

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Second Appeal No. 51 of 2010

Bharat Deo Singh, son of Late Srinath Singh, resident of Village- Usku,
P.O. & P.S. Burmu, District- Ranchi **... Appellant**

-Versus-

1. Most. Pano Devi, wife of Late Jaggu Oraon
2. Birsa Oraon
3. Bandhan Oraon @ Chanda Oraon, Nos. 2 and 3 sons of Late Janya Oraon, Nos. 1 to 3 residents of Village Usku, P.O. & P.S. Burmu, District- Ranchi
4. Ram Singh, son of Late Srinath Singh, resident of Village Usku, P.O. & P.S. Burmu, District- Ranchi **... Respondents**

CORAM: HON'BLE MR. JUSTICE SANJAY KUMAR DWIVEDI

For the Appellant	: Mr. Amar Kumar Sinha, Advocate
For the Respondents	:

26/15.04.2026 Heard Mr. Amar Kumar Sinha, learned counsel for the appellant.

2. This second appeal has been preferred being aggrieved and dissatisfied with the judgment dated 04.09.2009 and decree signed on 14.09.2009 passed by the learned Additional Judicial Commissioner, Fast Track Court No.VI, Ranchi in Title Appeal No.136 of 2007 confirming the judgment dated 10.10.2007 and decree signed on 27.11.2007 passed by the learned Munsif, Ranchi in Title Suit No.84 of 1999.

3. Title Suit No.84 of 1999 was instituted by the plaintiff/respondents for cancellation of sale-deed dated 07.01.1976 executed by defendant no.3 in favour of defendant nos. 1 and 2 and to pass the decree not to effect the title of the plaintiff on the basis of the said sale-deed. The said title suit was decreed vide judgment dated 10.10.2007 and decree signed on 27.11.2007 passed by the learned Munsif, Ranchi on contest and the

sale-deed dated 07.01.1976 executed by defendant no.3 in favour of defendant nos.1 and 2 was declared null and void. Aggrieved with that judgment, the defendant/ appellant preferred the appeal being Title Appeal No.136 of 2007, which was decided by the learned Additional Judicial Commissioner, Fast Track Court No.VI, Ranchi dismissing the said appeal and affirmed the judgment of the learned Munsif, Ranchi vide judgment dated 04.09.2009.

4. It transpires from the judgments of the learned Courts that the plaintiff's case as disclosed in the plaint was as under:

The suit property described in the schedule as land situated at Mouja Uska, P.S. Burmu, District- Ranchi measuring 0.73 decimals of plot no.258 in Khata no.1 belonged to Kapil Singh and was auctioned in connection with rent due and thereafter purchased by Debu Sahu as an auction purchaser of the suit property in Rent Execution Case No.13/35-36 and who thereafter inducted Makan Bharti as Raiyat over it. The plaintiff had purchased the suit property from the said Makan Bharti vide registered sale-deed no.10874 dated 04.08.1973 by paying valuable consideration of Rs.2,000/- to the vendor to give possession thereof to the plaintiff and the plaintiff having acquired perfect title over the suit land is in cultivating possession of the same since then. Defendant no.3 Baijnath Bharti cancelled the previous sale-deed no.10874, dated 04.08.1973 vide cancellation deed no.231 dated 07.01.1976 thereafter sold the suit property to defendant nos. 1 and 2 on the same day by virtue of registered sale-deed no.231 dated 07.01.1976 for a consideration amount of Rs.1,000/-.

Subsequent sale-deed no.231 is illegal, void and inoperative in law and without jurisdiction and is not binding upon the plaintiff and the defendant nos. 1 and 2 have got no perfect title ownership, they could not come into physical possession of the suit property. The original Raiyat Makan Bharti having remained in possession of the suit property for 30 years and sold it to the plaintiff in the year 1973 and defendant no.3 has no right to cancel the sale-deed no.10874 which was executed and registered by Makan Bharti, who was real owner of the suit property. The plaintiff further purchased the suit property got his name mutated in the office of Circle Officer and has been paying rent to the State. The plaintiff came to know about the sale of the suit property in 1986 when he was dispossessed by the defendant nos. 1 and 2 and thereafter the plaintiff's son Bandhna Oraon instituted restoration case against defendant nos. 1 and 2 in the court of Special Regulation Officer, Ranchi which was registered as S.A.R. Case No.153/87-88 and the learned officer passed an order for restoration for the suit land and Dakhaldahani was also made in the year 1993. Against that order, defendant nos. 1 and 2 preferred an appeal in the court of Additional Collector, Ranchi which was dismissed leading to the filing of Revision Case No.278/94 in the Court of Commissioner, South Chotanagpur Division, Ranchi. The learned Commissioner allowed the revision setting aside the order passed by the appellate court but observed that the order passed by the Special Regulation Officer, Ranchi will stand. The

