

IN THE HIGH COURT OF JHARKHAND AT RANCHI

S.A. No. 73 of 2001

1. Mathura Bhagat, son of Late Gopi Bhagat, by caste- Sundi, by Occupation- cultivator, resident of Village- Humta, P.S.- Bundu, District- Ranchi **(Deleted & Substituted vide order dated 10.09.2025)**
- 1(a). Vishnu Charan Sahu, aged 42 years.
- 1(b). Brahamanand Sahu, aged 37 years.  
Both sons of Late Mathura Bhagat, R/o Village- Humta, P.O.- Bundu, P.S.- Bundu, District- Ranchi
- 1(c). Rukmani Devi, aged 36 years, W/o Pramod Sahu, R/o Village Ambua, P.O.- Irgaon, P.S.- Bhandra, District- Lohardagga
- 1(d). Radha Sahu, aged 36 years, W/o Lilambar Sahu, R/o Village Koyamundu, P.O.- Taindu, P.S.- Hathibari, District- Sundergarh

... ... **Defendants/Appellants/Appellants**  
Versus

1. Jagarnath Mahto, son of Late Hari Nath Mahto by caste- Kurmi, by Occupation- Cultivator, resident of Village- Humta, P.S.- Bundu, District- Ranchi **(Deleted & Substituted vide order dated 06.11.2003)**
- 1(a). Bhooth Nath Mahato S/o Late Jagarnath Mahto **(Deleted & Substituted vide order dated 05.07.2017)**
- 1(a)(i). Sari Devi, W/o Late Bhutnath Mahto
- 1(a)(ii). Pradeep Mahto, S/o Late Bhutnath Mahto  
Both residents of Village- Humta, P.S.- Bundu, District- Ranchi
- 1(a)(iii). Lalita Devi, W/o Abhiram Mahto & D/o Late Bhutnath Mahto, Resident of Village- Balolong, P.O.- Jojohatu, P.S.- Arki, District- Khunti
- 1(b). Gobind Mahato S/o Late Jagarnath Mahto
- 1(c). Bhim Mahato S/o Late Jagarnath Mahto  
1(b) & 1(c) are residents of Village- Baruhatu, P.S.- Bundu, District- Ranchi

... ... **Plaintiffs/Respondents/Respondents**  
**With**

S.A. No. 74 of 2001

1. Mathura Bhagat, son of Late Gopi Bhagat, by caste- Sundi, by Occupation- cultivator, resident of Village- Humta, P.S.- Bundu, District- Ranchi **(Deleted & Substituted vide order dated 10.09.2025)**
- 1(a). Vishnu Charan Sahu, aged 42 years.
- 1(b). Brahamanand Sahu, aged 37 years.  
Both sons of Late Mathura Bhagat, R/o Village- Humta, P.O.- Bundu, P.S.- Bundu, District- Ranchi
- 1(c). Rukmani Devi, aged 36 years, W/o Pramod Sahu, R/o Village Ambua, P.O.- Irgaon, P.S.- Bhandra, District- Lohardagga
- 1(d). Radha Sahu, aged 36 years, W/o Lilambar Sahu, R/o Village Koyamundu, P.O.- Taindu, P.S.- Hathibari, District- Sundergarh

... ... **Defendants/Appellants/Appellants**

Versus

1. Mukhia Mahto S/o Late Ramdhan Mahto, by caste- Kurmi, by occupation- Cultivator, Resident of Village- Madhukama, P.S.- Bundu, District- Ranchi **(Deleted & Substituted vide order dated 03.09.2008)**
- 1(a). Krishan Chandra Mahto S/o Late Mukhia Mahto
- 1(b). Nand Kishore Mahto S/o Late Mukhia Mahto  
Both R/o Village- Tao, P.O. & P.S.- Bundu, District- Ranchi
2. Tirath Nath Mahto S/o Late Ramdhan Mahto, by caste- Kurmi, by occupation- Cultivator, Resident of Village- Madhukama, P.S.- Bundu, District- Ranchi
3. Kashinath Mahto S/o Late Ramdhan Mahto, by caste- Kurmi, by occupation- Cultivator, Resident of Village- Madhukama, P.S.- Bundu, District- Ranchi **(Deleted & Substituted vide order dated 03.09.2008)**
- 3(a). Shanti Devi W/o Late Kashinath Mahto
- 3(b). Mantu Mahto S/o Late Kashinath Mahto
- 3(c). Mina Kumari, Unmarried Daughter of Late Kashinath Mahto  
Residents of Village- Tao, P.O. & P.S.- Bundu, District- Ranchi
- 3(d). Radhika Devi D/o Late Kashinath Mahto & W/o Subhash Mahto, R/o Village- Tutki Nawadih, P.O. & P.S.- Silli, District- Ranchi

... .. **Plaintiffs/Respondents/Respondents**

4. Bibhishan Bhagat
5. Jagarnath Bhagat  
Sons of Late Chhutu Bhagat, by case- Sundi, by occupation- Cultivator, residents of Village- Humta, P.S.- Bundu, District- Ranchi.
6. Parash Nath Mahto S/o Late Harinath Mahto, R/o Village- Humta, P.O. & P.S.- Bundu, District- Ranchi **(dead, but not substituted though he has been substituted in S.A No. 75 of 2001 vide order dated 11.08.2008)**

... **Defendants/Proforma Respondents/Proforma Respondents**  
**With****S.A. No. 75 of 2001**

1. Mathura Bhagat, son of Late Gopi Bhagat, by caste- Sundi, by Occupation- cultivator, resident of Village- Humta, P.S.- Bundu, District- Ranchi **(Deleted & Substituted vide order dated 10.09.2025)**
- 1(a). Vishnu Charan Sahu, aged 42 years.
- 1(b). Brahamanand Sahu, aged 37 years.  
Both sons of Late Mathura Bhagat, R/o Village- Humta, P.O.- Bundu, P.S.- Bundu, District- Ranchi
- 1(c). Rukmani Devi, aged 36 years, W/o Pramod Sahu, R/o Village Ambua, P.O.- Irgaon, P.S.- Bhandra, District- Lohardagga
- 1(d). Radha Sahu, aged 36 years, W/o Lilambar Sahu, R/o Village Koyamundu, P.O.- Taindu, P.S.- Hathibari, District- Sundergarh

