

IN THE HIGH COURT OF JHARKHAND AT RANCHI

**Second Appeal No. 191 of 2013
With
Second Appeal No. 259 of 2015**

Kamakhya Narayan Singh sons of Jagdish Singh Resident of Village
New Area, First Lane, P.O. and P.S. Sadar Dist. Hazaribagh

... **...Plaintiff/Respondent/Appellant**
(In both the cases)

Versus

1. Ram Sahay Singh **(died and substituted vide order dated 11.07.2024)**

1(a) Kailash Devi w/o late Ram Sahay Singh

1(b) Avinash Singh S/o late Ram Sahay Singh

1(c) Vikash Singh s/o Late Ram Sahay Singh

All r/o Village Khambhava P.S. and P.O. Khambhwa P.S.
Tatilharia, Dist. Hazaribagh 825313

2. Lakshman Sahu @ Lakshman Shaw, son of late Baldeo Sahu,
Resident of 9A/22, Shastri Nagar, Road No. 10, Gaya, P.O.+
P.O.+P.S.-Shastri Nagar, Bihar

...Defendant/Appellant/Respondent (In both cases)

3. Jagdish Singh **(dead v/o 11.07.24)** son of late Bhola Singh

4. Ramcharitar Singh son of Jagdish Singh

5. Arun Singh son of Jagdish Singh

Resident of village Khambhawa, Post Office Bishnugarh P.S.
Bishnugarh Dist. Hazaribagh

... **Performa Defendant/Performa**

... **Respondent/Performa Respondent**
(In both cases)

CORAM :HON'BLE MRS. JUSTICE ANUBHA RAWAT CHOUDHARY

For the Appellants : Mr. Anil Kumar, Advocate (In both cases)
For the Resp. (3 & 4) : Mr. Sunil Singh, Advocate
For the Resp. No. 2 : Mr. Venkatesh Kumar, Advocate

13/15.09.2025

Second Appeal No. 191 of 2013 and Second Appeal No. 259 of 2015 have been filed against the common judgement and decree dated 28.06.2013 (decree signed on 05.07.2013) by the learned District Judge, VI, Civil Court, Hazaribagh passed in Title Appeal No. 44 of 2010 and Title Appeal No. 46 of 2010 respectively. Both the title appeals at the 1st appellate stage were arising out of title suit, namely, T.S. No. 78 of 2007 which was partly decreed vide judgment and decree dated 04.10.2010 (decree signed on 03.11.2010) passed by the learned Sub Judge, VI, Hazaribagh in T.S. No. 78 of 2007. The title

appeal no. 46 of 2010 filed by the plaintiff was dismissed and Title Appeal no. 44 of 2010 filed by the defendant no.1 (Ram Sahay Singh) was allowed. Consequently, the learned 1st appellate court had set-aside the judgement and decree of the learned trial court. The plaintiff is the appellant before this court in both the 2nd appeals.

2. The title suit was filed for a decree to declare title of the plaintiff over Schedule A land consequent upon the memorandum of partition dated 29.11.2006 and a further relief was prayed that the receipt granted by the defendant no. 1 on the next day remained unaffected despite the sham transaction between defendant no. 1 and 2.

3. The learned trial court held that the schedule A property was purchased from joint family fund and taking advantage of his name as one of the purchasers in the sale deed no. 11357 (exhibit-3), the defendant no. 1, disposed of his 1/3rd share of schedule A land in favour of the defendant no. 2 vide sale deed exhibit- B/1. The plaintiff claimed his exclusive right over the schedule A property on the basis of memorandum of partition but the learned trial court held that there has never been any partition by metes and bounds and hence declined to declare exclusive title of plaintiff over the suit property and held that plaintiff had title over the suit property along with defendant no. 1 and defendant no. 3 to 5 jointly. The trial court also held that the plaintiff has liberty to get the ancestral property along with the suit property partitioned through family settlement or through civil court by filing fresh partition suit.

