

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Civil Revision No. 42 of 2024

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1. Most. Dewanti Devi, aged about 72 years, daughter of Bhola Ram, wife of Late Kedar Singh, Resident of Village Simri, P.O. & P.S. Dumaria, District-Gaya (Bihar)
 2. Sonamati Devi, aged about 69 years, wife of Ramdeo Ram, Resident of Village Nawkadih, P.O. Pipra, P.S. Dumaria, District-Gaya (Bihar)
 3. Lalmanti Devi, aged about 66 years, wife of Rajendra Ram, Resident of Village-Doodhpaniya, P.O. Pipra, P.S. Dumaria, District-Gaya (Bihar)
 4. Manorama Devi, aged about 60 years, wife of Dilip Singh, Resident of Village Karmaun, P.O. & P.S. Maigra, District – Gaya (Bihar)
 5. Nirmala Devi, aged about 57 years, wife of Prameshwar Ram, Resident of Village Tonatand, P.O. & P.S. Itkhori, District-Chatra, Jharkhand
 6. Bijay Ram, aged about 63 years, son of Bhola Ram, Resident of Village Pratappur, P.O. & P.S. Pratappur, District-Chatra (Jharkhand)

... .. **Petitioners**

Versus

1. Saroj Devi, wife of Surendra Sharma, Resident of Village Pratappur, P.O. & P.S. Pratappur, District Chatra (Jharkhand)
2. Surendra Sharma, son of Late Ramanand Sharma, Resident of Village Pratappur, P.O. & P.S. Pratappur, District Chatra (Jharkhand)
3. Malti Devi, wife of Late Chamari Ram, wife of Shambhu Ram, Resident of Village Pratappur, P.O. & P.S. Pratappur, District Chatra (Jharkhand)
4. Rajesh Ram, son of Chamari Ram, Resident of Village Pratappur, P.O. & P.S. Pratappur, District Chatra (Jharkhand)
5. Ram Rati Devi, wife of Balram Mistri, Resident of Village Pratappur, P.O. & P.S. Pratappur, District Chatra (Jharkhand)

... .. **Opp. Parties**

CORAM: HON'BLE MR. JUSTICE PRADEEP KUMAR SRIVASTAVA

For the Petitioners	: Mr. Rahul Kumar Gupta, Advocate
For the Opp. Parties	: Mr. Sandeep Verma, Advocate

Order No. 13/ Dated:08th July, 2025

Present Civil Revision is directed against the order dated 04.05.2024 passed in Execution Case No. 01 of 2008 by Civil Judge, Senior Division-III, Chatra whereby and whereunder the learned executing Court has accepted the report of Nazir, Civil Court, Chatra to the effect that the decree has been executed, accordingly, execution proceeding was disposed of after rejecting the objection dated

02.05.2024 raised by petitioners/judgment debtors.

2. Heard learned counsel appearing for the petitioners as well as respondents.

3. Learned counsel for the petitioners has submitted that earlier the petitioners have moved before this Hon'ble Court by filing C.M.P. No. 968 of 2022 which was dismissed on 16.02.2024 and which was challenged before the Hon'ble Supreme Court by filing Special Leave Petition (C) No. 9663 of 2024 which was also dismissed. It is further submitted that the manner in which the decree has been executed and the execution case was finally dropped, the petitioners had filed earlier a Civil Revision No. 26 of 2024 against the same impugned order but due to substantial typing errors crept in the said revision, it was withdrawn with liberty to file afresh revision application, accordingly, present Civil Revision was filed.

4. It is further submitted that initially the Title Suit No. 03 of 1988 was filed by the plaintiff/decree holder for declaration of their right, title and interest in respect of 17.5 decimal lands pertaining to Plot No. 622 and 623 under Khata No. 34 as described in Schedule A to the plaint which was obtained through two registered sale deeds bearing No. 1348 and 1349 dated 04.03.1985. It is further submitted that the suit of the plaintiff was decreed on contest and it was held by the learned trial Court that the plaintiff is entitled for declaration of his right, title and interest over the 15.5 decimal lands in stead of 17.5 decimal land in the aforesaid Khata and Plots of Schedule A property through registered sale deeds. The petitioners/defendants preferred an appeal against the decree passed by learned Sub Judge II Chatra (Hazaribag) in the aforesaid suit bearing No. 56 of 1994 before the Learned District Judge, Hazaribag which was also dismissed on contest but with modification in the decree to the extent of adding two decimal lands to the decree passed by the Trial Court. Thereafter, the petitioners preferred a Second Appeal No. 329 of 2004 on 29.06.2004 before the Hon'ble High Court challenging the decree passed by the Trial Court as well as First Appellate Court. While

pendency of the S.A. No. 329 of 2004, pleader commissioner report as well as sketch map was submitted on 19.06.2007, thereafter, decree holder/respondent herein filed a petition under Section 152 of the CPC for amendment of Judgment/Decree before the First Appellate Court in Title Appeal No. 56 of 1994 and without hearing the petitioners, the decree was amended to the extent of including the suit property measuring 17.5 decimal land from the northern half in stead of 15.5 decimal as mentioned in the original decree as well as for the first time the direction of the land was included which is silent in the sale deeds as well as in the plaint. Accordingly, learned trial Court was also directed to prepare the final decree. It is further submitted that the aforesaid development was brought to the notice of the Hon'ble High Court by filing I.A. No. 1222 of 2008 in the S.A. No. 329 of 2004. The final decree was drawn by the Learned Trial Court in Title Suit No. 3 of 1988 including the modification of the amendment vide order dated 03.12.2007 and the pleader commissioner report dated 19.06.2007 along with map was directed to form part of the final decree.

