आदेश का क्रम संख्या और तारीख	आदेश और पदाधिकारी का हस्ताक्षर	आदेश पर की गई कारवाई के बारे मे टिप्पणी, तारीख के साथ।
04/10/2021	**IN THE COURT OF THE COMMISSIONER SOUTH CHHOTANAGPUR DIVISION RANCHI** Settlement appeal 142/2011 &144/2011 **Sachidanand Mahto** **Vrs.** **Bipin Bihari Mahto** Settlement appeal 142/2011 was filed by Sachidanand Mahto versus Bipin Bihari Mahto and settlement appeal 144/2011 was filed by Bipin Bihari Mahto against State and Sachidanand Mahto & others. Since both these appeals emerge from order of settlement officer in case no 26/2010 and pertain to same piece of land they were heard together. The settlement officer in his judgment has held that the entire khata no 36 land is "gair majurwa malik" which stands vested since 1956 after abolition of jamindari. Both the parties are claiming the land on the basis of sada hukumnama and manki receipt which cannot grant any right and thus he ordered for khata no 36/71 to be recorded as govt. land. The claim of Sachidanad Mahto and others is that khata no 71 plot no 425 of village Sumandih PS Bundu was recorded in the name of Manki Sitanath Singh as per the survey of 1930. The landlord settled the land with Magan Sati Mahto; great grandfather of the petitioner in the year 1935 who came in possession. After his death his heirs came in possession of the said land. The ex	

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	landlord Manki Rajkishor Singh who was grandson of Sitanath Singh settled area of 13 acres 33 decimal with Smt. Saharat Ali in the year 1951. However the settlee never came in possession till her death. Her successor Amanat Ali sold the land to one Abhiram Mahto ancestor of the O.P in this case. A demarcation case was also filed between the two parties in 1952-53 which was rejected by the SDO. The jamindari return filed by the ex landlord also shows name of raiyat and accordingly the govt. entered his name in register-II. Thus they are entitled for preparation for khatian in their name. Bipin Bihari Mahto and others argue that appeal no 26/2010 was preferred before the settlement officer to set aside the order passed by the ASO in revision case 504/87 and 428/84 u/s 89 by which the khata no 36/71 were directed to be recorded in the name of private respondent. Against this order they filed appeal in the Jharkhand high court which directed to file appeal before the settlement officer. Settlement officer after hearing both the parties ordered for recording the khata in the name of the govt. Ancestors of this party has purchased the land on 11.10.1965 through registered sale deed from Amanat Ali who had inherited the lands from his wife Sahara Ali which were settled by the ex landlord with her in 1951. However the settlement officer did not take cognizance of this settlement and rejected the claim. Hence they claim that khatian should be open in their name.	

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आदेश का क्रम संख्या और तारीख	आदेश और पदाधिकारी का हस्ताक्षर	आदेश पर की गई कारवाई के बारे मे टिप्पणी, तारीख के साथ।
	From perusal of the lower courts order and records it is clear that both the parties have obtained settlement of the land from the manki. While one party obtained settlement in 1935 the other party claims settlement in 1951. The claims of parties are based on these settlement documents only. The ASO court deputed surveyor to assess the land two times however both the times conflicting reports were received. Hence the ASO court held that the earlier settlement of 1935 should prevail and accordingly ordered for khatian entries. After remand from hon'ble high court the matter was heard by the Settlement Officer. Both the parties presented their claims and the papers in the form of rent receipt, sada hukumnama and orders of SDO in the demarcation case 44-52 and 66-67. It is clear that disputed khata 36/71 is gair majurwa malik as per records. The sada hukumnama granted by the landlord on 31.07.51 in favour of ancestors of Bipin Bihari Mahto cannot be held legal as after 1.01.46 jamindar have no powers to issue such hukumnama for gair majurwa land. Hence as this sada hukumnama itself is void the future transaction of sale and transfer on basis of this hukumnama cannot be consider as legal. Sachidanand Mahtos ancestors has got the land through hukumnama in 1935. However the landlord had not filed any return and neither there are receipets granted by jamindar or the govt. between 1956-1960 immedietly after abolition of Jamindari. The receipts produced are all of the year 2003 onwards till	

आदेश का क्रम संख्या और तारीख	आदेश और पदाधिकारी का हस्ताक्षर	आदेश पर की गई कारवाई के बारे में टिप्पणी, तारीख के साथ।
	2011. Thus it is clear that even Sachidanad Mahto cannot claim the land on the basis of sada hukumnama. Clearly lands are gair majurwa malik which stands vested in the govt. after the abolition of jamindari. Sada hukumnama and manki receipts cannot be held as conclusive proof of owner or title. Thus both these appeals are dismissed and order passed by the settlement officer is upheld. Dictated & Corrected Commissioner 6/X/202 Commissioner 6/X/202	

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