4. Jagdish Singh was defendant no. 3 and the plaintiff was also the son of defendant no. 3. The defendant no. 1 and 2 filed title appeal no. 44 of 2010 and the plaintiff filed title appeal no. 46 of 2010. The learned 1st appellate court held that the property was not purchased from joint family fund and observed that the property was purchased by Jagdish Singh (defendant no. 3) in favour of his three sons, that is defendant no. 1,4 and 5. The learned 1st appellate court has set aside the finding of the learned trial court on this point (issue no. iii). The learned 1st appellate court also held that the learned trial court wrongly

held that the suit property was joint family property and reversed the finding of the learned trial court on this point (issue no. iv). The learned 1st appellate court also held the defendant no. 1 had the right to sell 1/3rd of the suit property which stood in the joint name of defendant no. 1, 4 and 5. The court held that the trial court had wrongly treated the property as joint family property and made a notional partition and wrongly held that defendant no. 1 could sell only 1/5th of the suit property. The court also held that the plaintiff has no title over the property by virtue of Panchayatinama (exhibit 4) and the money receipt (exhibit-2). The trial court's judgement was set-aside. The plaintiff filed two appeals, one arising out of dismissal of his appeal being title appeal no. 46 of 2010 and the other against the appeal no. 44 of 2010 which was filed by the defendant no. 1 and 2 and was allowed by the learned 1st appellate court.

5. The learned counsel for the appellants has submitted that the matter has remained pending before this court and no substantial question of law as such has been framed so far. He has submitted that the dispute is primarily amongst the family members except respondent no. 2 who is purchaser of a portion of the suit property.

6. He submits that so far as respondent no. 2 namely Lakshman Sahu is concerned, the learned counsel for the appellant has submitted that the defendant no. 1 namely Ram Sahay Singh or his legal heirs and successors have no stake in as much as they had already sold the property to defendant no. 2 who is respondent no. 2 in the present case.

7. The learned counsel submits that the suit was partly decreed and both the parties were aggrieved and by the impugned judgment both the Title appeals were disposed of and consequently two appeals have been filed before this court by the plaintiff.

8. The learned counsel submits that a joint compromise petition has been filed in S.A. No. 191 of 2013 which would in effect dispose of both the appeals. He submits that the defendant no. 1 or their legal heirs and successors have not been made party to this joint compromise petition as they have no stakes any more. The right now

devolves upon defendant no. 2 who is respondent no. 2 in the present case. The terms and conditions of joint compromise has been mentioned in paragraph no. 7 of the interlocutory application. The aforesaid submissions made by the learned counsel for the appellants has not been disputed by the learned counsel appearing on behalf of defendant no. 2-respondent no. 2 in both the cases.

9. The learned counsel appearing for the respondent namely Ram Charitar Singh and Arun Singh who were originally made respondent nos. 4 and 5 in the present case and their father was respondent no. 3. However, upon death of respondent no. 3, they being the legal heirs continued as sons of late Jagdish Singh. The counsels jointly submitted that both the appeals be disposed of in terms of joint compromise petition being I.A. No. 9818 of 2025 filed in S.A. No. 191 of 2013. I.A. No. 9818 of 2025 has been filed by the appellant Kamakhya Narayan Singh (plaintiff), defendant no.2 (Lakshman Sahu), defendant no.4 (Ramcharitar Singh) and defendant no. 5 (Arun Singh).

10. After hearing the learned counsel for the parties, these two appeals are disposed of in terms of the joint compromise filed through I.A. No. 9818 of 2025 filed in S.A. No. 191 of 2013. The I.A. No. 9818 of 2025 shall form a part of the common decree to be prepared in both the cases.

11. I.A. No. 9818 of 2025 stands disposed of.

12. In view of the aforesaid order of joint compromise and with the consent of the learned counsel for the respondents, I.A. No. 7109 of 2018 seeking condonation of delay of 603 days in filing S.A. No. 259 of 2015 is allowed.

(Anubha Rawat Choudhary, J.)

Dated: 15.09.2025

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