

IN THE HIGH COURT OF JHARKHAND AT RANCHI

S.A. No. 389 of 2018

1. Permanand Singh, aged about 55 years
 2. Chudamain Singh, aged about 50 years
- Both S/o Late Dalganjan Singh, resident of village – Sungi, P.O. & P.S. Karra, District Khunti

Defendants/Respondents/Appellants

Versus

Burka Singh @ Madan Singh, S/o Nandlal Singh, resident of village-Sungi, P.O. & P.S. Karra, District Khunti

... ...
Plaintiff/Appellant/Respondent

CORAM: HON'BLE MRS. JUSTICE ANUBHA RAWAT CHOUDHARY

For the Appellants	: Mr. S. K. Vishwakarma, Advocate
For the Respondent	:

07/18th February 2026

1. Heard the learned counsel appearing on behalf of the appellants.
2. This appeal has been filed against the judgment dated 28.07.2018 (decree signed on 10.08.2018) passed by the learned Principal District Judge, Khunti in Civil Appeal No. 06/2017, whereby the appeal has been allowed. The learned trial court judgment and decree is dated 31.05.2017 (decree signed on 07.06.2017) passed by the learned Munsif, Khunti in Original (Title) Suit No. 03/2013.
3. The suit was dismissed and the appeal was allowed and consequently, the defendants are the appellants before this Court.
4. Learned counsel for the appellants has submitted that the learned 1st appellate court has wrongly found title on the basis of Hukumnama, which was forged and fabricated. He has also submitted that the Hukumnama executed after 01.01.1946 could not have been taken into consideration as the Hukumnama in the instant case is dated 03.03.1951. The learned counsel has submitted that the court has wrongly held that the vendor of the defendant who had executed the sale deed in the year 1988 had expired in the year 1980.

5. After hearing the learned counsel for the appellants, this Court finds that the suit was filed seeking adjudication of the plaintiff's right, title and interest over the schedule property and also seeking confirmation of possession and if the plaintiff is found dispossessed from the property, a prayer for recovery of possession was also made.

6. The case of the plaintiff in short is as under: -

- a. As per the plaintiff that the lands of revisional survey plot Nos. 84, 85, 97, 86 and 87, area 0.26-acre, 0.06 acre, 2.90 acres, 0.04 acre and 0.03 acre respectively, total area 3 acres 29 decimal, situated at Mouza Sungi is recorded in revisional survey record of rights in the name of Anup Singh as *Majhihas Malik* which is the Khas lands of Zamindar. Anup Singh died leaving behind one son Mogro Singh, who also died before vesting of estate leaving behind his widow Smt. Fulmani Kunwari. After the death of her husband, said Fulmani Kunwari became the absolute owner of movable and immovable properties left by her late husband.
- b. Said Fulmani Kunwari transferred the suit lands along with other land to Madan Singh @ Burka Singh, the plaintiff, by virtue of Sada Hukumnama deed dated 03.03.1951 for valuable consideration and since then the plaintiff has been possessing the suit land which was more than 61 years and thus the plaintiff acquired right, title and interest over the suit land by virtue of adverse possession also. The plaintiff that the plaintiff got his name mutated in the Sherista of Bihar on 15.01.1961 and since then he has been paying rent to the State and getting rent receipts and before vesting of Zamindari he used to paying rent to the ex-landlord.
- c. The cause of action for the suit arose for the first time in the year 2005 when the defendant started disturbing the peaceful possession of the plaintiff and also tried to get the Jamabandi of plaintiff cancelled from the Circle Office, Karra and also in the month of March, April and December 2011 when the defendants raised

unfounded claims over the lands in question and also on subsequent dates.

7. The defendant nos. 1 and 2 appeared and filed their **written statement** stating that the suit is not maintainable, the plaintiff has got no cause of action, the suit is hopelessly barred by law of limitation and adverse possession and the plaintiff has no right, title, interest and possession over the suit lands. It is the case of the defendants that they had purchased the suit land through registered deed No.563/570 dated 30-07-1988 on payment of valuable consideration money after acquiring right, title, interest and possession over the suit land to the knowledge of plaintiff and after purchase, the defendants also got their name mutated in the Sherista of State of Bihar and they paid rent to the State and obtained up-to-date rent receipt for the same.

