

IN THE HIGH COURT OF JHARKHAND AT RANCHI

L.P.A. No. 511 of 1999 (R)

Rajasthan Bhawan Trust through its present Secretary Mali Ram Kanodia, son of Late Baidyanathjee Kanodia, resident of Chandwa, P.S.- Chandwa, District- Palamau

... .. Appellant

Versus

1(i) Lal Rudra Pratap Nath Sahdeo, son of Late Most. Pradlya Devi, widow of Late Lal Tribeni Nath Sahdeo

1(ii) Lal Gopal Nath Sahdeo, son of Late Most. Pradlya Devi

1(iii) Deoyani Devi, daughter of Late Most. Pradlya Devi

1(iv) Saroj Devi, daughter of Late Most. Pradlya Devi

1(v) Mamta Devi, daughter of Late Most. Pradlya Devi

All are residents of village Bari, P.O.- Brahmani, P.S.- Chandwa, District- Latehar

2(a)(i) Mosomat Manju Sahdeo, widow of Late Pitambar Nath Sahdeo, son of Late Lal Rajendra Nath Sahdeo

2(a)(ii) Lal Rahul Nath Sahdeo, son of Late Pitambar Nath Sahdeo

2(a)(iii) Smt. Alka Singh, wife of Sri Govind Singh, married daughter of Late Pitambar Nath Sahdeo

All are residents of village Bari, P.O.- Brahmani, P.S.- Chandwa, District- Latehar

2(b) Lal Arun Kumar Nath Sahdeo, son of Late Rajendra Nath Sahdeo, resident of village Bari, P.O.- Brahmani, P.S.- Chandwa, District- Latehar, presently residing at Dayal Nagar, Piska More, P.O.- Hehal, P.S.- Sukhdeo Nagar, District-Ranchi

2(c)(i) Mosomat Shikha Sahdeo, widow of Late Ghanshyam Nath Sahdeo

2(c)(ii) Lal Shreyansh Nath Sahdeo, minor son of Late Ghanshyam Nath Sahdeo-son of Late Rajendra Nath Sahdeo

2(c)(iii) Miss Akanksha Sahdeo, minor daughter of Late Ghanshyam Nath Sahdeo,

All are residents of village Bari, P.O.- Brahmani, P.S.- Chandwa, District- Latehar

2(d) Lal Prabhat Nath Sahdeo, son of Late Rajendra Nath Sahdeo, resident of Village & P.O.- Bari, P.S.- Chandwa, District- Latehar

2(e) Kusum Devi, wife of Harendra Kishore Singh, daughter of Late Rajendra Nath Sahdeo, resident of Village & P.O.- Badiah, P.S.- Nasriganj, District- Rohtas

3(i) Lal Jagannath Sahdeo, son of Late Fanindra Nath Sahdeo

3(ii) Lal Sanjay Nath Sahdeo, son of Late Fanindra Nath Sahdeo

3(iii) Lal Krishna Mohan Nath Sahdeo, son of Late Fanindra Nath Sahdeo

3(iv) Lal Raghvendra Nath Sahdeo, son of Late Fanindra Nath Sahdeo

3(v) Kalyani Singh, daughter of Late Fanindra Nath Sahdeo
3(vi) Netramani Singh, daughter of Late Fanindra Nath Sahdeo
3(vii) Churamani Singh, daughter of Late Fanindra Nath Sahdeo
3(viii) Maya Sahdeo, wife of Late Dhananjay Nath Sahdeo
3(ix) Garima Sahdeo, minor daughter of Late Dhananjay Nath Sahdeo, grand-daughter of Late Fanindra Nath Sahdeo
3(x) Ridhi Sahdeo, minor daughter of Late Dhananjay Nath Sahdeo, grand-daughter of Late Fanindra Nath Sahdeo
All are residents of village Bari, P.O.- Bari, P.S.- Chandwa, District- Latehar

.... ... Respondents

**CORAM: HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE RAJESH SHANKAR**

For the Appellants : Mr. Sandip Verma, Advocate
Mr. Vikash Kumar, Advocate
Mr. Ayush, Advocate
For the Respondents : Mr. Rohitashya Roy, Advocate
Mr. Rishi Pallav, Advocate
Mrs. Oishi Das, Advocate

Reserved on 27.01.2026
Per : Rajesh Shankar, J. :

Pronounced on 16.02.2026

1. The present Letters Patent Appeal is directed against the judgment dated 13.10.1999 passed by the learned Single Judge in Appeal from original decree i.e., First Appeal No. 112 of 1985 (R) filed by the Rajasthan Bhawan Trust (through Shri Sheo Prasad Budhia), the present appellant (hereinafter referred to as "the defendant no. 2"), which was dismissed by affirming the judgment and decree dated 29.06.1985 (decree signed on 08.07.1985).

