IN THE HIGH COURT OF JHARKHAND, RANCHI

S.A. No.531 of 2015

1.Chitranjan Oraon, son of late Etwa Oraon
2.Mukund Oraon son of late Etwa Oraon
3.Ghura Oraon
4.Arjan Oraon
5.Mani Oraon
6.Lalu Oraon, Appellant nos.3 to 6 sons of late Mathia Oraon
7.Lodho Oraon, son of lateMakunda Oraon
8.Kuwari Oraon, wife of late Balku Oraon
9.Balram Oraon, son of late Balku Oraon
10.Ramdayal Oraon, son of late Makunda Oraon,
All residents of Village Petsera Dumartoli, PO and PS Palkot, District Gumla ***.....Plaintiffs/Appellants/ Appellants***

-- Versus --

1.Mangia Orain, d/o Bahira Oraon
2.Bishram Oraon, son of late Gosain Oraon
Both resident of Village Petsera Dumartoli, PO and pS Palkot, District Gumla
3.Deputy Commissioner, Gumla, PO and PS Gumla, Dist.Gumla
..... Defendants/ Respondents/ Respondents

4.Karma Oraon son of Kanhu Oraon, resident of Village Bangru Tola, Rakatpani, PO and PS Palkot, District Gumla
.... Performa Defendants/ Performa Respondent No.4/ Performa Respondent

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CORAM: HON'BLE MR. JUSTICE SANJAY KUMAR DWIVEDI

For the Appellants(s) :- Mr. Arun Kumar, Advocate
For the Respondents :- ---

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*11****/07.10.2026*** This Second Appeal has been preferred being dissatisfied with the judgment and decree dated 4.7.2015 (decree sealed and

signed on 23.7.2015) passed in Title Appeal No.19/2003 passed by learned Principal District Judge, Gumla, whereby the learned appellate court has been pleased to affirm the judgment and decree dated 21.03.2003 (decree sealed and signed on 3.4.2003) passed in Title Suit No.30 of 1994 passed by learned Sub Judge-III, Gumla.

2. Mr. Arun Kumar, the learned counsel appearing on behalf of the appellants submits that the Title Suit No.30 of 1994 was instituted by the appellant/ plaintiffs for decree declaring title of the plaintiffs over the suit land and confirmation of possession thereof and further to pass the decree declaring the order passed by the D.C.L.R in M.A Case No.13/88 and 14/88 dated 8.8.1990, order passed by A.C. Gumla in Revision No.24 R 15/1990-91 dated 16.11.93, order of A.S.O., Ranchi (Camp Gumla) passed in Revision No.21/88, 10/88 and 9/88 illegal, void and without jurisdiction and not binding upon the plaintiffs. He next submits that the suit was dismissed by the judgment dated 21.03.2003 by the learned Sub Judge –III, Gumla. He next submits that against the same, the appellants herein have preferred Title Appeal No.19 of 2003 which has been further dismissed by the judgment dated 04.07.2015 by the learned Principal District Judge, Gumla.

3. Mr. Arun Kumar, the learned counsel for the appellants submits that there is substantial question of law to admit the instant appeal and in view of that, the instant Second Appeal may kindly be admitted. He submits that law points are there to the effect that

the plaintiffs are in possession of the suit land and declaring title and confirmation of possession was sought for in relief, however, the finding of the issue no.3 by the learned court of appeal is perverse and against the provisions of law for such relief and in view of this substantial question of law, this Second Appeal may kindly be admitted.

4. It transpires from the judgments of the learned courts that the appellants/plaintiffs' case is that, both the parties in this suit are Oraon by caste and they are governed by Oraon customary law and according to Oraon custom, widows are not entitled to inherit the properties of their husband rather they are entitled for maintenance till their life-time or till their marriage. Similarly, daughters are also not entitled to inherit the properties of their father but they are entitled for maintenance till their marriage. It is said that lands under khata No. 23 and 24 of village Koyanjali, P.S.Palkot, Distt Gumla have been recorded in the name of one Pero Orain wife of Lodna Oraon and Churi Oraon son of Jhinga Oraon in the R.S record of rights. It is further said that common ancestor of the parties was one Porha Oraon. Porha Oraon died leaving behind his two sons namely Mathia Oraon and Jhinga Oraon. Mathia Oraon died leaving behind his three sons namely Bahira Oraon, Tuila Oraon and Bolwa Orgon. Bahira Oraon died leaving his three sons namely Ghura Oraon, Mukunda Oraon and Bandhna Oraon. Ghura Oraon died issueless. Mukunda Oraon died leaving behind his five sons