8. It is their further case that the defendants besides having their right title, interest and possession over the suit land on the basis of registered sale deed have also acquired right, title, interest and possession by virtue of adverse possession. It was further stated that in the year 2010 and 2011, the plaintiff tried to disturb the peaceful possession of the defendants and filed a case under Section 144 of Cr.P.C. bearing No. M.63/2010 and M.100/2011 which were ultimately dropped.

9. Both the parties led oral and documentary evidences.

10. On the basis of pleadings of both the parties, the learned trial court had framed the following issues for consideration: -

“1. Whether the suit as framed is maintainable in its present form or not?

2. Whether the plaintiff has got valid cause of action to file this suit?

3. Whether the suit is barred by law of limitation and adverse possession?

4. Whether the suit is under valued and the court fee paid is insufficient?

5. Whether the plaintiff has acquired right, title, interest and possession over the suit lands?

6. Whether the plaintiff is entitled to get any relief sought in the plaint?

7. To what relief or reliefs the plaintiff is found entitled to?

11. The learned trial court had disbelieved the Hukumnama dated 03.03.1951 by observing that the date was not clear and a portion of deed was torn and also observed that the defendant came in possession over the property by virtue of registered sale deed. The learned trial court considered the materials available on record and ultimately dismissed the suit.

12. The learned 1st appellate court has also considered the materials available on record and was of the view that the main point for determination in the appeal was whether the alleged Hukumnama was forged and fabricated and has been fraudulently obtained for the purposes of suit only.

13. The learned 1st appellate court recorded the admitted position of the respective parties in paragraph 8 and the specific case of the defendants in paragraph 9 of the appellate court's judgment, which are quoted as under:

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“8. Points for consideration and determination in this appeal. This is the admitted position in this case that the lands of Khata No.150 Revisional Plot No.84, 85,97, 86 and 87 area 3 acre 29 decimal of Mouza-Sungi under Karra PS stand recorded in the name of Anup Singh and the record of right was prepared as Majhihas Malik which happens to be the Khas land of Zamindar. This is also the admitted position in between the parties that the said recorded tenant Anup Singh died leaving behind one son Mogro Singh who also died leaving behind his widow Fulmani Kunwari before vesting of Zamindari. This is also the admitted position that Fulmani Kunwari after the death of her husband became the absolute owner of the property left by Mogro Singh including the suit lands. In this suit vendor of the plaintiff and defendant are the same person who is none other than the widow of the Mogro Singh Fulmani Kunwari and both plaintiff and defendant have been claiming their right, title, interest and their

possession on the basis of Hukumnama and registered sale deed said to have been executed by Fulmani Kunwari in the year 1951 in favour of plaintiff-appellant in the year 1988 in favour of respondent-defendant. As per the case of the plaintiff-appellant at the trial court he claims the suit land area 3 acre 29 decimal of Mouza-Sungi appertaining from Khata No.150 Revisional Plot No.84, 85, 97, 86 and 87 on the basis of Sada Hukumnama alleged to have been executed by Fulmani Kunwari in the year 1951 dated 03-03-1951. The plaintiff-appellant further says that on the very date of execution of Hukumnama dated 03-03-1951 he acquired perfect right, title, interest and possession over the land in question which is hereinafter also referred a suit land and he was also mutated in the Sherista of State of Bihar after vesting of Zamindari in the year 1961 vide rent M. Case No.29/60-61 and he was acknowledge as tenant with respect to the lands area 3 acre 29 decimal and rent was fixed as Rs.5/- and paisa 36. In this way as per the assertion of plaintiff-appellant his name was entered into Sherista of State of Bihar, he paid rent throughout right from 1961 till up to date and obtained rent receipt which is Ext-1 to 1/m in this case. The plaintiff-appellant at the trial court filed one document which is Form-M that says that after granting Hukumnama by Fulmani Kunwari he was mutated in the Sherista of State of Bihar, he paid rent with respect to the suit lands area 3 acre 29 decimal and obtained upto date rent receipt which was clearly appear on perusal of Form-M and Ext-1 series.

