

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Civil Revision No.45 of 2025

- 1. Mahabala Devi, wife of 70 years, wife of Late Degnarayan Mahto @ Yadav.
 - 2. Bhupdeo Mahto, aged about 99 years, son of Late Khiro Mahto
 - 3. Pandey Mahto @ Sri Prasad Yadav, aged about 62 years, son of Bhupdeo Mahto
 - 4. Nunu @ Srikant Yadav, aged about 60 years, son of Bhupdeo Mahto
- All are residents of Village Jharkhandi, Tola Jamuniya, P.O. and P.S. Kunda, District Deoghar, Jharkhand.
- 5. Hemlata Devi, aged about 50 years, wife of Late Sunil Kumar Yadav
 - 6. Yudhishtir Kumar, aged about 21 years, son of Late Sunil Kumar Yadav
- Both are residents of Village Jharkhandi, Tola Jamuniya, P.O. and P.S. Kunda, District Deoghar, Jharkhand

... Petitioners

Versus

- 1. Yogendra Mahto son of Late Kesho Mahto
 - 2. Mithilesh Yadav son of Late Ramlochan Yadav
 - 3. Parmanand Yadav, son of Ramlochan Yadav
 - 4. Sudama Mahto @ Yadav son of Late Ayodhya Mahto
 - 5. Deonarayan Mahto son of Late Ayodhya Mahto
 - 6. Kumar Gautam son of Late Govind Mahto
 - 7. Astma Devya wife of Late Govind Mahto
 - 8. Jainarayan Mahto son of Late Kanthi Mahto
- All are residents of Village Jharkhandi, Tola Jamuniya, P.O. and P.S. Kunda, District Deoghar, Jharkhand

... Opp. Parties

Coram: HON'BLE MR. JUSTICE PRADEEP KUMAR SRIVASTAVA

For the Petitioners : Mr. Arbind Kr. Choudhary, Advocate
For the Respondents : Mr. Manjul Prasad, Sr. Advocate
Mrs. Vani, Advocate
Mr. Akhouri Prakhar Sinha, Advocate
Mr. Aman Kedia, Advocate

Order No.03/Dated- 12.11.2025

- 1. Heard learned counsel for the parties.
- 2. This revision is directed against the order dated 11.04.2025 passed by learned District Judge-I, Deoghar in Civil Appeal No.34 of 2024, whereby and whereunder the appeal was dismissed by the learned Appellate Court and affirmed the order

dated 07.02.2024 passed by learned Civil Judge (Senior Division)-I, Deoghar in F.D. No.26 of 1965.

3. Learned counsel for the petitioner submits that he has filed Civil Appeal No.34 of 2024 against the final decree passed in F.D. No.26 of 1965. The appeal was preferred just after acceptance of the confirmation of Pleader Commissioner's Report and decree was prepared later on. The memo of appeal filed by the petitioner in Civil Appeal No.34 of 2024 clearly depicts that the appeal was preferred against the final decree in pursuance to the confirmation of Report of Survey Knowing Pleader Commissioner dated 07.02.2024. The appellant in his memo of appeal in the last paragraph wherein relief is claimed has simply mentioned for setting aside the order dated 07.02.2024 passed by the learned trial court in the final decree which was misinterpreted by the learned Appellate Court and it was wrongly assumed that the petitioner has preferred appeal challenging the order of confirmation of Pleader Commissioner's Report. Hence, recorded finding that the appeal is not maintainable and dismissed the same. The order passed by the learned trial court is absolutely illegal and not warranted under law which is fit to be set aside and the matter may be remitted back to the concerned Appellate Court to be restored in appeal to its original number and hear on merits.
4. On the other hand, learned counsel for the opposite parties has opposed the aforesaid contentions and submitted that the decree was prepared later on 09.04.2024 and the appeal was preferred just after the confirmation of Pleader Commissioner's Report and there was specific prayer of the appellant to set aside the order dated 07.02.2024 by which the Pleader Commissioner's Report was confirmed and the direction was issued for preparation of final decree. Therefore, there is no illegality in dismissing the appeal to be not maintainable.
5. I have gone through the impugned order and other materials submitted by the learned counsel for the petitioners, it appears

that the memo of appeal filed by the petitioners specifically depicts that it was preferred against the acceptance of Pleader Commissioner's Report as well as final decree in pursuance to the Pleader Commissioner's Report. The prayer portion of the memo of appeal contains some ambiguous language, therefore, learned Appellate Court has misconceived in the true nature of the appeal and dismissed the same as not maintainable. Therefore, I find patent illegality in the impugned order which is hereby set aside and the appeal preferred by the appellant vide Civil Appeal No.34 of 2024 is restored to its original number and the learned Appellate Court is directed to proceed in the matter of rehearing the appeal on merits against the final decree.

6. Pending I.A., if any, stands disposed of.
7. Let a copy of this order along with trial court record be sent back to concerned trial court for information and needful.

(Pradeep Kumar Srivastava, J.)