

IN THE HIGH COURT OF JHARKHAND AT RANCHI

S.A. No. 194 of 2006
With
I.A. No. 16331 of 2025

Mukul D'cruj **Appellant**
Versus
Smt. Mary Tigga and others **Respondents**

CORAM :HON'BLE MRS. JUSTICE ANUBHA RAWAT CHOUDHARY

For the Appellant : Mr. Vishal Kumar Tiwary, Advocate
: Mr. Md. Imran Beig, Advocate
: Mr. Manjeet Kr. Choudhary, Advocate
For the Respondents : Mr. Rohitashya Roy, Advocate
: Mr. Tarun Kr. Mahato, Advocate
: Mr. Vibhor Mayank, Advocate

15/09.12.2025

Learned counsel for the parties are present.

2. This appeal has been filed against the judgment and decree dated 14.06.2006 (decree signed on 28.06.2006) passed by learned Additional Judicial Commissioner- XVIth, Ranchi in Title Appeal No. 11 of 2004 whereby the appeal was dismissed and judgment and decree dated 13.01.2004 (decree signed on 22.01.2004) passed by learned Sub-ordinate Judge-VI, Ranchi in Title Suit No. 116 of 1997 was confirmed.

3. I.A. No. 16331 of 2025 has been filed for framing additional substantial question of law which are as under:

“A. Whether the learned courts below can assume and presume the order of permission in its own way which was granted under section 46 of the CNT act (exhibit 3) contrary to the permission which was only for 0.15 decimals of land in favour of the plaintiff?”

B. Whether both the courts have misinterpreted exhibit 3 and 4 i.e. the order of permission under section 46 of the CNT act and subsequent sale deed executed in favour of the plaintiff?”

4. Learned counsel for the appellant has submitted that the learned courts have misconstrued exhibit-3 which was the permission granted under section 46 of the ***Chotanagpur Tenancy Act, 1908 (hereinafter referred as ‘CNT Act’)*** and consequently, exhibit- 4 also, which was follow up sale-deed. He submits that permission was granted for sale

was only with respect to 0.15 decimal in plot no. 730 and 0.15 decimal in plot no. 735. He submits that once the permission was only for 0.15 decimal each in plot no. 730 and 735, then under such circumstances, the claim of the plaintiff that 15 decimals in each of the two plots were sold, is not in accordance with law. He submits that these two documents have not been properly examined by the court and therefore, a substantial question of law as aforesaid arises for consideration. He has also submitted that mis-interpretation of document by itself constitutes a substantial question of law. For this purpose, the learned counsel has relied upon a judgment passed by the Hon'ble Supreme Court reported in *(2007) 5 SCC 669 (P. Chandrasekharan v. S. Kanakarajan)*, paragraph 17, which reads as under:

“17. When thus the courts below misread and misinterpreted a document of title read with other documents and the plan for the identification of the suit lands whereupon the plaintiffs themselves relied upon, a substantial question of law arose for determination of the High Court in between the parties to the suit.”

5. Learned counsel for the respondents, on the other hand, has opposed the prayer and has submitted that the discrepancy with respect to area as referred to in exhibit- 3 and followed by the sale-deed (exhibit- 4) has been duly considered by the learned 1st appellate court taking into consideration both oral and documentary evidences. He has submitted that the documentary evidences in particular have been considered in paragraph no. 31 to 44 of the judgment passed by the learned 1st appellate court and upon complete reading of these paragraphs, it transpires that the learned court has considered every aspect of the matter and the intention of the parties. He submits that under such circumstances, no additional substantial question of law be framed. He has also submitted that there is no foundational pleading in the written statement questioning the permission under section 46 of CNT Act or the sale-deed with respect to the area involved.

6. Learned counsel for the respondents has further submitted that the permission granted under section 46 of CNT Act has to be read as

a whole and the learned 1st appellate court has interpreted the documents and the circumstances to come to a finding and therefore, no substantial question of law of this nature is involved. He has relied upon the judgment passed by the Hon'ble Supreme Court reported in **2025 SCC OnLine SC 1896 (C.P. Francis Vs. C.P. Joseph and others) (paragraph 18.1)** which deals with the procedure to be followed by the High Court under section 100(5) of Code of Civil Procedure which reads as under:

“18.1 A substantial question of law must be grounded in the parties’ pleadings and the findings of lower courts. Thus, it must be exercised if it is so fundamental that it goes to the very root of the matter.”