5. Meanwhile, the execution case No. 01 of 2008 was also filed by decree holder. It is further submitted that the S.A. No. 329 of 2004 filed by the petitioners was ultimately dismissed vide order dated 21.05.2009 on the ground that there is no substantial question of law involved in the S.A. It is further submitted that the petitioner approached the Hon'ble Apex Court by filing Civil Appeal No. 3266 of 2011 arising out of S.L.P.(C) No. 18989 of 2009 whereby order dated 21.05.2009 passed by the Hon'ble High Court in the S.A. was set aside along with the order dated 03.12.2007 passed by the First Additional District Judge, Chatra. The effect of order of Hon'ble Apex Court is that the final decree dated 11.04.2008 based on modification order dated 03.12.2007 is also null and void and a fresh final decree ought to have been prepared on the basis of original decree dated 05.10.1994. Therefore, the final decree and map prepared have become non-executable. It is further submitted that the Review Petition (C) No. 1743 of 2011 was preferred by the

respondents in Civil Appeal No. 3266 of 2011 which was also dismissed thereby making the order dated 15.04.2011 as final. It is further submitted that the executing Court vide Order dated 17.01.2014 passed in Execution Case No. 01 of 2008 directed the decree holder to take further necessary step to execute the decree in respect of 15.5 decimal land acquired from the two sale deeds. Accordingly the decree was executed in spite of objections raised on behalf of the petitioners that the suit property is not identifiable and description of the suit property has not been given in the plaint or in the sale deeds forcibly executed the decree. The objections filed by the petitioners under Section 47 read with Order XXI Rule 35 CPC was rejected on 21.06.2017 with a cost of Rs. 1000/- vide order dated 30.01.2018. The petitioner preferred Civil Revision No. 14 of 2018 before the Hon'ble High Court which was also dismissed. It is further submitted that the learned Executing Court directed the issuance of fresh writ for execution of the decree to the extent of area 15.5 decimal and the objection was filed by the petitioner to appoint a fresh pleader commissioner to prepare a map which was also dismissed on 07.03.2022 and writ for delivery of possession was issued. A recall application was also filed by the petitioner before the executing Court which was again dismissed thereafter the petitioners filed a petition under Article 227 bearing CMP No. 968 of 2022 before the Hon'ble High Court for quashing the order dated 12.05.2022 passed by executing Court which was also dismissed, thereafter, SLP No. 9663 of 2024 filed before the Hon'ble Apex Court was also dismissed vide order dated 30.04.2024, thereafter, the executing Court proceeded with the execution of the decree forcibly without amending the same. The decree as well as description of the property was itself vague and unidentifiable, therefore, all the proceedings adopted in execution of the decree are absolutely illegal and without jurisdiction of the executing Court. Therefore, the impugned order passed in Execution Case No. 01 of 2008 is liable to be set aside.

6. On the other hand, learned counsel for the respondents has vehemently argued that the step by step objections raised on behalf of the petitioners putting resistance in the execution of the decree passed by learned Trial Court has been rejected upto Hon'ble Apex Court. It is further submitted that the suit property was never unidentifiable or the description given in the sale deeds were vague and ambiguous. The order passed by the learned executing Court deciding to execute the decree to the extent of 15.5 decimal acquired through two sale deeds towards northern side was also confirmed by the Hon'ble High Court while dismissing the Revision Petition No. 14 of 2018 filed by the present petitioners challenging the order dated 30.01.2018 passed in Execution Case No. 01 of 2008 wherein it was observed that **“The Court below has noted some difficulties, pointed out by the Nazir of the Court in execution of the decree but it is only for the Court below to see that such difficulties do not arise in execution of the decree”**. Therefore, the insistence of the petitioners about identity of the suit land is vague, absurd and beyond the record. There was no dispute about valid purchase of the suit property through two registered sale deeds one of 9 decimals area and second of 6.5 decimal area. The pleader commissioner measured the land and also prepared a sketch map. The total area of the suit plots were huge and the portion of the property was purchased. The petitioners have no genuine claim to deny the acquisition of title by the plaintiff/decreed holder through the aforesaid sale deeds. Therefore there is no illegality or infirmity in the impugned order and the points of argument raised by the learned counsel for the petitioners itself indicate their failure in all respects and at all stages of the proceedings. Therefore, present revision is devoid of merits and fit to be dismissed.

7. I have considered the overall aspects of the case as pointed out by the parties. It appears that the petitioners have no objection that the suit schedule A property to the plaint was purchased by the plaintiff/decreed holder. It also appears from the two registered sale deeds that the area purchased in two plots was total measuring 15.5 decimal although

inadvertently in the schedule A of the Suit Property the area was mentioned as 17.5 decimal. The original decree was prepared for 15.5 decimal but the first Appellate Court amended the decree and the said amendment incorporating 17.5 decimal land was again challenged to Hon'ble Apex Court by the petitioners and ultimately which was decided to execute the decree in respect of 15.5 decimal land which was actually purchased by the plaintiff/decreed holder. The decree has been executed after providing opportunities to the petitioners of hearing his objections on merits

8. Therefore, I do not find any illegality or infirmity in the impugned order calling for any interference in this revision which stands dismissed.

9. Pending I.As, if any, is also disposed of, accordingly.

(Pradeep Kumar Srivastava, J.)

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