

IN THE HIGH COURT OF JHARKHAND AT RANCHI

F.A. No. 62 of 2025

Parwati Developers, a partnership firm having its regd. Office at Opposite S. K. Timber, Old H. B. Road, Kanta Toli, Ranchi, P.O Lower Bazar, PS Lower Bazar, District Ranchi, Jharkhand through its Partner, namely, Rajesh Bhalla, aged about 52 years, son of Chandrika Prasad, Resident of House no. 836/A1, Verma Colony, Jatratand, Kokar Ranchi, PO Kokar, PS Sadar, District Ranchi,

... ... **Plaintiff/Appellant**

Versus

1. Prem Minj, son of Late Victor Minj, resident of Tunki Tola RIMS Road, Kokar, PO Kokar, PS Sadar, District Ranchi, Jharkhand
2. Karma Oraon
3. Champa Oraon
Both sons of the Late Mahadeo Oraon
4. Ranjan Oraon, son of Late Budhram Oraon
Resp. Nos. 2, 3 and 4 are residents of village Mohahabdip, P.O. Bariatu, P.S Bariatu, District Ranchi, Jharkhand
5. Deputy Commissioner, Ranchi, Jharkhand, P.O. GPO, PS Sadar, District Ranchi **Defendants/Respondents**

CORAM :HON'BLE MRS. JUSTICE ANUBHA RAWAT CHOUDHARY

For the Appellant : Mr. Rahul Kumar Gupta, Advocate
: Ms. Swati Singh, Advocate
For Private Respondents : Mr. Vishal Kumar Rai, Advocate
For the Resp. no. 5- State: Mr. Kanishka Deo, AC to GP-IV

12/09.10.2025

Learned counsel for the parties are present.

2. This appeal has been filed against the judgment dated 15.01.2025 (decree signed on 29.01.2025) passed by the learned Civil Judge (Senior Division-XV), Ranchi in Original Suit No. 546 of 2016, whereby the suit of the plaintiff was dismissed.

Arguments of the appellant

3. Learned counsel for the appellant has referred to Regulation 3 of Bihar Schedule Areas Limitation, 1969 and has submitted that in

the present case, the defendants belonged to Schedule Tribe category and the defendants had admitted during evidence with regard to possession of the plaintiff, but the learned trial court has completely ignored the evidence. He has submitted that as per regulation 3, in case the court chooses not to rely upon admission of such person, then the Deputy Commissioner could be called to produce evidence to rebut.

4. Learned counsel for the appellant submits that the court has to pass an appropriate order to ask the party to prove the factum of possession other than by mere admission and the Deputy Commissioner may also produce evidence in rebuttal. Such opportunity was required to be granted before rejecting any admission. The learned counsel submits that at any point of time, the Deputy Commissioner did not produce any evidence in rebuttal of such admission and therefore, those admissions of the defendant witnesses are binding upon the court.

5. Learned counsel for the appellant has relied upon the judgment passed by Hon'ble Supreme Court reported in **(2009) 13 SCC 229 [L.N. Aswathama and another vs. P. Prakash]** paragraph 13 to submit that the law is well settled that possession follows title. The learned counsel submits that the title of the plaintiff has been duly proved and the defendants have not claimed adverse possession and therefore, the possession of the plaintiff with regard to the suit property, which is vacant land, is well-established by virtue of the title of the plaintiff.

6. The learned counsel submits that on the one hand the defendants have not claimed adverse possession and during evidence they had admitted possession of the plaintiff.

7. Learned counsel for the appellant has also relied upon the judgment passed by the Hon'ble Supreme Court reported in **(2003) 12 SCC 129[Ashan Devi and Another vs. Phulwasi Devi and Another with Phulwasi Devi vs. Ashan Devi and Others]** and has referred to

paragraph 23 and 27 of the said judgment to submit that in case of the vacant land, the very approach of the court to give finding on possession is different and there cannot be same yardstick when it comes to vacant land as compared to constructed property. He submits that the possession in case of vacant land is essentially relating to the ownership and control over it to the exclusion of others. He has also submitted that since the plaintiff had the title over the property and was exercising their control over the property, therefore, his possession was duly established.

Arguments of the private respondents

8. Learned counsel for the private respondents has submitted that the vendors of the respondents are the descendants of the recorded landlords as the property involved in this case was bakasht of landlord. He has submitted that the plaintiff himself had disclosed that the property was mutated in the name of the father of the defendants in the year 1986-87 and therefore even if the order of mutation or the rent receipts were not brought on record, the fact stood admitted that the property was mutated in the year 1986-87 in the name of the father of the defendants. He has also submitted that this fact itself is sufficient to prove that the defendants were in physical possession of the property.

