

IN THE HIGH COURT OF JHARKHAND AT RANCHI

Second Appeal No. 559 of 2003

1. Pema Oraon (**dead substituted v.o.d. 31/01/18**)
1(a) Tetri Kachhap, wife of late Pema Oraon
1(b) Prakash Lakra
1(c) Suresh Lakra
1(d) Aryan Lakra
1(b) to 1(d) all sons of late Pema Oraon
1(e) Pushpa Lakra
1(f) Usha Lakra,
1(e) and 1(f) daughters of late Pema Oraon
At residence of Vill.-Bahirampur, P.O. Chandwar, P.S. Muffassil,
District Hazaribagh...
... **Plaintiffs/respondents/Appellants**
Versus

1. Lakho Devi wife of late Chhatu Oraon, resident of village-Bahirampur, P.O. Chandwar, P.S. Muffassil, District-Hazaribagh
(deleted vide order dated 31.01.2018)
2. Smt. Titalya Devi wife of Khujwa Oraon, resident of village-Kurlung, P.O. Nawada College, More, P.S. Muffassil, District-Hazaribagh
3. Jitni Devi wife of Jailal Oraon, resident of village-Hathiyari, P.S. Morangi, College More, P.S. Muffassil, District-Hazaribagh
4. Jeera Devi wife of Jita Oraon, resident of village-Juljai (Rolla), P.O. Silagarha, P.S. Muffassil, District-Hazaribagh
5. Shankar Devi wife of Suraj Deo Oraon, resident of village-Bahirampur, P.O. Chandwar, P.S. Muffassil, District-Hazaribagh
6. Jugeshwar Oroan, son of Chhatu Oraon
7. Nageshwar Oraon, son of Chhatu Oraon
No. 6 and 7 resident of village Bahirampur, P.O. Chandwar, P.S. Muffasill, P.S. and District-Hazaribagh
...
... **Defendants/Appellants/Respondents**
8. Nema Oraon son of late Teko Oraon resident of village-Bahirampur, P.O. Chandwar, P.S. Muffassil, District-Hazaribagh
...
... **Plaintiffs/ Respondent/Proforma Respondent**

CORAM :HON'BLE MRS. JUSTICE ANUBHA RAWAT CHOUDHARY

For the Appellants

: Md. Kundan Kumar Ambastha, Advocate
: Mr. Md. Abdul Wahab, Advocate

For the Respondents

: Mr. Ayush Aditya, Advocate

27/24.11.2025

Heard the learned counsel appearing on behalf of the parties.

2.

This appeal has been filed against the judgment dated 9.9.2003 (decree signed on 30.09.2003) passed by the learned 9th Additional District Judge, Hazaribagh whereby title appeal no. 15 of 2003 has been allowed and the judgment and decree dated 31.03.2001 (decree

signed on 25.04.2001) in Partition Suit no. 97 of 1994/ Supplementary No. 157 of 1998 has been set aside.

3. The learned counsel for the appellants has submitted that the partition suit was decreed and the learned 1st appellate court has allowed the appeal and consequently the plaintiffs are the appellants before this court. The learned counsel has submitted that it is not in dispute that Budhan Oraon had two sons Bandhu Oraon and Teko Oraon and the plaintiffs are the descendants of Teko Oraon and defendants are the descendants of Bandhu Oraon. It is also submitted that it is not in dispute that the suit property was recorded in the name of Bandhu Oraon. However, the plaintiffs sought partition over the suit property in which the suit was decreed.

4. The learned counsel for the respondents on the other hand at the threshold has submitted that none of the substantial questions of law as framed by this court vide order dated 17.06.2019 arise for consideration as all the substantial question of law are relating to previous partition. The substantial questions of law as framed vide order dated 17.06.2019 are as under: -

- (i) *Whether the conclusion arrived at by the Appellate Court that there was a previous partition is against the evidence which has been adduced by the parties?*
- (ii) *Whether in view of the fact that there is presumption of jointness, it was incumbent upon the defendants-respondents herein to prove their case by adducing cogent evidence in support of their claim that there was previous partition of the properties?*
- (iii) *Whether in absence of any evidence in relation to previous partition, lower Appellate Court has committed an error in setting aside the decree of partition passed by the Trial Court?*

5. The learned counsel for the respondents has submitted that it was never the case of the defendants that there was any previous partition nor there is any finding by the learned 1st appellate court regarding any previous partition with respect to the suit property. Rather, the specific case of the defendants was that it was their self-

acquired property and the property stood recorded in the name of Bandhu Oraon.

6. To this, the learned counsel for the appellants was called upon to point out any finding from the learned 1st appellate court on the point of previous partition, which the learned counsel for the appellants failed to point out before this Court. This court has also gone through the appellate court's judgment and finds that there is no finding of any previous partition by the learned 1st appellate court while allowing the appeal. Rather the learned 1st appellate court has recorded a finding that the plaintiffs have not been able to prove the title and possession of the suit land as a member of joint Hindu Family and have not been able to prove that their forefather Teko Oraon was in possession of the disputed land recorded in the name of brother Bandhu Oraon and that Bandhu Oraon was the *Karta* of the family. The plaintiffs had also not been able to prove that his ancestral house is at Bahirampur whereas the defendant has been able to prove that their forefather Bandhu Oraon had a house at Bahirampur in which they are continuing their residence which was solely owned by their forefather Bandhu Oraon. The learned 1st appellate court ultimately held that the defendants had possessory title over the suit land and ultimately allowed the appeal.

7. The learned counsel for the respondents has submitted that no issue of previous partition was framed by the learned trial court and no such point for determination was framed by the learned 1st appellate court as there was no such dispute between the parties. The learned counsel for the respondents has submitted that in view of the findings recorded by the learned 1st appellate court and in view of absence of any finding in connection with previous partition, all the substantial questions of law as framed do not arise for consideration and accordingly they need not be answered.

8. Having gone through the impugned judgments and also the fact that the learned counsel for the appellants has not been able to substantiate as to how the substantial question of law as framed by this court vide order dated 17.06.2019 arise for consideration before this

court, this court is of the considered view that the substantial question of law as framed vide order dated 17.06.2019 do not arise for consideration as rightly pointed out by the learned counsel for the respondents and accordingly they need not be answered. This appeal is hereby dismissed.

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

10. Let this order be communicated to the court concerned through FAX.

(Anubha Rawat Choudhary, J.)

Dated: 24/11/2025

Uploaded on 02.02.2026

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