... .. **Defendants/Appellants/Appellants**

Versus

1. Parasnath Mahto, S/o Late Harinath Mahto, by caste- Kurmi, by profession- Cultivator, resident of Village- Humta, P.S.- Bundu, District- Ranchi **(Deleted & Substituted vide order dated 11.08.2008)**
  - 1(a). Manjodari Devi W/o Late Parasnath Mahto
  - 1(b). Subash Mahto S/o Late Parasnath Mahto
  - 1(c). Santosh Mahto S/o Late Parasnath Mahto **(Deleted & Substituted vide order dated 11.08.2008)**
  - 1(c)(i). Saraswati Devi W/o Late Santosh mahto
  - 1(c)(ii). Gudia Kumari (Minor), D/o Late Santosh Mahto, through her mother Saraswati Devi)
  - 1(d). Kiran Kumari D/o Late Parasnath Mahto
  - 1(e). Rewati Kumari D/o Late Parasnath Mahto
  - 1(f). Bepati Kumari D/o Late Parasnath Mahto
  - 1(g). Draupadi Kumari D/o Late Parasnath Mahto
  - 1(h). Dewaki Kumari D/o Late Parasnath Mahto
- All residents of Village- Baruhatu, P.O.- Humta, P.S.- Bundu, District- Ranchi

... .. **Plaintiffs/Respondents/Respondents**

2. Bibhishan Bhagat
  3. Jagarnath Bhagat
- Both sons of Late Chhutu Bhagat, By caste-Sundi, by occupation- Cultivators, Residents of Village- Hemta, P.S.- Bundu, District- Ranchi

... **Defendants/Proforma respondents/Proforma respondents**

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**CORAM: HON'BLE MRS. JUSTICE ANUBHA RAWAT CHOUDHARY**

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|                     |                                     |
|---------------------|-------------------------------------|
| For the Appellants  | : Mr. Rajiv Ranjan Tiwari, Advocate |
|                     | : Mr. Ranjit Kumar Tiwari, Advocate |
| For the Respondents | : Mr. Anoop Kumar Mehta, Advocate   |
|                     | : Mr. Manish Kumar, Advocate        |
|                     | : Mr. Pratyush, Advocate            |

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**25/14.10.2025**

**S.A. No.73 of 2001, S.A. No.74 of 2001 and S.A. No.75 of 2001**

All these three appeals arise out of a common judgement and common decree dated 09.05.2001 (Decree signed on 31.05.2001) passed by the learned Additional Judicial Commissioner, Khunti (Ranchi) in Title Appeal Nos. 34 of 1999, 35 of 1999 and 36 of 1999 whereby and whereunder the appeals have been dismissed and the common judgement and common decree dated 23.03.1999 (Decree signed on 18.05.1999) passed by the learned Sub-Judge-I, Khunti in Title Suit

Nos. 282 of 1985, 283 of 1985 and 284 of 1985 has been confirmed by the learned 1<sup>st</sup> appellate court.

2. The learned trial court had decreed all the three suits in favour of the plaintiffs and had declared the title of the plaintiffs over the respective lands mentioned in the respective suits and the learned 1<sup>st</sup> appellate court has confirmed the judgments and decrees passed by the learned trial court. Consequently, the defendants are the appellants before this Court.

3. All the three appeals were admitted vide orders dated 03.01.2002 and 07.02.2002, after framing the same substantial question of law, which reads as under:

***“Whether the plaintiff was entitled to obtain possession of the specific portion of the suit land claimed to have been purchased by him without establishing the fact that there was partition by metes and bounds among the four sons of Dilchand Bhagat?”***

4. S.A. No.73 of 2001 arises out of Title Appeal No.35/1999 and Title Suit No.283 of 1985/78 of 1986 in which Jagarnath Mahto was the sole plaintiff and Mathura Bhagat S/o Late Gopi Bhagat was Defendant No.1 and the sons and widow of Chhutu Bhagat namely, Bibhisan Bhagat, Mostt. Babi and Jagarnath Bhagat were the Defendant Nos.2, 3 and 4 respectively.

5. S.A. No.74 of 2001 arises out of Title Appeal No.34/1999 and Title Suit No.284 of 1985/70 of 1986 in which Mukhijaya Mahto, Tirath Nath Mahto and Kashinath Mahto were the plaintiffs and Mathura Bhagat S/o Late Gopi Bhagat was Defendant No.1 and the sons and widow of Chhutu Bhagat namely, Bibhisan Bhagat, Mostt. Babi and Jagarnath Bhagat were the Defendant Nos.2, 3 and 4 respectively.

6. S.A. No.75 of 2001 arises out of Title Appeal No.36/1999 and Title Suit No.282 of 1985/71 of 1986 in which Parasnath Mahto was the sole plaintiff and Mathura Bhagat S/o Late Gopi Bhagat was Defendant No.1 and the sons and widow of Chhutu Bhagat namely,

Bibhisan Bhagat, Mostt. Babi and Jagarnath Bhagat were the Defendant Nos.2, 3 and 4 respectively.

7. The reliefs sought for in all the three suits were same, which are as follows: -

- (i) The plaintiff’s title over the suit lands as described in the schedule below be declared unaffected by the final decree of partition dated 03.02.1984 passed in Partition Suit No.51 of 1979 of this Court, the plaintiffs being not party thereto.
- (ii) Costs of the suit be awarded.
- (iii) Such other or further relief or reliefs to which the plaintiff be found entitled to be also granted.

