that it was only Mangnu Ghanshi who made payment of rent in respect of the suit plots to the ex-landlord and even the two Govt. rent receipts Ext.B series indicate that rent of the suit land was paid exclusively by Mangnu Ghanshi after vesting of the State in the year 1956-58. The learned courts also took into consideration exhibit-6 and 7 which are the mutation order and correction slip passed in respect of half of the purchase land in favour of the plaintiffs and refused to rely on the same as the same were issued on the basis of the R.S. survey entry made in the name of Soma and the order Ext.6 also does not speak about the possession of the two sons of Soma Ghansi, who were the vendors of the plaintiffs .

55. The learned court has categorically recorded findings that it was proved through cogent evidence that Soma Ghansi had no title over the suit property inspite of entry made with respect to his name in R.S record of rights along with Mangnu Ghashi and the entry of the name of Mangnu Ghashi in the C.S record was not under challenge even by the plaintiffs. The learned court has categorically recorded a finding based on materials on record that even the possession of the contesting defendants with respect to the suit property was well established and thus exhibit-1 was executed by the defendant no.7 and 8 without having any possession of the suit property and therefore, even the plaintiffs were never handed over possession of the suit property. The learned courts have held that exhibit-1 is a paper transaction and Soma Ghansi never had right, title, interest and possession over the suit property and therefore his sons, defendant no.7 and 8, could not transfer any right, title, interest and possession of the suit property to the plaintiffs.

56. So far as exhibit-3 is concerned, it is the certified copy of sale deed executed by Ranglal Ghansi son of Kastu Ghanshi in favour of Lasru Ghansi, contesting defendant no.3 (since deceased) which is in respect of half area of suit plot nos.273, 285 and 287 whereas the

subsequent sale deed made in favour of the plaintiffs by Kastu and Mahrang vide exhibit-1 is in respect of, interalia, the whole area of suit plot no.287. The two-sale deeds cannot be reconciled and exhibit-3 was prior to exhibit-1 and there were overlapping properties in the two deeds. Moreover, merely because one of the descendants of Mangnu Ghashi, that is, Lasru Ghansi (deceased defendant no.3) had purchased some property from the descendant of Soma vide exhibit-3, the same does not act as an estoppel against the contesting defendants to assert that Soma Ghansi was never the co-owner of the suit property and that Soma was never in possession.

57. Neither there was any pleading nor there was any document to show that there was partition between the two recorded tenants and there was nothing to show how the Ranglal had any right to execute such deed Ext.3. Perusal of exhibit-1 and exhibit-3 do not reveal as to how Soma Ghanshi acquired the property. Admittedly, the defendant no.7 and 8 (vendors of the plaintiffs and sons of Soma Ghansi) did not participate in the trial on behalf of the plaintiffs and it has been rightly recorded by the learned court that there was no cogent oral or documentary evidence on behalf of the plaintiffs or sons of Soma Ghansi to show their claim of title and possession over the suit lands, either the R.S. operation or subsequent to that. It has also been recorded that all the material witnesses of the plaintiffs have admitted that defendants no.7 and 8 have been living in a different village namely Katimba. They have also admitted that Soma Ghanshi alongwith his sons had left the village and had been living in another village. There is no iota of evidence to show that the recorded tenant Soma Ghanshi or his sons defendants no.7 and 8 ever remained in possession of the disputed land after R.S. operation.

58. The learned 1st appellate court also recorded that there was enough evidence to show that the Mangnu Ghashi was in exclusive possession of the suit property and after his death, his heirs remained in possession. It has also been held that the witnesses examined on behalf of the contesting defendants, namely, D.Ws.1, 2, 3, 5 and 6 have fully supported the case of the contesting defendants on the point

of title as well as their possession over the disputed land. They all are independent witnesses and there was no reason to disbelieve their testimonies. They have stated very clearly that Soma Ghanshi belonged to a different village and was brought to village Jarda by the ex-landlord to work as a Protector of Horse Stable. This fact has been established from the circumstances as also from the evidence of some of the witnesses examined on behalf the plaintiffs themselves. Even the witnesses of the contesting defendants have fully supported the case of the contesting defendants as discussed by the learned court.

59. *The substantial question of law no. (II) is answered against the appellants (plaintiffs) and in favour of the respondents (contesting defendants) by holding that the findings of the learned courts that the plaintiffs have not acquired any title to the suit property is neither based on misconstruction of the title deeds exhibit-1 and 3 nor suffers from misconstruction of exhibit-5 (R.S Record of rights).* This is the position even when the 1st substantial question of law is answered in favour of the plaintiffs -appellants that entry in R.S record of rights would prevail over the entry in C.S. record of rights being in subsequent point of time, but the same would only have a presumption of correctness. The materials placed on record reveal that the contesting defendants have duly rebutted the presumption of correctness in the entry in R.S record of rights by cogent evidence which has been duly accepted by the learned court while holding that Soma Ganshi and thereafter his sons, defendant no. 7 and 8, never had right , title , interest and possession over the suit property and accordingly they could never transfer any valid right, title and interest over the suit property to the plaintiffs while dismissing the suit. The status of Soma Ganshi with respect to the land is well proved by the contesting defendants to hold that he had no right or title over the suit property and that his name was wrongly entered in R.S. record of rights. The learned 1st appellate court has recorded independent and concurrent findings while dismissing the appeal. The presumption of correctness of R.S. record of rights-exhibit-5 and the sale deeds exhibit-1 and 3 do not have any impact on

the final conclusions drawn by the learned courts when seen and read with the other materials placed on record by the contesting defendants.

60. As a cumulative effect of the aforesaid findings, the impugned judgments do not call for any interference by this Court.

61. Accordingly, this second appeal is hereby ***dismissed***.

62. Pending I.A., if any, is closed.

63. Let a copy of this order be communicated to the court concerned through 'e-mail/Fax'.

(Anubha Rawat Choudhary, J.)

Dated: 13.11.2025

Mukul/-

Uploaded On: 17.11.2025