9. Whereas the case of the defendant-respondent is that he purchased the suit land area 3 acre 29 decimal by virtue of registered sale deed executed in the year 1988 by the said Fulmani Kunwari and from the very date of purchase he acquired perfect, right title, interest and possession over the suit land. He was also mutated in the Sherista of State of Bihar paid rent to the state and obtained rent receipt in this regard. The defendant-respondent in support of his contention filed Ext-A which is the registered sale deed dated 30-07-1988 and Ext-B and B/1 two rent receipts in the name of respondent Permanand Singh and Chudmain Singh. The defendant respondent further filed document which is Ext-C correction slip in the name of respondent Permanand Singh area 3 acre 29 decimal which is also said to be the Banda Parcha. The defendant respondent also filed certified copy of judgment of criminal case in which defendant was accused and he was acquitted by the trial court u/s 307 IPC besides these documents the plaintiff and defendant

also filed certified copy of order passed by learned LRDC Khunti which was ultimately dropped in view of the fact that the Title Suit No.03/2013 is pending between the parties.”

14. The learned 1st appellate court was conscious of the fact that the unregistered Hukumnama is inadmissible in evidence, but at the same time, observed that it can be looked into for collateral purpose and thereafter, the learned court discussed the materials on record and held that the alleged Hukumnama of the plaintiff was found to be operative when in Rent Case No. 26/1960-61 (Exhibit-4 Form-M), the name of vendee Burka Singh was recognized as a tenant of State of Bihar with respect to the land area of 3 acres 29 decimals which is also the lands figured under the alleged Hukumnama. The learned 1st appellate court also recorded that the plaintiff had filed overwhelming rent receipts from 1961 to 2011 related to khata no. 150-151 which were exhibit-1 to 1/m and the case of the plaintiff was also supported by oral evidences on record.

15. The discussions have been made in paragraph 11 of the appellate court's judgment as under: -

“11. On the contrary the learned counsel for the defendant-respondent in course of argument stressed the need that alleged Hukumnama dated 03-03-1951 alleged to have been executed by Fulmani Kunwari in favour of Burka Singh is forged and fabricated document and since it is unregistered one it cannot confer any right, title, interest and possession over the land in question. Secondly at the time of vesting of Zamindari return was not filed in the name of Burka Singh and therefore the very Sada Hukumnama after executed remained inoperative and illegal document that was never accompanied with delivery of possession. The learned counsel of the respondent further stressed the need that specific date in Hukumnama is not mentioned in Ext-2 and therefore plaintiff appellant never acquired any right, title, interest and possession over the suit land on the basis of forged and fabricated Hukumnama. But this is the settled principle of law that unregistered Hukumnama although inadmissible in evidence can be looked into for collateral purposes. In this instant case the alleged Hukumnama of plaintiff-appellant was found to be operative when in rent case

No.29/60-61 Ext-4 Form-M the name of vendee Burka Singh was recognized as tenant of State of Bihar with respect to the lands of area 3 acre 29 decimal which is also the lands figured under the alleged Hukumnama. Besides these documents the plaintiff appellant has filed overwhelming rent receipt right from 1961 to 2011, all rent receipts are related to lands area 3 acre 29 decimal with respect to Khata No.150-151 and rent receipts are Ext-1 to 1/m. Besides these documentary evidences the plaintiff-appellant has also produced and examined five oral witnesses three of them are independent who are PW-2 Arun singh, PW-3 Jhagru Ahir and PW-4 Rameshwar Singh who have specifically deposed on oath before the court that it is Burka Singh @ Madan Singh who has been cultivating the suit lands for the last 40-50 years and they had never seen the defendant Permanand Singh to cultivate the land even for a day. These three oral witnesses proved consistent in their evidence because of the fact that there is nothing in their cross-examination to discard their evidentiary value. Whereas defendant-respondent only examined two witnesses out of two DW-1 defendant itself and DW-2 is Pitamber Singh who does not know anything more about the suit land and he himself deposed that Fulmani Kunwari died in the year 1980 and if she died in the year 1980, the question of execution of sale deed in the year 1988 does not arise. Moreover the Hukumnama of plaintiff-appellant is of the year 1951 is 30 years old document and as per 90 of Indian Evidence Act the genuineness and authenticity of 30 years old document cannot be put in question and it shall be presumed that document prepared 30 years ago shall be presumed to be true and authentic. The learned trial court while dismissing the suit of plaintiff-appellant has not discussed anything about the pertinent question involved in this suit and without going deep into the matter dismissed the suit of plaintiff-appellant which ought to have been avoided.”