8. The Schedule of the property of S.A. No.73 of 2001 arising out of Title Suit No. 283 of 1985 is as under: -

| Village: Baruhatu, P.S.: Bundu, P.S. No. 62, District: Ranchi |          |            |                                                         |
|---------------------------------------------------------------|----------|------------|---------------------------------------------------------|
| Khata No.                                                     | Plot No. | Area       |                                                         |
| 24                                                            | 118      | 0.33 acres | out of a total area of 1.30 acres towards northern side |
|                                                               | 118      | 0.24 acres |                                                         |
| Total Area= 0.57 acres                                        |          |            |                                                         |

**Bounded and butted as follows:-**

|        |                          |
|--------|--------------------------|
| North: | Arthal Singh Munda       |
| South: | Portion of the same plot |
| East:  | Gendhi Mahto Lands       |
| West:  | Dulal Ghari Land         |

9. The Schedule of the property of S.A. No.74 of 2001 arising out of Title Suit No. 284 of 1985 is as under: -

| Village: Baruhatu, P.S.: Bundu, P.S. No. 62, District: Ranchi |          |          |               |
|---------------------------------------------------------------|----------|----------|---------------|
| Khata No.                                                     | Plot No. | Class    | Area in acres |
| 24                                                            | 326      | Tanr     | 0.96          |
|                                                               | 352      | Tanr III | 0.47          |
|                                                               | 353      | Don III  | 0.11          |
|                                                               | 354      | Don II   | 0.33½         |
| Total Area= 1.87½ Acres                                       |          |          |               |

10. The Schedule of the property of S.A. No.75 of 2001 arising out of Title Suit No. 282 of 1985 is as under: -

| Village: Baruhatu, P.S.: Bundu, P.S. No. 62, District: Ranchi |          |               |
|---------------------------------------------------------------|----------|---------------|
| Khata No.                                                     | Plot No. | Area in acres |
| 24                                                            | 373      | 0.27          |
|                                                               | 377      | 0.10          |
| Total Area: 0.37 acres                                        |          |               |

**Title Suit No.283 of 1985 (S.A. No.73 of 2001)**

11. The case of the plaintiff as per the plaint was that the suit lands originally formed part and parcel of raiyati occupancy Holding No.24 of Villae- Baruhatu, P.S.- Bundu, District- Ranchi recorded in the name of Dilchand Bhagat, the predecessor-in-interest of the defendants, who died in or about the year 1940-41 leaving behind his four sons namely, Chhutu Bhagat, Manik Bhagat, Genda Bhagat and Gopi Bhagat. There has been severance of status amongst the four surviving sons of Dilchand Bhagat and they were in separate cultivating possession according to their convenience.

12. Manik Bhagat died in or about the year 1944-45 leaving his widow namely, Mostt. Shankari who inherited the share of her deceased husband. Genda Bhagat died in or about the year 1950-51 and his share was succeeded by his widow namely, Mostt. Rukua. Mostt. Shankari and Mostt. Rukua duly came in possession of the lands separately cultivated by their husbands.

13. On 04.10.1963, Chhutu Bhagat sold and transferred an area of 0.33 acres of land, out of a total area of 1.30 acres, in R.S. Plot No.118 with respect to his share in favour of the plaintiff by a registered sale deed dated 04.10.1963 for consideration and delivered its possession to the plaintiff and the plaintiff is in exclusive and continuous possession of the said land. Likewise, on 29.12.1964, Mostt. Shankari widow of Manik Chand Bhagat and Chhutu Bhagat jointly sold and transferred an area of 0.24 acres of land within R.S. Plot No.118 appertaining to their share by a registered sale deed dated 29.12.1964 for consideration and delivered possession thereof to the plaintiff. Thus, total area of 0.57 acres, out of total area of 1.30 acres, in Plot No.118 was sold in favour of the plaintiff by two registered

sale deeds in which Chhutu Bhagat was the common vendor and the plaintiff acquired ownership and possession over the suit land and continued his possession thereof to the knowledge of the defendants.

**14.** The plaintiff further stated that the Defendant No.1 i.e. Mathura Bhagat (appellant before this Court) had filed a false and fraudulent Title Partition Suit No.51 of 1979 without disclosing the names of the widows of Late Manik Chand and Late Genda Mahto who were simply shown to have died issueless and also suppressed the transactions of the transfer made and effected through registered instruments alongwith Chhutu Bhagat, the deceased father of Defendant Nos.2 and 4 and husband of Defendant No.3 in favour of the plaintiff and manipulated to get the ex-parte final decree dated 03.02.1984 without impleading the plaintiff as a party. The Defendant No.1 (Mathura Bhagat) managed to get the suit land allotted to the shares of one or the other defendants in the ex-parte final decree of partition instead of getting the same altogether excluded from the suit.

**15.** The plaintiff further stated that on the basis of the ex-parte final decree of partition, Execution Case No.116 of 1984 was instituted to obtain delivery of possession over the portion of the suit land which were in possession of the plaintiff by virtue of the registered sale deeds. He further stated that by the time of filing of the suit, no delivery of possession was effected over the portion of the suit land. The plaintiff intervened in the execution proceedings, but they were advised to file separate suit. The plaintiff also requested the defendants to honour the transactions effected earlier with respect to the suit property, but to no effect.

**16.** The plaintiff stated that the cause of action arose on 03.02.1984 when the date of final decree in Partition Suit No.51 of 1979 was prepared and when the defendants remained interested in denying the plaintiff's title and possession over the suit lands.

**17.** In *Title Suit No.284 of 1985 (S.A. No.74 of 2001)*, the case of the plaintiffs namely, Mukhijaya Mahto, Tirath Nath Mahto and Kashinath Mahto was that Mostt. Shankari and Mostt. Rukua had

jointly sold and transferred 1.11½ acres of land within R.S. Plot No.352, 353 and 354 of their shares in favour of the plaintiffs by registered Sale Deed dated 21.10.1959. The plaintiffs further stated that Mostt. Shankari and Chhutu Bhagat had jointly sold and transferred 0.96 acres of land within R.S. Plot No.326 of their shares in favour of the plaintiffs by registered Sale Deed dated 24.02.1964. The plaintiffs claimed that the sellers had delivered possession of the lands to the plaintiffs and since then, the plaintiffs have exclusive and continuous possession over the lands. The other statements and facts of the case are identical to the case of the plaintiff in Title Suit No.283 of 1985 (S.A. No.73 of 2001).

