

**IN THE HIGH COURT OF JHARKHAND AT RANCHI**

**S.A. No. 111 of 2006**

Harjit Singh ... .. **Appellant**  
Versus  
Puran Chandra Putrty and Ors. ... .. **Respondents**

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

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For the Appellant : Mr. Indrajit Sinha, Advocate  
: Mr. Ankit Vishal, Advocate  
: Ms. Ashwini Priya, Advocate  
For the Respondents : Mr. Zaid Imam, Advocate  
: Mr. Zeeshan Ahmad Khan, Advocate  
: Mr. Anjan Kumar, Advocate

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**12/29.01.2026**

This appeal has been filed against the judgment and decree dated 08.03.2006 (decree signed on 28.03.2006) passed by the learned Additional District Judge, Fast Track Court, V, Chaibasa, in Title Appeal No. 29 of 1995/R. No. 12 of 2003 whereby the learned 1<sup>st</sup> appellate court has allowed the appeal preferred by the plaintiff and has set aside the judgement and decree dated 17 June, 1995 (decree signed on 12.07.1995) passed by learned Munsif Chaibasa in Title Suit No. 6 of 1992. The Title Suit was dismissed by the learned Munsif. The appeal was allowed and consequently the defendant no. 1, who is the contesting defendant, is the appellant before this court.

**2.** This appeal was admitted for final hearing vide order dated 05.03.2009 on the following substantial question of law:-

(i) *Whether the court of appeal below has committed error of law in reversing the findings recorded by the trial court without complying the provisions under Order 41 Rule 33 CPC?*

(ii) *Whether the findings recorded by the appellate court suffers from serious perversity in as much as for non-consideration of the evidence in its true perspective?*

**3.** Learned counsel for the appellant has submitted that the plaintiff had purchased the property from defendant no. 3 by registered sale deed dated 23.11.1990 after obtaining permission from

the Deputy Commissioner. The sale deed is marked as Exhibit-1 and exhibit-4 is the order sheet granting permission of the competent authority for executing the sale deed dated 23.11.1990. He submits that since the plaintiff and the defendant no. 3 are tribals, therefore defendant no. 2, Deputy Commissioner being a necessary party has been made party in the proceedings.

4. The learned counsel further submits that it was the case of the plaintiff that recorded tenant with respect to the suit property is Chhota Pandu Ho whose name was recorded in the survey settlement of the year 1917 (exhibit-8/a) and thereafter in the year 1964 survey settlement (exhibit-8) the name of defendant no. 3 and others appeared as co-sharer and defendant no. 3 claims to be the descendant of Chhota Pandu Ho. The learned counsel has submitted that the genealogy was not proved and therefore the relationship of defendant no. 3 with Chhota Pandu Ho is not proved and therefore sale deed with respect to the property of Chhota Pandu Ho by defendant no.3 to the plaintiff was not proved to be valid. The learned court has not appreciated this aspect of the matter.

5. However, so far as the case of the appellant (defendant no. 1) is concerned, the learned counsel submits that defendant no. 1 was in possession of the property since 1950. The specific case of the defendant no. 1 was that the second wife of defendant no. 1 was Sumi Kui who purchased the property from Bamia Ho vide registered sale deed dated 13.10.1961 (Exhibit-C) after taking permission from the competent authority. However, the second wife expired on 12.01.1966. Consequently, the defendant no. 1 inherited the property and his name was also entered in municipal survey published in the year 1972 (Exhibits-I and I/1).

6. The learned counsel for the appellant has placed the judgements passed by learned trial court as well as the learned 1<sup>st</sup> appellate court. He has submitted that though the defendant has not been able to prove his title with respect to the property nor the defendant could prove adverse possession with respect to the property but it was for the plaintiff to prove his case which the plaintiff failed to prove .

7. The learned counsel submits that neither the plaintiff could prove partition in the family of the recorded tenant nor the plaintiff could prove title of the vendor of the sale deed executed in favour of the plaintiff. He has also submitted that the survey settlement of 1964 by itself is not a document of title.

8. The learned counsel has also submitted that merely because the 2<sup>nd</sup> marriage of defendant no.1 was found to be void, the same cannot be a reason to hold that the title of the vendor of Sumi kui was bad. He submits that once the title with respect to the suit property had already passed, there was no occasion for a second sale deed with respect to the same property in favour of the plaintiff by the defendant no.3.

9. The learned counsel has also referred to Order XLI Rule 33 of Code of Civil Procedure, 1908 to submit that relief beyond pleadings could not have been granted. The learned counsel has submitted that the relief which has been granted by the learned 1<sup>st</sup> appellate court that the plaintiff would have right, title and interest over the suit land to the extent of 1/18<sup>th</sup> of his share and that he will be entitled to jointly possess the suit land along with other co-sharers is also defective inasmuch as no such relief was sought for by the plaintiff and also there was no pleading to that effect. The case of the plaintiff was that after partition, the suit land fell in the share of the vendor of the plaintiff, which was sold to the plaintiff.