7. Learned counsel for the respondents has also relied upon the judgment passed by the Hon'ble Supreme Court reported in **(2022) 20 SCC 199 Chandrabhan v. Saraswati (paragraph 32.1)** to submit that an inference of fact from the recitals and contents of a document is a question of fact, but the legal effect of the terms of a document is a question of law. Paragraph 32.1 of the aforesaid judgment is quoted as under:

“32.1. An inference of fact from the recitals or contents of a document is a question of fact. But the legal effect of the terms of a document is a question of law. Construction of a document involving the application of any principle of law, is also a question of law. Therefore, when there is misconstruction of a document or wrong application of a principle of law in construing a document, it gives rise to a question of law.”

8. Learned counsel for the appellant, in response, has referred to paragraph 11 of the judgment relied upon by him passed in the case of **P. Chandrasekharan (Supra)**, to submit that in the said case, it has been observed in paragraph 11 that when the plaintiffs of the said case themselves relied upon a sketch to establish identity of the properties in suit vis-à-vis the existence of lanes and the constructed platform etc., it was for them to show that the description of property tallies with the one stated in the deed of sale. The learned counsel submits that in the present case, it was for the plaintiff to show that while

executing the sale-deed (exhibit-4), it tallied with the permission under section 46 of CNT Act granted vide exhibit- 3.

9. However, during the course of argument, it is not in dispute from the side of the appellant that no specific plea/stand was taken in the written statement. However, he has submitted that the parties had contested the suit on this point.

10. After hearing the learned counsel for the parties and considering the facts and circumstances of this case, it is not in dispute that the additional substantial question of law which is being proposed by the appellant, is not grounded on the written statement filed by the appellant. However, the parties had advanced argument in connection with the discrepancy in exhibit – 3 and exhibit- 4.

11. This Court further finds that there are concurrent findings recorded by both the learned courts and the learned 1st appellate court, while considering the aforesaid aspect of the matter, has elaborately dealt with the intention of the parties and the circumstances to come to a conclusion that there was a clear intent to transfer 30 decimals of land which was duly transferred to the plaintiff vide sale-deed (exhibit- 4). The findings of the learned 1st appellate court from paragraphs 31 to 44 of the judgment are quoted as under:

“31. In this Appeal, careful appreciation of documentary evidence would be very decisive to decide the issues. Now I take up the documentary evidence.

32. Firstly I take up the documents of the plaintiffs' side. Ext- 3 is the C.C. of order dt. 24.5.82 passed by Rent Suit Decree Collector, Ranchi, in case no. M-334/80-81, under Section 46 of the Act (Benedic Khalkho V/s State), whereby permission was granted to D3 to sell land to the plaintiff Mery Tigga and also to one Poline Tigga.

33. In this connection it was submitted by the Ld. Lawyer for the appellant that Ext- 3 shows that sanction for transfer was granted to the D3 to sell 0.15 dec of plot no. 730 and 0.15 dec. of plot no. 735.

34. In this connection it was submitted by the Ld. Lawyer for R1 that it was only due to the arithmetical and clerical error, as it would be evident from the perusal of entire Ext- 3. It was also submitted by him that it was the intention of D3 to sell 30 dec of land, and he also applied for sanction to sell 30 dec of land.

35. Now it has been mentioned in Ext- 3 that Benedic Khalkho wants to sell the lands of his father, and that after transfer of land by Benedic, one and half acre land would be left with him. Now Ext- 'A' is the decree of Partition Suit No. 144/49, which shows that Somra Oraon, the father of D3, was allotted lands mentioned in schedule of the lands allotted to him. So if compared with Ext-A, the finding in Ext- 3 that after transfer one and half acre land would be left with D3, goes to show that sanction was accorded to D3 to sell 30 dec of land and not for the sale of .3 dec of land.

36. Secondly Ext- 3 shows that the proposed consideration was, Rs. 3000/- in May 1982. So, if the consideration is compared with the consideration mentioned in the sale deed dt. 11.4.90 (Ext- B) of defendant no. 1, it can only be inferred that by Ext- 3, sanction was accorded to transfer 30 dec of land.

37. Ext- 4 is the sale deed dt. 8.4.83 executed by Benedic Khalkho (D3) in favour of the plaintiff Mery Tigga.

38. In this connection it was submitted by the Ld. Lawyer for the appellant that in the sale deed (Ext- 4) also, in the column of Description of Property, it has been mentioned as "Area 0.30 dec", and it was submitted that only .3 dec of land was transferred by D3 to the plaintiff.

39. In this connection it was submitted by the Ld. Lawyer for the respondent no. 1 that for the construction of a document, the intention can be gathered by construing the document as a whole and a stray sentence cannot be allowed to be picked out to construe a document and that it is apparent from the recital of Ext- 4 and the sketch map annexed therewith that 30 dec of land was transferred to the plaintiff by Ext- 4.