**18.** In *Title Suit No.282 of 1985 (S.A. No.75 of 2001)*, the case of the plaintiff namely, Parasnath Mahto was that Mostt. Shankari and Chhutu Bhagat had jointly sold and transferred 0.37 acres of land within R.S. Plot No.373 and 377 of their shares in favour of the plaintiff by registered Sale Deed dated 14.09.1964 and had delivered possession of the lands to the plaintiff and since then, the plaintiff has exclusive and continuous possession over the lands. The other statements and facts of the case are identical to the case of the plaintiff in Title Suit No.283 of 1985 (S.A. No.73 of 2001).

**Case of the defendants in all three suits**

**19.** The Defendant No.1 Mathura Bhagat filed his written statements in all the three suits stating identical claims and averments, except the facts related to the suit lands. The Defendant Nos.2 and 4 adopted the written statements of the Defendant No.1 filed in all the three suits.

**20.** In Title Suit No.283 of 1985, the Defendant No.1 stated that Genda Bhagat died leaving behind his wife Mostt. Rukua who soon after demise of her husband remarried with one Paltan Bhagat of Sikidiri severing all connections with the family members of her first husband way back in the year 1950.

**21.** The Defendant No.1 further stated that he filed Partition Suit No.51 of 1979 against Bibhisan Bhagat, Jagarnath Bhagat (Minor son)

and Mostt. Babi, the second widow of Chhutu Bhagat for partition of the joint property under Khata Nos. 60 and 24 covering the suit land, which was decreed ex-parte on 18.09.1979 and the final decree was signed on 14.05.1984.

22. Through the execution case, the said decree was sought to be executed in Execution Case No.116 of 1984 and an objection was filed by four persons namely, Jagarnath Mahto, Mukhaja Mahto, Tirthnath Mahto and Kashinath Mahto who were not connected with the partition suit and their prayer to file objection was rejected on 16.03.1985 and the report concerning delivery of possession was accepted by the court on the same date. The execution case was finally disposed of with full satisfaction by the learned court on 09.04.1985.

23. While giving para-wise reply to the plaint, the Defendant No.1 stated that Dilchand Bhagat had six sons namely, Mewa, Jitu, Chhutu, Manik, Genda and Gopi and out of them, four namely Mewa, Jitu, Manik and Genda died issueless. Gopi died leaving behind a son Mathura Bhagat while Chhutu Mahto died leaving behind his two widows Mostt. Babi and Mostt. Bansia and two sons namely, Jagarnath and Bibhisan.

24. The Defendant No.1 took specific plea that there was no severance of status amongst the heirs of Dilchand Bhagat, properties were joint, but in possession according to convenience prior to the final decree, execution and delivery of possession effected consequence to Partition Suit No.51 of 1979. In reply to Para-3 and 4 of the plaint, he denied that widow of Manik Bhagat i.e. Mostt. Shankai inherited the share of her husband, rather stated that she was also dead long ago.

25. The Defendant No.1 further stated that no land of R.S. Plot No.118 area 0.33 acres, out of total area 1.30 acres, was individually or jointly sold by Chhutu Sahu on 04.10.1963 as his share in favour of the plaintiff and further stated that no land of R.S. Plot No.118 area 0.24 acres was sold and transferred by Shankari and Chhutu Bhagat

jointly on 29.12.1964 in favour of the plaintiff. He also asserted that neither the possession over the land is delivered, nor the plaintiff has ever been in possession of the same and further asserted that the transactions through the sale deeds are sham transactions being illegal and invalid and remained inoperative and no title has been acquired by the so-called vendee of the alleged deed.

26. The written statement was amended and the amendment was allowed vide order dated 06.01.1997 asserting that the vendors had no right to transfer the joint properties and they have no right to transfer specific portion of the property which was admittedly joint. He also asserted that the plaintiff acquired the property from the persons who were duly represented in the Partition Suit No.51 of 1979 and under such circumstances, the plaintiff was bound by the decree passed in the Partition Suit No.51 of 1979. He also asserted that the plaintiff is admittedly not in possession, as delivery of possession was given to the Defendant No.1 in Execution Case No.116 of 1984 and that a suit for mere declaration of title is not maintainable.

27. On the basis of the pleadings of the parties, the learned trial court framed the following issues for consideration in all the three suits:-

- (i) *Whether suit as framed and filed is maintainable or not?*
- (ii) *Whether the plaintiff has got any cause of action or not?*
- (iii) *Whether the suit is barred by limitation or rule of waiver or acquiescence or not?*
- (iv) *Whether there was any partition among the heirs of Dilchand Bhagat or not?*
- (v) *Whether the plaintiffs have got right and title over the suit property or not?*
- (vi) *Whether the plaintiffs are entitled to any relief or not?*

28. The plaintiffs in all the three suits adduced common oral and documentary evidences, which are as under:

| Oral evidences on behalf of plaintiffs |              |
|----------------------------------------|--------------|
| P.W.1                                  | Aganu Mahato |

|                                                      |                                                                              |
|------------------------------------------------------|------------------------------------------------------------------------------|
| P.W.2                                                | Bhutnath Mahato                                                              |
| P.W.3                                                | Daharu Mahato                                                                |
| P.W.4                                                | Mukhajja Mahato (Plaintiff in Title Suit No.284 of 1985)                     |
| P.W.5                                                | Paras Nath Mahato (Plaintiff in Title Suit No.282 of 1985)                   |
| <b>Documentary evidences on behalf of plaintiffs</b> |                                                                              |
| Exhibit-1                                            | Registered sale deed dated 29.12.1964 executed in favour of Jagarnath Mahato |
| Exhibit-1/A                                          | Sale deed dated 04.10.1963 executed in favour of Jagarnath Mahato            |
| Exhibit-1/B                                          | Sale deed dated 24.05.1964 executed in favour of Mukhajya Ram Mahato         |
| Exhibit-1/C                                          | Sale deed dated 21.01.1959 executed in favour of Mukhejya Ram Mahato         |
| Exhibit-1/D and 1/E                                  | Sale deed dated 14.09.1964 executed in favour of Harinath Mahato             |
| Exhibit-2-series                                     | Rent receipts                                                                |
| Exhibit-3                                            | Judgment of Complaint Case No.16 of 1986                                     |