10. The learned counsel has relied upon the following judgements, which are quoted as under:

- (i) *(2014) 2 SCC 269 (Union of India and Ors. Vs. Vasavi Cooperative Housing Society Limited and Ors.) Paragraphs 15 to 19*
- (ii) *2022 SCC OnLine SC 928 (Akella Lalitha Vs. Konda Hanumantha Rao and Anr.) paragraph 16, 17 and 18)*
- (iii) *(1977) 3 SCC 532 (Siddu Venkappa Devadiga Vs. Smt. Rangu S. Devadiga and Ors.) Paragraph 8*
- (iv) *(2024) 13 SCC 553 (P. Kishore Kumar Vs. Vittal Kr. Patkar) Paragraph 22, 31 to 33*

(v) (2019) 10 SCC 259 (Prahlaḍ Pradhān and Others Vs. Sonu Kumhar and others) paragraph 5

11. However, during the course of argument, it is not in dispute that the property belonged to Chota Pandu Ho, whose name was recorded in the record of rights of the year 1917 and the plaintiff claimed that the suit property was sold by defendant no.3, the legal heir of the recorded tenant to the plaintiff and defendant no.1 also claimed that the suit property was sold to Sumi Kui by the legal heirs of the recorded tenant.

**Arguments of the respondents**

12. The learned counsel for the respondents has referred to the schedule of the plaint and submitted that in the schedule, the description of the property refers to old plot no.2188 corresponding to new khata no.29 and new plot no.2968 and new municipal survey no.483 under Khata no.19 measuring an area of only 0.06 decimal which was just a part of the property which was recorded in the name of the recorded tenant way back in the year 1917, whose title is not in dispute. He submits that in the survey record of 1964, the share of the vendor of the plaintiff was recorded only to the extent of 1/18 and the name of other co-sharers was also recorded.

13. The learned counsel for the respondents has submitted that there was enough material on record to say that there was partition and submitted that the plea of partition has been rejected only on the ground that defendant no.3 had not deposed before the court. On the point of partition in the family of the recorded tenant, the evidences have not been properly considered while recording the finding.

14. The learned counsel has submitted that 1/18<sup>th</sup> share was already recorded in the record of rights of 1964. He has referred to Section 84 of the Chotanagpur Tenancy Act, 1908 to submit that as per sub-section (3), every entry in the 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.

15. The learned counsel has submitted that irrespective of the aforesaid arguments, the plaintiff has been able to prove his title to the

extent of 1/18<sup>th</sup> share in old plot no.2188 corresponding to new khata no.29 and new plot no.2968. The learned counsel has submitted that the substantial question of law is widely worded to cover any perversity which is found in the judgement and the finding of the learned court that partition could not be proved is perverse.

16. On the point of adverse possession as claimed by the defendant no.1 and to oppose such a plea, he has relied upon the judgement passed by Hon'ble Supreme Court reported in *(2020) 15 SCC 218 (Narasamma and Ors. Vs. A. Krishnappa (dead) through Legal representatives)* paragraph 33, and the judgement passed by this Court *SA No.132 of 1985 [(Phoda Devi and Ors. Vs. Ganesh Mahto (Yadav)]* page 11 to submit that it was not open to the defendant no. 1 to claim title as well as adverse possession simultaneously.

17. The learned counsel has then referred to the judgement passed by the Hon'ble Supreme Court reported in *(2006) 5 SCC 353 (Prem Singh and Others Vs. Birbal and Others)* paragraph 27 and also the judgement reported in *(2021) 15 SCC 300 (Rattan Singh and Ors. Vs. Nirmal Gill and others)* paragraph 33, to submit that there is presumption in connection with the registered documents and the plaintiff is claiming title by virtue of registered document executed by one of the legal heirs of the recorded tenant and the name of legal heirs, as per the finding of the learned court, is found in the record of right of 1964 showing the share of the vendor of the plaintiff share to the extent of 1/18 of the property which stood recorded in the name of only one ancestor Chhota Pandu Ho.

#### **Rejoinder arguments of the appellant**

18. The learned counsel for the appellant, in response, has submitted that even the contesting defendant was claiming title in favour of Sumi Kui by virtue of registered sale deed and both the plaintiff and the contesting defendant were referring to registered sale deed and both were executed after permission of the Deputy Commissioner.

19. The learned counsel submits that in spite of the provision of Chotanagpur Tenancy Act, 1908, the revenue record are not

documents of title and revenue records cannot be the sole basis to claim title and has referred to the judgements cited above and relied by the appellant.

**20.** Arguments concluded.

**21.** Post this case for dictation of the judgement tomorrow i.e. on 30.01.2026.

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

*29.01.2026*

*Binit/Saurav*