History of the present lis

2. The original plaintiffs (Lal Tribeni Nath Sahdeo and Lal Rajendra Nath Sahdeo) had filed Title Suit No. 36 of 1974 seeking declaration to the effect that the sale deed executed by their own brother Lal Fanindra Nath Sahdeo (hereinafter referred to as "the defendant no. 1") in favour of the aforesaid defendant no. 2 on 19.04.1971 with respect to

0.14 $\frac{3}{4}$ acre and 0.10 acre (total 2.24 $\frac{3}{4}$ acre) of land under plot nos. 21/1768 and 21/2769 respectively situated at Village Chandwa, P.S Chandwa, Thana No. 285, District Palamau (hereinafter referred to as "the said property") was illegal, void, without jurisdiction and bad in the eye of law as well as seeking declaration that only the plaintiffs were entitled to purchase the said land through a sale deed which should have been executed in their favour.

3. Before the Trial Court, the plaintiffs had made the following claims: -

(i) The property in question was acquired by one Lal Balmukund Nath Sahdeo - the father of the original plaintiffs and the defendant no. 1 by way of three registered sale deeds and his three sons came in joint possession of the said property during life time of their father having $\frac{1}{3}$ rd share each in the same.

(ii) Each of them was facing difficulty and inconvenience in joint management of the said property and as such with mutual consent, the plaintiffs sold their respective shares in the said property to the defendant no. 1 by way of a sale deed executed on 12.12.1961 and registered on 16.12.1961. On the same day i.e on 16.12.1961, a registered agreement was also executed between the plaintiffs and defendant no. 1 wherein it was agreed by them that in case the defendant no. 1 decided to sell the suit property, he would first offer the said property to the plaintiffs and only when the plaintiffs jointly or severally declined to purchase the same, the

defendant no. 1 would be at liberty to offer the said property for sale to any other person.

(iii) In breach of the terms of the agreement dated 16.12.1961, the defendant no. 1 sold the said property to the defendant no. 2 by means of a registered sale deed dated 19.04.1971 without first offering the same to the plaintiffs.

(iv) The said property was situated in the District of Palamau and as such, the Sub-Registration Office at Latehar or the District Sub-Registrar Office at Daltonganj only had the jurisdiction to register the sale deed with respect to the same, however in order to bring the matter within the jurisdiction of Ranchi Sub-Registration Office, Sheo Prasad Budhia (the then chairman of "Rajsthan Bhawan Trust"- the defendant no. 2) made a showy sale of his 0.10 acre land appertaining to plot no. 2138 of Village Mesra, P.S. Ranchi, Thana no. 169, District-Ranchi to the defendant no. 1 by means of a registered sale deed dated 16.04.1971 and just after two days i.e. on 19.04.1971, the defendant no. 1 executed a sale deed in favour of the defendant no. 2 transferring the said land of plot no. 2138 situated at Village-Mesra, Ranchi as well as the land in question measuring 0.24 $\frac{3}{4}$ acre of plot nos. 21/1768 and 21/1769 situated at Village Chandwa, District- Palamau so that the registration could have been effected at Ranchi with a view to conceal the said transaction from knowledge of the plaintiffs.

(v) The sale deed was registered at Ranchi on 19.04.1971 by inclusion of the land situated at Village Mesra which never belonged to the defendant no. 1 and the same was included in the sale deed just to confer jurisdiction on District Sub-Registration Office, Ranchi. Thus, the sale deed was registered by duping the Sub-Registration Office, Ranchi.

(vi) The sale deed was executed also in violation of Section 22 of the Hindu Succession Act, 1956.

(vii) One of the widows of Late Lal Balmukund Nath Sahdeo instituted a partition suit bearing no. 37 of 1961 in the Court of Sub-Judge, Palamu against the plaintiffs, defendant no. 1 and another widow of Lal Balmukund Nath Sahdeo in which the suit property was also included. A preliminary decree was passed in the said case on 19.08.1964 in presence of the defendant no. 1 wherein it was held that the suit property was joint family property of the plaintiffs, defendant no. 1 and two widows of Lal Balmukund Nath Sahdeo and the same was found in their joint possession. The defendant no. 1 having knowledge of the preliminary decree, had committed another fraud in executing the sale deed in favour of defendant no. 2 by suppressing all the facts.