29. The defendants in all the three suits also adduced common oral and documentary evidences, which are as under:

|                                                      |                                                                |
|------------------------------------------------------|----------------------------------------------------------------|
| <b>Oral evidences on behalf of defendants</b>        |                                                                |
| D.W.1                                                | Mathura Bhagat                                                 |
| D.W.2                                                | Munshi Ram Hajam                                               |
| <b>Documentary evidences on behalf of defendants</b> |                                                                |
| Exhibit-A-series                                     | Receipts of the year 50, 52 and 60                             |
| Exhibit-B                                            | Khatiyani in the name of Dilchand Bhagat                       |
| Exhibit-C                                            | Judgment passed in Partition Suit No.51 of 1979                |
| Exhibit- D                                           | Decree passed in Partition Suit No.51 of 1979                  |
| Exhibit-E                                            | Final decree passed in Partition Suit No.51 of 1979            |
| Exhibit-F                                            | Judgment passed in Execution Case No.116 of 1984               |
| Exhibit-G                                            | Pleader Commissioner’s Report in Execution Case No.116 of 1984 |
| Exhibit-H                                            | Order of Possession                                            |

|               |                                                            |
|---------------|------------------------------------------------------------|
| Exhibit-I     | Map of the concerned village                               |
| Exhibit-J & K | Orders passed against Parasnath Mahato and Mukhajya Mahato |

**30.** The learned trial court considered the Issue Nos. (iv) and (v) together in Paragraph-9 to 13 and also considered the various sale deeds and rent receipts exhibited by the parties during trial. The learned trial court ultimately came to a finding that the shares among the legal heirs of Dilchand Bhagat was ascertained and the plaintiffs of all the three suits had purchased the suit properties through registered sale deeds during the period of 1959 to 1965 and had acquired right, title, interest and possession over the same and ultimately declared the title of the plaintiffs and also held that the plaintiffs will have to pay the differential court fees as the title of the plaintiffs have been declared.

**31.** The record reveals that differential court fees were also paid by the plaintiffs. Such statements have been made by the learned counsel for the respondents and the said statements of learned counsel for the respondents have not been denied by the learned counsel for the appellants during the course of arguments.

**32.** The learned trial court further recorded that the Defendant No.1 got the possession of the property from the plaintiffs only at the stage of execution arising out of final decree in Partition Suit No.51 of 1979. The learned trial court ultimately decreed the suits in favour of the plaintiffs by a common judgment.

**33.** The learned 1<sup>st</sup> appellate court disposed of all the three title appeals by a common judgment recording the findings as under:

*“(13) As I have mentioned in the previous paragraph about the very pertinent question revolving around this appeal, I entered into the oral and documentary evidences lying with the lower court record alongwith the appreciation of the same by the learned lower court while delivering findings on the most pertinent Issue No. (vi) and (v) from Para- 9 to 13 and do arrive at the conclusion that the reasonings given by the learned court below is quite, legal, just and proper that after purchase of the suit property, the plaintiffs came in cultivating possession and the*

*same is proved by a number of the witnesses belonging to the suit village including the plaintiffs themselves as PW-4 and 5 who also have supported it and the Ext.2 series is further corroborative of the cultivating possession for which revenue receipts have been obtained by them.*

**(14)** *Apart from this, the very specific pleading that the property under the suit was obtained by the plaintiffs through various registered sale deeds (Ext.1-series) are not denied, but the only thing denied is the right of their vendors and when at the time of sale, the vendors and the defendants were belonging to joint family without any partition by metes and bounds, rather the perfect partition took place by virtue of Partition Suit No.51/79, it is not open for the defendants to challenge the very sale at this stage after lapse of statutory period of 12 years which makes such old documents as very good piece of evidence in support of transfer. The learned court below in my opinion, has correctly found that inspite of knowledge of sale of the suit property by the predecessor-in-interest of the defendants, they should not have made the suit property as the subject matter of their mutual partition in Partition Suit No.51/79 and it is rightly opined by the trial court that they cannot be brought to take benefit of the delivery of possession in Execution Case No.116/84 arising out of the final decree of the said partition suit and it is correctly and lawfully held by the court below that the plaintiffs have been able to establish their right, title and interest over the suit properties in all three suits.*

**I.A. No.3623 of 2025 in S.A. No.73 of 2001**

**34.** The learned counsel for the appellant submitted that this Interlocutory Application has been filed for framing additional substantial question of law as mentioned in Paragraph-6 of the Interlocutory Application, which is quoted as under:

*“Whether in the facts of the case, the suit for declaration of title in absence of any consequential relief for recovery of possession was barred under Section 34 of the Specific Relief Act in view of the decision reported in (1993) supp. (3) SCC 129 (Vinay Krishna Vs. Keshav Chandra & Anr.)?”*

**35.** The learned counsel submitted that the suit was barred under Section 34 of the Specific Relief Act.

36. The learned counsel for the respondents opposed the prayer and submitted that the cause of action arose, when the plaintiffs had approached the court objecting to Execution Case No.116 of 1984 arising out of Partition Suit No.51 of 1979. The partition suit was decided on 18.09.1979, which was an ex-parte judgement and in the said case, the present plaintiffs were not party. He also submitted that since the execution case was going on against the property involved in the present case, the objection was rejected and ultimately, the title suit was filed. There was no occasion to seek recovery of possession in the plaint. He submitted that the additional substantial question of law does not arise, as there has been a proper cause of action to file the suit.

