

IN THE HIGH COURT OF JHARKHAND AT RANCHI

S. A. No. 29 of 2026

Shibu Gope and Another

... ... **Defendant No.1 & 7/Appellant No. 1 & 2/Appellants**

Versus

Amulya Gope and Others

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

CORAM :HON'BLE MRS. JUSTICE ANUBHA RAWAT CHOUDHARY

For the Appellant : Mr. Pratyush Kumar, Advocate

For the Respondents :

06/27.02.2026

1. Heard the learned counsel appearing on behalf of the appellants. Appellants are defendant Nos. 1 and 7, who have lost in both the courts.

2. The learned counsel has submitted that the suit was hit by partial partition as properties in Khata No. 28, 39 and 66 were not included in the schedule of the property to which a serious objection was raised by the defendants. He has submitted that inspite of recording that properties in these khata were not included, the suit was still held to be not bad for partial partition. He submits that the said properties were not even disclosed in the plaint and the suit of the plaintiffs suffered from suppression of material facts which was pointed out in the written statement .

3. The learned counsel submits that these aspects of the matter have not been properly appreciated by both the courts and they have mechanically sought to apply ratio of the judgment passed by Hon'ble Supreme Court reported in **2022 SCC Online SC 240 [B.R. Patil vs. Tulsa Y. Sawkar and Others]** and also the judgment passed by Hon'ble Jharkhand High Court reported in **2022 (3) JLJR 1 [Bimal Chandra Mandol vs. Bikash Chandra Mandol]**.

4. The learned counsel has submitted that it has been held by the Hon'ble Supreme Court that ordinarily all the properties are to be

included in a partition suit unless there are circumstances which are duly explained for non-inclusion of the certain properties.

5. After hearing the learned counsel for the appellants, this appeal is **admitted** for hearing on the following substantial question of law:-

- i. *Whether the suit itself was bad due to non-disclosure of entire properties and hence was barred on account of partial partition?*

6. The records be called for from the concerned courts.

7. At this, the learned counsel for the petitioner has submitted that an interlocutory application being ***I.A. No. 701 of 2026*** has been filed seeking stay of further proceeding in the execution case.

8. Learned counsel submits that the execution proceeding is going on, inter alia in connection with residential properties.

9. Issue notice to the respondents in the main appeal and also in ***I.A. No. 701 of 2026*** for which requisites under speed post be filed within a period of one month, failing which the present appeal shall stand dismissed without any further reference to the Bench.

10. Office is directed to track the speed-post-delivery and prepare a proper office note with regard to service of notice.

11. Post this case on 06th May, 2026 awaiting service report.

12. Till 06.05.2026, the further proceeding in Execution Case No. 04 of 2025 said to have been pending before Civil Judge (Sr. Division)-IIIrd at Bokaro shall remain stayed.

13. Let a copy of this order be communicated to the concerned court through “Fax/e-mail”.

(Anubha Rawat Choudhary, J.)

27.02.2026
Rakesh/-