plaintiff is still in physical possession over the suit land but defendant nos. 1 and 2 have tried to disturb his possession. The cause of action of the suit arose in 1996 when the plaintiff was dispossessed by defendant nos. 1 and 2 and again 22.09.1998 when the restoration case was finally decided by the learned Commissioner, South Chotnagpur, Ranchi and on subsequent dates. The relief prayed for are decree for cancellation of the sale-deed no.230 dated 07.01.1976, further prayed to declare the title of the plaintiff on the basis of the said sale-deed decree holding the sale-deed no.231, dated 07.01.1976 void inoperative in law and illegal and also for declaring cancelled deed no.231 dated 07.01.1976 illegal and void along with cost of the suit.

5. From the judgment of the learned Court, it transpires that the case of the defendants was as under:

The defendants had filed their written statement and disclosed therein that the suit is false, frivolous, vexatious and not maintainable for want of cause of action. The suit is barred by limitation, adverse possession, principle of waiver, estoppels, accusation under Section 34 of the Specific Relief Act and under Sections 139, 139A, 258 and Section 71(a) of the Chotanagpur Tenancy Act. The suit is grossly undervalued and the court fees paid is not sufficient. The suit is barred by principles of res-judicata in view of the fact that Bandhna Oraon son of the plaintiff has lost the case in the revision no.278/94 passed by the Commissioner, South Chotanagpur, Ranchi which became finally conclusive. It is incorrect to say that Debu Sahu

inducted Makan Bharti as raiyat of the suit land and as a matter of the fact Makan Bharti has acquired the property on 01.11.1998 and after death of Makan Bharti, his grandson defendant no.3 came in possession over the suit land by assertion of the right. Defendant no.3 on account of his legal necessity sold the suit land to defendant nos. 1 and 2 vide registered sale-deed dated 07.01.1976 for valuable consideration and put them in possession thereof and they are coming in possession from the date of purchase. They got their name mutated in the office of the C.O., Burmu and have been regularly paying the rent to the State. The defendant nos. 1 and 2 have acquired absolutely an indefeasible title with respect to the suit land and even if there is any defect in title the same has been perfected by the remaining in possession continuously for more than statutory period to the knowledge of the all concerned including plaintiff and other defendants. Makan Bharti who is said to have sold the suit land to the plaintiff and the same sale-deed dated 04.08.1973 through which plaintiff claimed to have purchased the suit land is without consideration and void ab-initio. Plaintiff did not derive any title by virtue of alleged purchased neither he came into possession of the suit land. The alleged deed of sale was rightly cancelled by Baijnath Bharti on 07.01.1976. Even during the current survey of operation in the primary records of right with respect to the suit land, defendant nos. 1 and 2 have been prepared and published under Khata no.77(K), New plot no.287 area 35 decimals and plot no.282 area 37 decimals. Defendant nos. 1 and 2 acquired

the valid right and title by virtue of purchase by them against the consideration and they are in continuous and uninterrupted possession of the suit land since 07.01.1976. It is claimed that Makan Bharti was not the real owner of the suit property and it was the defendant no.2 who was real owner and was in exclusive possession of it and has sold the same to defendant nos. 1 and 2 through registered sale deed dated 07.01.1976. The plaintiff with malafide intention and fraud got the proceeding under Section 71A of the Chhotanagpur Tenancy Act initiated through his son Bandhan Oraon against the defendant nos. 1 and 2. It is not true that dakhaldahani was also made in the year 1993 as the plaintiff was never in possession of the suit land. It is absolutely false and mischievous to say that learned Commissioner did not interfere in the order of Regulation Officer, Ranchi. A bare perusal of the order would show that learned Commissioner set aside the order of both the lower courts and allow the revision filed by defendant nos. 1 and 2. It is absolutely false that the plaintiff is still in physical possession over the suit land and defendant nos. 1 and 2 had tried to disturb their possession. The plaintiff is not entitled to any of the relief claimed by them and the suit is liable to be dismissed with compensatory cost.

- 6.** The learned Munsif, Ranchi in deciding the said Title Suit No.84 of 1999 has framed 12 issues to decide the suit. Issue no.9 was with regard to the legality of sale-deed dated 07.01.1976. The learned trial court has taken issue nos. 9, 10 and 11 simultaneously as these issues were interlinked. The

learned trial court after appreciating the oral and documentary evidence led by both the sides, has been pleased to hold that the said sale-deed was already cancelled by way of filing an application before the registering authority in the year 1973 and in view of the said fact, the learned trial court has held that the plaintiff was in possession of the suit property and answer the said suit in favour of the plaintiff and other issues have also been decided while appreciating the oral and documentary evidence and, thereafter, the suit has been decreed vide judgment dated 10.10.2007 passed in Title Suit No.84 of 1999.