9. During the course of argument, the learned counsel for the private respondents has not been able to show any materials as to whether any rent receipt was ever issued in the name of the vendor of the defendants and it is also not in dispute that the witnesses of the defendants had supported the possession of the plaintiff during the course of cross-examination. The paragraphs, which have been referred to by the learned counsel for the appellant during the course of argument, has also been gone through by the learned counsel for the private respondents and the facts stated therein as submitted by the learned counsel for the appellant is not in dispute.

Arguments of the State

10. Learned counsel representing the Deputy Commissioner, Ranchi has submitted that the Deputy Commissioner, Ranchi was made a party only by virtue of amendment in CPC, which was introduced by Bihar Schedule Area Regulation, 1969 being a necessary party. However, the Deputy Commissioner did not file any written statement in the matter.

11. The learned counsel submits that he does not have any instructions from the Deputy Commissioner to argue this case. However, he has placed the materials on record and referred to paragraph 10 of the impugned judgment and has submitted that the property was transferred by Most. Rajvanti and others in favour of Babu Praful Kumar Ghosh way back in the year 1921 vide registered deed dated 22.08.1921, but the plaintiff is claiming the property through Sanat Kumar Ghosh. He submits that the property was never transferred to Sanat Kumar Ghosh and therefore the plaintiff did not have title over the property. He submits that this aspect of the matter has been taken into consideration by the learned trial court in paragraph 10 of the impugned judgment and the learned trial court held that the plaintiff could not get title through Sanat Kumar Ghosh.

12. The learned counsel for the State has also submitted that the original deed was not produced and only a certified copy of the deed was exhibited before the court. The learned counsel has also submitted that the plaintiff has to stand on his own legs and any lacuna in the case of the defendants will not go to the advantage of the plaintiff. He has submitted that the plaintiff has miserably failed to prove his case and therefore the suit has been rightly dismissed.

13. However, during the course of arguments, it is not in dispute that so far as the oral evidence of defendants witnesses are concerned, during their cross-examination, they have admitted that the plaintiff is in possession of the suit property. It is also not in dispute that the suit property was a vacant land.

Rejoinder argument of the appellant

14. The learned counsel for the appellant, in response, has submitted that the property in a joint family will stand in the name of one or other member of the family, the same by itself cannot be said to be a self-acquired property of a particular person or the exclusive property of a particular member of the joint family. He submits that the property, which was purchased by Praful Kumar Ghosh, was subject matter of partition in the Partition Suit No. 84/1950 and in the said partition suit, both Sanat Kumar Ghosh and Praful Kumar Ghosh were parties and the property was allocated to Sanat Kumar Ghosh. He submits that the decree is binding between Sanat Kumar Ghosh and Praful Kumar Ghosh and the property stood ultimately allocated only to Sanat Kumar Ghosh and therefore it is not open to the respondents to say that Sanat Kumar Ghosh did not have the title to transfer the property in the name of the plaintiff. He submits that at no point of time, Praful Kumar Ghosh has objected with respect to the transfer of the property and the decree passed in the partition suit is binding on both the parties. He submits that a 3rd party cannot challenge the allocation of property in a partition suit.

15. The learned counsel has submitted that the transfer of property by the Rajwanti through the registered deeds is not in dispute and the deeds were never challenged by the defendants. He submits that during the cross-examination of the defence witnesses, the factum of transfer stood admitted. The learned counsel for the appellant has referred to paragraph 25 of the evidence of DW-2, who was defendant no. 1 in the suit.

16. The learned counsel has also submitted that the cause of action arose in the year 2016 when the plaintiffs came to know for the first time that the defendants were claiming the title on the basis of registered sale-deed dated 06.05.1958 followed by registered sale deed dated 03.08.1985 and also came to know that the property was mutated in the name of the defendants in Mutation Case No. 254R/27/86-87 dated 30.07.1986. The plaintiff challenged the order

passed in the mutation case, however, the order passed in the mutation case was never exhibited before the learned court.

17. The learned counsel submits that neither mutation create any title in favour of one or other person nor mutation is a conclusive proof of possession. He submits that considering the oral evidences as cited by the appellant, there is no dispute that the plaintiff is in possession of the property and the title is well-established through registered documents. Therefore, he submits that the possession of the plaintiff be confirmed and two deeds i.e. registered deed dated 06.05.1958 and 03.08.1985 be declared null and void as the vendor of the defendants did not have the title to transfer.

18. Arguments concluded.

19. Post this case for dictation on 13th October 2025.

(Anubha Rawat Choudhary, J.)

Dated: 09.10.2025
Mukul/Rakesh