16. The learned appellate court has recorded a clear finding that DW-1 defendant himself and DW-2 is Pitamber Singh who does not know anything more about the suit land and he himself deposed that Fulmani Kunwari died in the year 1980 and if she died in the year 1980, the question of execution of sale deed in the year 1988, as claimed by the defendants, does not arise.

17. The learned 1st appellate court further considered the sale deed dated 30.07.1988 while considering the 2nd important point involved in the

case , as to whether the defendants had perfected their title over the suit land on the basis of registered sale deed dated 30.07.1988 and observed that there was no document showing that the mutation was allowed in favour of the defendants. The learned court observed that the first rent receipt in favour of the defendant was issued in the year 2002 and second rent receipt was issued in the year 2008 after lapse of 14 years from the very date when the sale deed was executed. Ultimately, the learned 1st appellate court recorded its finding in paragraph 12 and 13 as under: -

“12. The second important question involved in this case is that the defendant is perfecting his title and possession over the suit land on the basis of registered sale deed dated 30-07-1988 but there was no any such document that the mutation was allowed in favour of the defendant after purchase and the first rent receipt which was filed of the year 2002 and second rent receipt is of the year 2008 after the lapse of 14 years from the very date when sale deed was executed, there was no explanation and cogent reason before the defendant-respondent to assert this fact why there was a delay of 14 years in issuing first rent receipt with respect to the lands figured in the sale deed Ext-A that also cast a serious doubt on the pleading and averments made by the defendant at the trial court in the W.S.

13. Although there is a settled principle of law plaintiff will have to prove its own case and he will have to stand up on his own leg and he cannot be allowed to take the benefit of latches of defendant case but in this instant case plaintiff by virtue of alleged Hukumnama Ext-2 has been able to prove this fact that in the year 1951 he has purchased the lands from its original owner which is not at all in dispute and after granting of Hukumnama he acquired perfect right, title, interest and possession over the suit land which will appear on perusal of Ext-4 Form-M and Ext-1 series which are rent receipt and the plaintiff-appellant as per the evidences oral and documentary available on the record has been succeeded to bring this fact that right from 1951 he has been coming in continued peaceful possession over the suit lands and if it is shown that during the pendency of the suit if the plaintiff is found dispossessed over the suit land he deserves to regain the possession of the suit land on the basis of oral and documentary evidence and the finding given by this appellate court.”

18. The learned 1st appellate court has ultimately allowed the appeal and decreed the suit.

19. Upon going through the impugned judgment passed by the learned 1st appellate court, this Court finds that the learned 1st appellate court has passed a well-reasoned judgment considering the fact that the appellants were recognized as the tenant of State of Bihar upon coming into force of Bihar Land Reforms Act and Form-M and other oral evidences was also considered by the learned 1st appellate court while recording the findings and the Hukumnama was considered only for collateral purposes. Further the learned court by referring to the witnesses of the defendants observed that they deposed that Fulmani Kunwari died in the year 1980 and if she died in the year 1980, the question of execution of sale deed in the year 1988 does not arise. The defendants were claiming title on the basis of sale deed in the year 1988. No perversity in the point of appreciation of evidence has been pointed out by the learned counsel for the appellants while recording the findings by the learned 1st appellate court.

20. In view of the aforesaid facts and circumstances, this Court finds no merits in this appeal, which is hereby ***dismissed***.

21. Pending Interlocutory application, if any, is closed.

22. Let a copy of this order be communicated to the court concerned through 'e-mail/FAX'.

(Anubha Rawat Choudhary, J.)

Dated: 18.02.2026

Uploaded On: 09.03.2026

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