7. Aggrieved with the said judgment, an appeal being Title Appeal No.136 of 2007 was preferred by the defendants/appellant, which has been dismissed vide judgment dated 04.09.2009 by the learned Additional Judicial Commissioner, Fast Track Court No.VI, Ranchi affirming the judgment of the learned trial court.

8. Mr. Amar Kumar Sinha, learned counsel for the appellant submits that for cancellation of any deed, limitation is prescribed for three years and in that view of the matter, this is the law point and on this law point, this appeal may kindly be admitted.

9. The learned first appellate Court has found that in the said suit, the plaintiff has also prayed for other reliefs, however, the suit has been decreed only to the extent of holding that the sale-deed no.231 dated 07.01.1976 executed by defendant no.3 in favour of defendant nos. 1 and 2 is null and void and other reliefs prayed by the plaintiff in the said suit was refused. The learned first appellate Court has further found that defendant no.3-Bajinath Bharti was projected as grandson of Makan Bharti by the defendant/appellant

and that has not been objected by the plaintiff/respondent. Makan Bharti sold the suit land to the plaintiff through registered sale-deed dated 04.08.1973 and further cancelled the same by defendant no.3 by virtue of registered sale-deed dated 07.01.1976 and simultaneously the execution of the sale-deed of the suit property by defendant no.3 in favour of defendant nos. 1 and 2 on the same date was also admitted. The learned first appellate Court has also found that although it was admitted that the plaintiff got to know about the registered sale-deed dated 07.01.1976 only in the year 1986 when he was dispossessed from the suit property by defendant nos. 1 and 2, however, the said relief was proceeded before the S.A.R. Court and also its appellate and revisional court under Section 71-A of the Chhotanagpur Tenancy Act in which both parties to the *lis* actively participated and also stood admitted. The learned first appellate Court has further found from the record that recovery of the possession has not been prayed in the plaint and the plaintiff has not been examined in person, though P.W.4 has been examined in the capacity of Power of Attorney holder.

10. With regard to the argument advanced by Mr. Amar Kumar Sinha, learned counsel for the appellant regarding the suit is barred by limitation under Section 59 of the Limitation Act, was considered by the learned first appellate Court in paragraph 10 of the said judgment. The learned first appellate Court in deciding the said aspect has considered that the plaintiff was dispossessed from the suit property in the year 1986 and came to know about the execution of the sale-deed no. 231 dated 07.01.1976 and cancellation of sale-deed no.10874 dated 07.01.1976 said to have been executed by defendant no.3 Baijnath Bharti, he preferred S.A.R. Case

No.153/86-88. Both the parties to the */is* had contested that S.A.R. case and after the case was decided in favour of the plaintiff, the defendants preferred the said title appeal before the appellate authority, which was also dismissed. The plaintiff has claimed that he handed over the possession of the suit land in execution of the order of the S.A.R. Court. Thereafter, the appellant preferred a revision and in that revision application, both the orders of the learned trial court and first appellate court were set-aside and in view of that, the learned first appellate Court has found that it was admitted position of the fact that between 1987 to 1998, both the parties to the */is* were agitating their grievance before another court of law and only after it was finally decided that the forum did not had the requisite jurisdiction to entertain and decide the */is* and, therefore, the said suit was instituted. In view of that, the learned Court has found relying on the judgment of the Hon'ble Supreme Court that the parties to the */is* were pursuing the remedy elsewhere in another court and immediately after final order was passed on 22.09.1998, the said suit was instituted within ten months on 08.07.1999 and in view of that, the learned first appellate Court has held that there is no illegality done by the learned trial court in not dismissing the suit holding that the suit is not barred under Section 59 of the Limitation Act.

11. This is only point argued for admission of the present second appeal before this Court and that issue has been correctly appreciated by both the Courts. There are concurrent findings of two Courts. No perversity has been shown in course of argument by the learned counsel for the appellant for admitting the present second appeal. It is well-settled that in the second appeal, the High Court is not required to re-appreciate the evidences and only

on the point of substantial question of law, the second appeal can be admitted. The issue which has been argued on behalf of the appellant for admitting this second appeal, both the learned Courts have already decided the said issue.

12. In view of the above facts, reasons and analysis, this Court finds that there is no substantial question of law involved in this second appeal and, as such, this second appeal is, hereby, dismissed.

(Sanjay Kumar Dwivedi, J.)

Dated: 15th April, 2026
*Ajay/ **A.F.R.***

Uploaded on
17th April, 2026