37. This Court finds that the suit was filed seeking a relief that the ***plaintiff's title over the suit lands be declared unaffected by the final decree of partition dated 03.02.1984 passed in Partition Suit No.51 of 1979*** as the plaintiffs were not party to the title suit. The plaintiffs claimed to be in possession of the property by virtue of registered sale deeds and they were not dispossessed at the time of filing the suit. As held in the impugned judgement that the very specific pleading of the plaintiffs that the property under the suit were obtained by the plaintiffs through various registered sale deeds (Ext.1-series) were not denied by the defendants, but the only thing denied was the right of their vendors to sell the joint family property without any partition by metes and bounds and that the perfect partition took place by virtue of Partition Suit No.51 of 1979.

38. This Court also finds that in the final decree in Partition Suit No.51 of 1979 all the sale deeds of the plaintiffs along with many other sale deeds have been taken into consideration and it was found that some suit lands have been sold to other persons by some of the parties to the Partition Suit No.51 of 1979, their father and their grandfather. The learned court in Partition Suit No.51 of 1979 allotted the suit land to the parties to the partition suit as per their shares on the basis of adjustment of valuation of suit properties after fully considering

that so many suit lands were sold by the parties of the partition suit and their father and grandfather. Meaning thereby, in the partition suit in which the present plaintiffs were admittedly not parties the learned court have duly acknowledged that large portion of the property was already sold and taking into consideration the sale deeds allotted the suit land to the parties as per their shares on the basis of adjustment of valuation of suit properties. Thus, even on the basis of the final decree of Partition Suit No.51 of 1979 there was no dispute regarding the title of the present plaintiffs. The plaintiffs were seeking the relief that the plaintiff's title over the suit lands be declared to be unaffected by the final decree of partition dated 03.02.1984 passed in Partition Suit No.51 of 1979. The learned court held that the defendants cannot take benefit of the delivery of possession in Execution Case No.116 of 1984 arising out of the final decree of the said partition suit and exercised discretionary power to grant relief subject to payment of court fees.

**39.** Considering the aforesaid facts and circumstances, it appears that the title of the plaintiffs was never in dispute in the final judgement and decree passed in Partition Suit No.51 of 1979 where the sale deeds of the plaintiffs were also acknowledged and considered and appropriate order was also passed. The learned court found that the delivery of possession of the suit land had taken place by the process of court in the execution case arising out of the Partition Suit No.51 of 1979 and found out a modality to hand over possession to the plaintiffs by holding that the plaintiffs would be entitled to possession through the process of the court upon payment of court fees within 3 months which admittedly the plaintiffs have duly deposited. The court had the power to grant such relief as the party before the court was found entitled to and the court granted the relief upon payment of court fees. Considering the facts of this case particularly the judgement passed in final decree in Partition Suit No.51/79, this Court is of the considered view that no prejudice has been caused to the defendants even when the plaintiffs did not amend the plaint to seek recovery of possession when the title of the plaintiffs

of the present case were already acknowledged in the final decree in Partition Suit No.51 of 1979 and inspite of that the present plaintiffs were dispossessed in execution of final decree in Partition Suit No.51 of 1979. The court has exercised sound judicial discretion under the facts and circumstances of this case. The judgement reported in ***(1993) supp. (3) SCC 129 (Vinay Krishna Vs. Keshav Chandra & Anr.)*** does not help the appellants in any manner when the facts of the present case is seen in the light of the judgement referred to in paragraph 15 of the report. It is also important to note that at the time of filing the suit the plaintiffs claimed that they were in possession of the suit land and they were dispossessed in execution of final decree in Partition Suit No.51 of 1979 and no finding has been recorded by the court with respect to the date of dispossession of the plaintiffs although the plaintiffs were dispossessed in the execution case arising out of final decree in Partition Suit No.51 of 1979.

**40.** This Court is of the considered view that the additional substantial question of law as suggested does not arise for consideration in the facts and circumstances of this case.

**41. I.A. No.3623 of 2025 in S.A. No.73 of 2001 is rejected. No such interlocutory application has been filed in the other two appeals.**

**42.** Upon this the three second appeals have been argued on merits by the learned counsel for the parties.

**Arguments of the appellant in all three appeals**

**43.** The learned counsel for the appellants, while giving the factual background of the case, submitted that these three cases arise out of common facts and Mathura Bhagat is the appellant in all these cases.

**44.** The foundational fact is that the property stood recorded in the name of Dilchand Bhagat, who had four sons, Chhutu Bhagat, Manikchand Bhagat, Genda Bhagat and Gopi Bhagat. Shankari, wife of Manikchand Bhagat and Rukua, wife of Genda Bhagat executed registered sale deeds (Exhibits- 1 to 1/E) in favour of the plaintiffs of the title suits. These deeds were executed during the period from

21.01.1959 to 29.12.1964 and the plaintiffs claimed that they came in possession of the respective properties. Mutation was carried out and rent receipts were issued. The rent receipts were exhibited as Exhibits 2 to 2/O.

45. The learned counsel submitted that Mathura Bhagat is the son of Late Gopi Bhagat and the legal heirs and descendants of Chhutu Bhagat were also made party in the suit. He also submitted that there was a partition suit between Chhutu Bhagat and Gopi Bhagat as Manikchand Bhagat and Genda Bhagat had died issueless and Partition Suit No.51 of 1979 was decreed, though ex-parte by the judgement dated 18.09.1979 and half and half share with respect to legal heirs and successors of Chhutu Bhagat and legal heirs and successors of Gopi Bhagat was divided in the partition suit. He also submitted that arising out of partition suit, Execution Case No.116 of 1984 was filed in which the plaintiffs of the present cases filed their objections and ultimately, they filed the suit seeking declaration of their right, title, interest over the suit property. Since there were different purchasers from Mostt. Shankari and Mostt. Rukua and therefore, three different suits were filed.