40. In support of his contention, the Ld. Lawyer for R1 relied upon a decision "Sumathi Amma V/S Sankara Pillai Anthakrishnan Nair" reported in AIR 1987 (KER) 84. In this reported decision it has been held as follows- "A document has to be construed as a whole. A stray sentence here and there cannot be picked out to construe a document. To understand the tenor of the document and the intention of the parties it has to be read as a whole. The real intention of parties has to be gathered not merely from what ex facie is stated in the description of the property in the schedule but from the totality of the recitals in the document.

Very often plans are not appended to documents and the parties are satisfied with the description of the properties and the boundaries. In cases where executants of the documents

take particular pains to have plans appended to documents, their importance cannot be lightly ignored as they form part of the documents.

One principle of construction of documents is that when the property has been sufficiently identified in a deed and subsequent details are inconsistent with it, the latter has to be disregarded. Assuming that there are inconsistencies in the recitals in the body of documents and the description of the properties in the schedule the latter cannot merely be accepted ignoring the former. In this context the plans appended to sale deeds would assume considerable importance.”

41. Now with respect to Ext- 4, the following facts are worth consideration. Firstly, at page 2 of Ext- 4, regarding the transferred land there is recital "30 dec, as indicated in the annexed map by red colour".

42. Secondly a map has been attached with the sale deed. The portion under sale of plot no. 735 has been shown by red colour and in this red portion the dimensions of all the sides have been mentioned. On calculating the area from the dimensions given in the map, the area comes to 0.30 acres and not .3 dec. Further in the sketch map itself, area has been cleared by words, in these words

“Khata Plot Area

205 730 0.15

137 735 0.15 (6' wide passage)

Total 30 dec in Two Khata and two plots".

43. Thirdly in Ext- 4, the consideration is Rs. 6000/- in 1983. Now in the sale deed of the D1, Ext- B, the consideration is Rs. 20,000/- for 34 dec in 1990, which shows that same land was sold @ Rs. 588/- per dec approximately. So it cannot be expected that Rs. 6000/- was consideration for only .3 dec of land in 1983. Rather, if the consideration of Ext- 4 is compared with the consideration of Ext- B, keeping in view the increasing market rate of land, it is quite apparent that consideration amount of Rs. 6000/- had been taken by D3 in 1983 for 30 dec of land @ Rs. 200/- per dec.

44. So considering the totality of the recitals in the sale deed Ext- 4, and the map appended to it, in the light of the principle laid down in the above reported decision, I come to the conclusion that D3 intended to transfer 30 dec of land and he transferred to the plaintiff 30 dec of land by sale deed (Ext-4).”

(emphasis supplied)

12. This Court is of the considered view that though the concerned defendant did not raise any such point in the written statement, still the learned courts have gone into this point. The perusal of paragraphs 31 to 44 of the judgment of the learned 1st appellate court reveals that not only the documents, but other aspects of the matter have also been taken into consideration to come to a finding in paragraph no. 44 and the discrepancy in exhibit- 3 and exhibit- 4 have also been taken into consideration after reading and referring to the exhibit-3 and exhibit-4. It is important to note that the sale-deed (exhibit-4) was otherwise also not under challenge in the suit.

13. This Court is of the view that the interpretation of exhibit- 3 and 4 in the present case is essentially a question of fact and accordingly, findings having been recorded, the additional substantial question of law as suggested by the learned counsel for the appellant, does not arise for consideration in this case and the findings do not suffer from any perversity in the matter of appreciation of materials on record or on any point of law.

14. *I.A. No. 16331 of 2025 is hereby dismissed.*

15. At this, learned counsel for the appellant submits that the appellant may choose to challenge this order before the Hon'ble Supreme Court and he seeks adjournment.

16. The prayer for adjournment has been opposed by the learned counsel for the respondents by submitting that execution proceeding in Execution Case No. 05 of 2006, renumbered as Execution Case No. 126 of 2023 and again renumbered as Execution Case No. 29 of 2024 arising out of Title Suit No. 116 of 1997 has been stayed by this Court.

17. To this, learned counsel for the appellant has submitted that the appellant shall take expeditious step, if so advised, in connection with the present order.

18. In view of the above and in order to give an opportunity to the appellant to challenge this order, the matter is adjourned and is directed to be posted on 20th January, 2026.

19. Till 20th January, 2026, interim order granted earlier shall continue.

20. Let this order be communicated to the learned court concerned through 'FAX/email'.

(Anubha Rawat Choudhary, J.)

Pankaj