namely Etwa, Mathia, Lodho, Balḳu and Ramdayal. Bandhna Oraon died leaving behind his one son namely Kanhu Oraon. Kanhu Oraon died leaving his two sons namely Thunka and Karma who are proforma defendants in this suit. Jhinga Oraon died leaving behind his three sons namely Lodho, Firangi and Churi. Lodho Oraon died leaving his widow namely Pero Orain. Pero Orain died issueless, Firangi Oraon died issueless. Churi died leaving behind his one son Bahira Oraon. Bahira Oraon died leaving behind his three daughters namely Birso, Chari and "Mangia.

5. The case of the defendants is that all the daughters of Bahira Oraon had been married during the life time of Bahira Oraon and they were and are living with their respective husbands in their sasurals. Birso Orain died issueless and Chari Orain is living in Assam since more than 15 years and her whereabout is not known. Mangia Orain is living in the house of her husband in the village Petsera Dumertoli. One of the daughter Chari Orain wife of Francis Oraon had filed two mutation petitions in the court of C.O. Palkot vide Mutation case no. 34/77 and 35/77 and these mutations cases were with respect to lands of village Petsera, P.S. Palkot, Dist. Gumla and Koyanjali, P.S.Palkot, Distt- Gumla and both the petitions were rejected by the C.O Palkot on the basis of objections filed by these plaintiffs and no appeal or revision was preferred by Chari Orain or anybody else. It is said that plaintiffs are in peaceful cultivating physical possession over the lands in the suit since the life time of

Luisa Orain, wife of Bahira Oraon and after the death of Bahira Oraon his widow Luisa Orain was duly maintained by these plaintiffs and after their death, the last rites were performed by these plaintiffs. Bahira Oraon had executed a deed of partition in favour of his three daughters vide Partition deed no. 3414 dated 25.9.74. Bahira again filed a petition for obtaining permission to make Gift in favour of his three daughters vide Permission case no. 34 R8 II of 1973-74 which was rejected by the lawful authority on the basis of the objection made by these plaintiffs. It is further said that having no right, title, interest and possession, defendant no. 1 started to lay her false claim over the lands in the suit from the year 1987 and she filed two mutation petitions vide Mutation case no. 9/87-88 and 10/87-88 with respect to the lands of village Koyanjali and Betsera which were rejected by the C.O., Palkot on the basis of objection of these plaintiffs on 28.4.88. Thereafter Mangia Oraon preferred appeal in the court of D.C.L.R. Gumla vide M.A No. 13/88 and 14/88 and D.C.L.R Gumia erroneously passed illegal orders in these appeals. Thereafter, against the said order plaintiffs preferred a revision vide Revision No. 24 R 15/90-91 in the court of A.C.Gumla and the A.C.Gumla dismissed the revision without considering the legal aspect of law and facts. In the present survey operation, Banda Parcha had been issued in the name of Luisa Orain but the plaintiffs filed petition under section 83 of the C.N.T Act which was allowed vide objection no. 4 of 82 dated 4.11.82. Against the said

order defendant no. 1 preferred a revision in the Court of settlement Officer, Ranchi (Camp Gumla) which was transferred to the file of A.S.0. Ranchi. and the ASO Ranchi allowed the revision of the petitioners which is illegal and against the customary law of Oraon. Case under section 448/323/34 I.P.C was instituted by Mangia Orain against some of the plaintiffs and in this case learned Judicial Magistrate acquitted all the persons. The case no. of this case was G.R. 56/88 Plaintiffs preferred two revision cases in respect of the suit lands vide Revision No. 26/88 and 21/88 in the court of Settlement Officer, Ranchi (camp Gumla) and the learned ASO passed an order in Revision No.26 /88 stating that the case is of civil nature and in case no. 21/88 defendant no. 1 and 2 came in the said case as intervener and the learned A.S.O passed the order for preparation of Khata in the name of intervenors which is absolutely illegal and without jurisdiction. Proceeding under section 144Cr.PC was also initiated by the court of S.D.O, Gumla vide case no. M 801/88 and in which rule was made absolute against the defendants on 7.12.88. It is said that orders of A.S.O, Ranchi passed in Revision No. 21/88 and A.C.Gumla in Rev. No.24 R/15/90-91 cast a cloud over the title of the plaintiffs. It is denied that Bahira Oraon had adopted Bisira Oraon as Ghar Damad and he is still living in the house of his father with his wife Mangia Oraon. Mariage of Mangia alias Tarsilla and Bishram alias Sushil Silgbesto has been solemnized in Church namely**,** Nirmala Sewa Ashram, Karondabera on 25.1.75

