

**In the Court of the Additional Deputy Commissioner,
West Singhbhum, Chaibasa.**

Kolhan Title Suit No. 8 of 2014-15

**Sibacho Mahapatra S/o Late Bidyadhar Mahapatra, resident of village- Dalposi,
P.S.+P.O- Jagannathpur, District- West Singhbhum. ----- Plaintiff.**

- Versus-

- 1. Pradeep Kumar Pradhan S/o Late Kastu Pradhan, substituted by his wife Sandhya Pradhan of village- Manikpur, P.S.- Jagannathpur, District- West Singhbhum.**
- 2. Koin Devi wife of Late Polti Mahapatra,**
- 3. Uday Mahapatra S/o Late Bidyadhar Mahapatra,**
- 4. Sarad Mahapatra S/o Late Bidyadhar Mahapatra,**
- 5. Kuno Mahapatra S/o Late Polti Mahapatra,**
-all resident of village- Dalposi, P.S.- Jagannathpur, District- West Singhbhum. ----- Defendants.

ORDER

This is a Kolhan Title Suit for declaration of Plaintiff's right, title, interest and confirmation of possession over suit land under Plot No.- 606, Khata No.- 128. 2.99 Thana No.- 478, Area of 0.74.299 Hec. Acre (Seventy Four Decimals and two hundred ninety nine Hectors) situated in village- Dalposi, P.S.- Jagannathpur, District- West Singhbhum fallen in the share of Bhusu Mahapatra, Anadi Mahapatra and Joltu Mahapatra, Doitari Mahapatra fallen in their share in a family partition. Again they have family partition having equal share. Plaintiff claimed to be son of Bidyadhar Mahapatra along with Uday Mahapatra and Saroj Mahapatra i.e. defendant No.- 3 and 4 while Polti Mahapatra S/o Doitari Mahapatra died leaving behind his wife Koin Devi, Defendant No.- 2 and son of Kuno Mahapatra defendant No.- 5. The further case of the Plaintiff is that defendant No.- 2 has sold the suit land to defendant No.- 1 under registered Sale Deed No.- 1870 dated- 02.12.2003 which is admitted fact but latter on denied the said sale and a Complaint Case No.- 60/2010 had instituted under section. 420, 467, 468, 120B I.P.C. and the learned Sri N. N. Sanga J.M. Chaibasa acquitted the accused purchaser defendant No.- 2 of charges. This court issued notice to the defendants and substituted Sandhya Pradhan, the wife of deceased defendant No.- 1. Pradeep Kumar Pradhan filed her written statement denying the allegations made in the plaint. Defendants No.- 2 to 5 filed separate written statement admitting statement made in plaint. The case of the defendant No.- 2 is that the plaintiff has no cause of action, the suit is not maintainable and the suit is result of a conspiracy of plaintiff and defendant No.- 2, 3, 4 and 5. The suit land has been purchased under registered sale deed on payment of due consideration. The possession of the suit land was handed over by defendant No.- 2 to defendant No. 1 and he has constructed boundary wall having another piece of his own land in which a school is



running. The suit land has been also mutated in the name of defendant No. 1 in Mutation Case No.- 11/2006-07 and is paying rent of the land. The land has been mutated as there was no objection after publication public of general notice by /public or defendant No.- 2 to 5. In this case the plaintiff has examined one witness Pandeya Nayak. Witness No.- 1 of the plaintiff admits in cross-examination that Plaintiff is his uncle and the land has been mutated in the name of purchaser defendant No.- 1. on payment of rent. This witness admits that Khata number and Plot Number of suit land has told to him by the lawyer of plaintiff. Witness No.- 1 of the defendant stated that both plaintiff and defendant No.- 2 are residing in Orissa. It is pertinent to mention here that in support of the suit and statement made in plaint the plaintiff did not examine himself under oath in this suit and exposed to cross-examination thereby pointing to this fact that an adverse interference can be drawn against the plaintiff. In support of the case and the statement made in written statement Sandhya Davi examined herself as D.W. No.- 1 and fully supported and corroborated her case. The Defendant No.-1 has also proved the Sale Deed, Mutation and payment of rent and possession. Nothing has been illicited in cross examination to reject her evidence. That on perusal of the record no family partition- deed has been brought on record that the land sold by defendant No.- 2 in favour of defendant No.- 1 is joint family property. The Plaintiff or the Seller-Defendant No.- 2 Koin Devi did not give evidence on oath in support of the claim made in plaint. Defendant No.- 3, 4 and 5 have also not given any evidence in suit under oath.

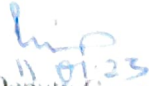
On perusal of plaint it clearly appears that the plaintiff has contradictory claim of relief:-

- i) If the land is joint family property how the plaintiff prayed for declaration of his right, title, interest and possession alone?
- ii) The Seller did not stated a single word that the sold suit property is joint family property there- under which provisions of law he has prayed for cancellation of the Sale Deed No.- 1870.

As discussed above I came to the finding that the plaintiff has failed to prove his case. It is amply proved that the suit property validity under registered Sale Deed transferred by Defendant No.- 2 to Defendant No.- 1 and the same is in possession of the Defendant No.- 1 having right, title, interest and possession. The suit land has been also mutated in the name of Defendant No.- 1 and also paying rent. I hold and declare that the plaintiff has no right, title, interest or possession of the suit land and as the suit land has been validly and legally purchased by defendant No.- 1 the prayer for cancellation is rejected. The suit is dismissed.

If parties have any objection, he can file appeal against the appellate authority.


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