46. The learned counsel for the appellants while addressing the substantial question of law submitted that the plaintiffs were not entitled to obtain possession over the specific portions of the suit properties as claimed to have been purchased by them in absence of any partition by metes and bounds among the four sons of Dilchand Bhagat at the time of execution of the sale deeds in their favour. He also submitted that the partition had actually taken place much later by virtue of the partition suit.

**Arguments on behalf of the Respondents (Plaintiffs)**

47. The learned counsel appearing for the respondents (plaintiffs) in all the three appeals submitted that concurrent findings have been recorded by the learned trial court and the learned 1<sup>st</sup> appellate court. He further submitted that the sale deeds executed in favour of the plaintiffs have never been challenged by the defendants by filing

separate suit for cancellation of sale deeds and therefore, the common judgment passed by the learned trial court in all the three suits and confirmed by the learned 1<sup>st</sup> appellate court do not require any interference.

**Findings of this Court**

**48.** Admittedly, none of the sale deeds involved in the present cases which were executed in favour of the plaintiffs were challenged by the appellant (Defendant No.1) at any point of time.

**49.** It is not in dispute that Mostt. Shankari W/o Manik Chand and Mostt. Rukua W/o Genda Bhagat were not party in the partition suit.

**50.** In the partition suit, the decree reveals that Mathura Bhagat, S/o Late Gopi Bhagat was the plaintiff and legal heirs and successors of Late Chhutu Bhagat were the defendants.

**51.** The subject matter of the partition suit was properties in Khata No.60 and Khata No.24, total area 4.98 acres and 5.99 acres respectively.

**52.** It is not in dispute that the properties involved in the three suits of the plaintiffs were a part of the partition suit. The report submitted by the advocate commissioner was accepted and the final decree was prepared. The report of the advocate commissioner was formed the part of the decree which reveals that the various properties which were sold by way of registered sale deeds were taken note of at the time of preparation of final decree in the partition suit including the registered sale deeds involved in the present case and it was also recorded that some suit lands were sold to other persons by some parties, their father and their grand-father and it is further observed that as so many suit lands have been sold by the parties, by their father and grand-father, the allotment of the suit lands was made to the party as per their shares on the basis of adjustment of valuation of the suit properties and the Schedule of the Takhtas was prepared for the parties on the basis of valuation of the properties considering the transfer of the suit properties and the possession, necessities, conveniences and wishes of the parties. In the partition suit being

Partition Suit No.51 of 1979, the properties of Schedule 'A' Takhata was allotted to the plaintiffs of the said suit and the properties of Schedule 'B' Takhata was allotted to the defendants of the said suit.

53. The findings of the Advocate Commissioner as recorded under the Report of the Advocate Commissioner in the Final Decree of Partition Suit No.51 of 1979 are quoted as under:-

*"I found at the time of local investigation that some suit land had been sold by Chhotu Bhagat father of Bibhisan Bhagat and some land had been sold by Dilchand Bhagat grandfather of both the parties. Some persons present at the time of local investigation of the suit land in the aforesaid both villages shown me registered sale deeds etc. concerning the transfer of suit land to other persons. Thus, I found that Khirobala daughter of Dhan Singh Babu of Village Baruhatu, P.S. Bundu, District-Ranchi purchased from Chhota Bhagat, 0.25 of Plot No.118, by registered sale deed, Deed Sl. No.6713, Deed No.6342 dated 10.11.65, Area of 96 of Plot No.326 has been sold by Most. Shantra wife of Manikchand Bhagat and by Chhotu Bhagat son of Late Dilchand Bhagat self and guardian for minor nephew Mathura Bhagat son of Gopi Bhagat, to Mukhejeya Ram Mahto and Tirth Nath Mahto son of late Ramdhan Mahto of village Madhukama, at present of village Tau, P.S. Bundy, District Ranchi by registered deed No.1563 dated 24.2.64, 0.47 of Plot No.352 and 0.11 of Plot No.353 and 0.33½ of Plot No.354 total area 91½ has been sold by Most. Shankari wife of late Manik Chand Bhagat and Most. Rukba wife of late Genda Bhagat and minor daughter Hembo and Tusu son of Genda Bhagat of Humta, guardian for minor Hemba and Tusu through Most. Rukba sold to Mukhejeya Ram Mahto and Tirath Nath Mahto and Kasinath Mahto son of Ramdhan Mahto by registered deed Sl. No.6593, deed no.6047 dated 21.1.59, Most. Shankari wife of Manikchand Bhagat and Chhatu Bhagat son of Dilchand Bhagat of Humta sold to Harinath Mahto son of late Jit Mahto of Baruhatu, Plot No.373 area 0.27 and 377 area 0.10 by registered deed Sl. No.6412 and deed no.6072 dated 14.9.64, Chhotu Bhagat son of Dilchand Bhagat sold to Durga Mahto son of Mohan Mahto of Baruhatu. Plot No.352 area 0.94, 353 area 0.22, 354 area 0.67 by registered Sl. No.4688 deed No.4371 dated 29.6.81 and papers (Safinama) has also been shown to me by Durga Mahto and as per this paper (Safinama) Chhutu Bhagat accepted on 13.8.59 that he has been paid the entire consideration money of*