and Mangia Orain alongwith her parents Baptised in Konbir Nawatobi church on 31.3.67. Cause of action for the suit arose in the year 1987 when Mangia Orain filed a petition for mutation in the court of C.O,Gumia and subsequently D.C.L.R allowed the appeal and A.C.Gumla dismissed the revision of the plaintiffs and also A.S.0 Ranchi prepared the khata in the name of defendant no. 1 and 2 on 30.4.94. Hence, it has been prayed to pass a decree declaring title of the plaintiffs and confirming his possession over the suit land and declaring the order passed by DCLR, Gumla and A.S.O Ranchi illegal, void and without jurisdiction and not binding upon the plaintiffs. Details of the lands are more fully described in the schedule of the plaint. On being summoned defendant no. 1, 2, 3 and 5 appeared and filled the written statement on behalf of the defendant no.3 who is D.C.Gumla, attendance of G.P.was filed but no written statement was filed on his behalf. Since no relief was sought from D.C.Gumla and he was statutory defendant, the suit was heard simply in presence of G.P. Defendant no.4. Thunka Oraon died during the tenency of the suit and his name was deleted from the body of the plaint vide order dated 23.7.98.

6. On behalf of the defendant no.1 and 2 a joint written statement has been filed while on behalf of the defendant no.1 Karma Oraon separate written statement has been filed. According to the written statement filed on behalf of the defendant nos.1 and 2 suit is not maintainable in its present form and it is barred by law

of limitation, acquiescence and estoppel. Suit is hit by principle of resjudicata, it is also bad for non-joinder of necessary parties. It is said that the plaintiffs have got no cause of action for the suit. It is denied that widows and daughters of the Oraons are not entitled to inherit the properties of their husbands and father and it is said that they are full fledged heirs of their husbands and fathers. It is admitted that Khata no. 23 and 24 of village Koyanjali has been recorded in the name of Paro Orain wife of Lodho Oraon along with Churi Oraon son of Jhinga Orgon. It is said that Firangi was dead at the time of R.S. Operation and as such his name did not find any place in record of rights. These R.S.Khata No. 23 and 24 were recorded as Khata no. 16 during R.S.Operation and was recorded in the name of Lodho Oraon son of Jhinga Oraon R.S.Khata no. 27, 28 and 29 of village Petsera have been recorded as C.S.Khata No. 12 in the name of Churi oraon son of Jhinga Oraon. Plaintiffs never comes in possession over any of the khata of the suit. It is denied that both the sides are legal heirs of common ancestor Ponha Oraon and it is said that the plaintiffs are not at all related with the defendants. It is also denied that Mathia Oraon and Jhinga Oraon were sons of Ponha Oraon. It is further said that plaintiffs have recently lost a civil case T.S. No. 23/92 in which also they have failed to prove that they are descendants of one Ponha Oraon. It is admitted that Bahira Oraon has three daughters in which Birso Orain died and Churi Orain alongwith her husband are living in Assam. Bahira Orain had no son

and as such in order to run the continuity of his family, he decided to keep a Ghardamad for his last daughter, Mangia Orain. He firstly kept Bishram Oraon as a Dhangar for three years after taking permission of punches and after observing all formalities, he married Mangia Orain with Bishram Oraon in the year 1975 and both the husbands and wives are living in the house of Bahira Oraon and they were maintaining Bahira Oraon and Luisa Oraon till their death and after their death they performed their last rites. It is further case of the defendants that Mutation case no. 34/77 and 35/77 were never filed by Chari Orain and the enquiry report submitted by C.O.Palkot dated 27.10.89 clearly points out that in the year 1977-78 only 23 mutation cases were started and as such Mutation case no. 34 and 35 of 1977-78 are fake and fabricated. It is also denied that the plaintiffs are in possession over the suit land and it is said that D.C.L.R.Gumla and A.C.Gumla passed right, legal and appropriate orders. It is further said that order passed in Criminal case is not binding upon civil court and it is also said that it is the defendant no.1 and 2 who are in possession over the suit land since the death of Bahira Oraon. Hence, it has been prayed to dismiss the suit brought by the plaintiffs with cost.