said land. By another registered sale deed being Sl. No.4297 deed No.4011 dated 13.6.60, Chhutu Sahu son of Dilchand Bhagat for self and guardian for minor Mathura Bhagat son of Gopi Bhagat sold 1/4<sup>th</sup> share to Durga Mahto son of Mohan Mahto land of Plot No.352, 353, 354. Another registered deed of sale was produced before me by Durga Mahto and as per this registered sale deed being Sl. No.1903, deed No.1776 dated 3.3.59 Chhotu Bhagat son of Dil Chand Bhagat gave land of Plot No. 352, 353, 354, in zapre shgi Bhogbandhak for 5 years. Area 0.33 out of total 1.30 of Plot No.118 has been sold by Chhotu Bhagat to Jagarnath Mahto son of Lukhbu Mahto of Baruhatu, by registered deed Sl.No.6838 deed No.6332 dated 4.10.63 Chhotu Bhagat (Sahu) sold area of 0.24 of Plot No.118 to Jagarnath Mahto, by registered deed Sl. No.8475 deed No.7988 dated 29.12.64, area of 0.33 of Plot No.118 and 0.27 of Plot No.119 have been sold by Chhotu Sahu son of Dilchand Sahu to Debeaya Mahto of Baruhatu, P.S. Bundu, District Ranchi by registered deed Sl. No.1084, deed No.1034, dated 5.2.65. Debeya Mahto has already died and Narain Mahto son of Debeya Mahto produced the papers before me, Dilchand Sahu son of Hira Sahu of village Humta sold Plot No.141 area 0.10 to Debeya Mahto son of Mohan Mahto by registered deed Sl. Nos.1532 deed No.1463 dated 10.3.41, Chhotu Bhagat for self and guardian nephew Mathura Bhagat son of late Gopi Bhagat and Smt. Shankari wife of Mani Bhagat sold, total area 0.25 of Plot No.118 to Bimla Devi wife of Lakhi Narain Mahto, Baruhatu by registered deed No.4847 dated 9.6.64 and area 0.25 of Plot No.118, on 22.9.64. Chhotu Sahu for self and uncle guardian of minor nephew Mathura Sao sold to Bimla Devi wife of Lakhi Narain Mahto including Plot No.2903 total area 1.52 by registered deed Sl. No.11443 deed No.10978 dated 13.9.71. By an unregistered sale deed dated 29.6.75 executed by Mathura Bhagat son of late Gopi Bhagat area of 0.23½ of Plot No.352, 0.05½ of Plot No.353, area of 0.16 of plat No.354 have been shown that it had been cleared that the land was sold on 13.6.60 for him as he was minor at that time, he has no claim on the aforesaid land. A Panchnama dated 29.6.75 was also shown to me. Mathura Bhagat has sold to Manga Mahto of Baruhatu land of Plot No.332 area 0.42 out of total 0.84 by registered deed Sl.No.12107 deed No.11840 dated 5.7.75. Plot No.332 has been sold by Chhotu Bhagat and Most Shankari wife of Manik Bhagat to Ram Singh Mahto and Manga Mahto by registered deed Sl.No.6993 and deed No.704 of 1959 date 29.1.59.

*Thus, I found that some suit lands have been sold to other persons by some parties, their father and their grandfather.*

*As so many suit lands have been sold by the parties and their father and grandfather, hence I have allotted the suit land to the parties as per their shares on the basis of adjustment of valuation of suit properties. Thus, I have prepared the following Schedules (Takhtas) for the parties on the basis of valuation of suit properties. I have allotted the suit properties and prepared the Schedules (Takhtas) for the parties on valuation basis considering the transfer of suit properties and possession, necessities, conveniences and wishes of the parties. Properties of Schedule (Takhta) No.A have been allotted to the plaintiffs and the properties of Schedule (Takhta) No.B have been allotted to the defendants. The trees whatsoever standing on the suit lands will go with the land concerned.”*

**54.** This Court finds that at the time of preparation of final decree in the partition suit, the sale deeds executed in favour of the plaintiffs involved in the present case was taken into consideration and it was recorded that the allocation was being made on the basis of the valuation taken into consideration that the sale deeds were executed in connection with the suit properties.

**55.** This Court finds that it was never the case of the plaintiffs that there has been partition by metes and bounds with respect to the suit property, rather the specific case was that the parties are legal heirs and successors of Dilchand Bhagat and they were in separate possession and separate in all respect as per their convenience.

**56.** The sale deeds which have been executed are all registered documents and was never challenged by the defendants. The fact also remains that it is not in dispute that the sale deeds were executed by legal heirs and successors of Dilchand Bhagat and specific portions were sold, but by the time the present suit was filed, partition suit was already decreed allocating shares of the parties to the suit clearly recording that large number of sale deeds have been executed in connection with the suit property and the partition has been effected primarily on the basis of valuation keeping in mind that large portions

of suit property in the partition suit were already sold by the parties, their father and grandfather.

**57.** The fact that the registered sale deeds executed in favour of the plaintiffs having not been challenged merely because there has not been any partition by metes and bounds, is not fatal to the right, title, interest and possession of the plaintiffs with respect to the suit properties and if there is any discrepancy in connection with the allocation of shares among the parties to the partition suit, the same is not binding on the plaintiffs. The fact also remains that Shankari Devi and Rukua were not made party to the partition suit. With respect to Mostt. Shankari Devi, it was claimed by the defendants that Shankari Devi expired, but no specific date of her death has been mentioned, nor the same has been proved. With respect to Mostt. Rukua, it was asserted that she got remarried, but the same was also not proved by the defendants.

**58.** In view of the fact that at the time of preparation of final decree in the Partition Suit No. 51 of 1979, the sale deeds executed in favour of the plaintiffs involved in these three second appeals were taken into consideration and it was recorded that the allocation was being made on the basis of the valuation taken into consideration that the sale deeds were executed in connection with the suit properties involved in Partition Suit No. 51 of 1979, this Court is of the considered view that the plaintiffs involved in these cases, whose sale deeds were already taken into consideration while passing final decree in Partition Suit No. 51 of 1979, were entitled to obtain possession of the specific portion of the suit land claimed to have been purchased by them without establishing the fact that there was partition by metes and bounds among the four sons of Dilchand Bhagat. The substantial question of law is accordingly answered against the appellants and in favour of the contesting respondents (plaintiffs) in all three second appeals.

**59.** The second appeals are accordingly dismissed.

60. Pending interlocutory application, if any, are dismissed as not pressed.
61. Let a copy of this order be communicated to the concerned court through “Fax/e-mail”.
62. Let the records be sent back to the concerned courts.

**(Anubha Rawat Choudhary, J.)**

14.10.2025.  
Saurav/Rakesh/-  
Uploaded on 04.02.2026