7. The case of proforma-respondents is that as per the written statement filed by Proforma defendant Karma Oraon suit is not maintainable and it is barred by law of limitation, waiver and acquiescence and estoppel and the suit is also hit by the principles

of res-judicata. Suit is bad for non-joinder of necessary parties. In this written statement almost all the points which have been raised in the written statement filed on behalf of the defendant no.1 and 2 have been mentioned. It is admitted that it is the defendant nos.1 and 2 who have got right, title and possession over the suit land and it has been prayed to dismiss the suit with cost.

8. The learned trial court for deciding the said suit has framed 12 issues and has elaborately discussed the evidences as well as the exhibits and found that several cases have been fought between the parties since the year 1973-74 regarding the suit land.

9. On perusal of the Exhibit –J, which is the order of the A.C., Gumla in Revenue Appeal No.24 R/ 15 /19, the learned court found that the said case was fought between Etwa Oraon and Mangla Oraon and in this case on behalf of Mangla Oraon the genealogical table has been given which has been incorporated in paragraph no.5 of the judgment of the learned trial court and on perusal of that genealogical table, the learned court has found that he was none other than Korha Oraon who was father of Jhinga Oraon, the learned court has found that very cleverly on different occasions in different cases, the defendants have given their genealogical table showing Jhinga Oraon as first generation and the name of father of this Jhinga Oraon was missing and genealogical table given by the defendants in different cases but in Appeal No.74 R/ 15/ 90 the name of the father of Jhinga Oraon is given as Pora

Oraon and in view of that, the learned court has found that this admission of defendants in RA No.24/R/15/90 that Jhinga Oraon was son of Ponha Oraon and in oral admission the defendant Bisharam Oraon that the plaintiffs are co-sharers of his father in law namely Bahira Oraon and it was found that plaintiffs and defendants are the common ancestors of Ponha Oraon and in view of that the learned court has found that the plaintiffs are the nearest agnates of recorded tenant of the suit land which is situated in the village Koyalanjali and village Tesleya and has been pleased to decide the said issue no.6 accordingly against the defendants. However, the other issues have been decided against the plaintiffs. The learned courts keeping in view the testimony of the witnesses examined by both the sides, particularly taking into account the testimony of PW4 and certified copy of testimony Etwa Oraon in Title Suit No.23 of 1992, Ext.G and G/3, the leaned court has found that Bisra Oraon is grand mother of Bahira Oraon and that issue no.7 was decided in favour of the defendants against the plaintiffs and issue nos.8,9, 10 and further other issues have been decided against the appellants/plaintiffs and this Court finds that the learned court has given a cogent reason.

10. In the appeal preferred by the appellants/plaintiffs, the learned first appellate court has further appreciated the facts as well as the evidences and exhibits and has framed the points to decide the appeal and has also not found any perversity in the judgment of

learned trial court and has been pleased to dismiss the appeal by the judgment dated 04.07.2015.

11. Thus, the Court finds that the both the learned courts have given a cogent reason of dismissing the suit as well as the appeal and there is no perversity in the judgment of the learned courts and that has also not been pointed out in course of the argument by the learned counsel of the appellants and the law points argued by Mr. Arun Kumar, the learned counsel for the appellants have been rightly answered by both the learned courts and there are concurrent finding of two learned courts. The High Court sitting under section 100 CPC is not required to re-appreciate the facts and the evidences and only on substantial question of law the Second Appeal can be admitted and there is no substantial question of law to admit this Second Appeal, and as such, this Second Appeal, being S.A. No.531 of 2015 is, hereby, dismissed.

(Sanjay Kumar Dwivedi, J.)

Dated : 07.10.2026
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