4. The defendant no. 1 appeared before the Trial Court and filed his written statement, however since it was not supported by an affidavit, the same was not accepted. The defendant no. 1 also neither examined himself as a witness during the trial nor he contested the suit.

5. The defendant no. 2 alone contested the suit by filing the written statement and submitted as under: -

(i) The suit was not maintainable under Section 34 of the Specific Relief Act, 1963.

(ii) The plaintiffs had sold their respective shares to the defendant no. 1 by way of registered sale deed dated 16.12.1961 and the defendant no. 2 purchased the said property believing that the entire suit property belonged to defendant no. 1 by paying valuable consideration and came in possession of the same.

(iii) Subsequent to the said purchase, the defendant no. 2 came to know that Lalin Lachhan Kuer and Lalin Ratan Kuer (widows of Late Lal Balmukund Nath Sahdeo) also held some interest in the said property and as such it purchased the interest of Lalin Ratan Kuer through registered deed of sale dated 28.06.1971. So far the agreed value of share of Lalin Lachhan Kuer was concerned, the defendant no. 2 had to pay consideration of Rs. 2000/-, however she did not turn up to execute the sale deed.

(iv) The defendant no. 1 had offered the plaintiffs to purchase the said property by sending them notices dated 09.04.1971 through registered post with A/D, however they refused to accept the notices and consequently the same were returned unserved to the defendant no. 1, hence there was no breach of the terms and conditions illustrated in the agreement dated 16.12.1961.

(v) The defendant no. 1 was the absolute owner of the land situated at Village Mesra in District Ranchi which was a valuable piece of land and therefore the sale deed dated 19.04.1971 containing valuable properties situated both in the District of Ranchi and Palamu was rightly registered at the District Sub-Registrar Office, Ranchi.

(vi) The plaintiffs were aware of the sale deed dated 19.04.1971 executed by the defendant no. 1 in favour of the defendant no. 2, however they did not object the same.

- 6.** The Trial Court, vide judgment dated 29.06.1985, allowed the suit in part. It was also observed inter alia that D.W.7 namely Jugeshwar Singh (the then Postmaster of 'Sasang Post-office') deposed that he had sent two envelopes containing notices to the plaintiffs on 13.04.1971, but the postman returned those envelopes reporting that they refused to accept the notices and therefore, he made such endorsements on the envelopes, whereas P.W.-4 namely Charku Mahto, who was the postman of the said post-office, neither averred that he had gone to deliver the registered envelopes to the plaintiffs nor stated that he had made any report to the postmaster regarding refusal to accept the notices by the plaintiffs.
- 7.** The learned trial court, accordingly, held that the defendant no. 1 did not actually tender any notice to the plaintiffs intimating them his intention to sell the said property as per the terms and conditions of the registered agreement dated 16.12.1961.
- 8.** The learned trial court further held that the defendant no. 2 had not acquired perfect title over the suit property as the competent court

of law had already held in the preliminary decree for partition dated 19.08.1964 that the suit property was a joint family property of the plaintiffs, defendant no. 1 and two widows of Lal Balmukund Nath Sahdeo.

- 9.** It was also held that the defendant no. 2 did not adduce any documentary evidence to show that it had also purchased the 2 *annas* interest of another widow of Late Lal Balmukund Nath Sahdeo as well as 8 *annas* interest of the plaintiffs with respect to the suit property and hence the defendant no. 2 did not have a perfect title of the suit property by virtue of the sale deed dated 19.04.1971 as it had not purchased the entire 16 *annas* interest of all the co-sharers.
- 10.** The learned Trial Court further held that the vendor of the sale deed dated 16.04.1971 namely Sheo Prasad Budhia was not the owner of the property situated at Village- *Mesra*, Ranchi and the said sale deed was executed only to facilitate the registration of the sale deed in respect of the suit property at District Sub-Registration Office, Ranchi so that the entire transaction relating to the suit property could be concealed from knowledge of the plaintiffs. Therefore, fraud was committed on the law of registration and the sale deed dated 19.04.1971 was illegal, void, without jurisdiction and bad in the eyes of law.
- 11.** The defendant no. 2 filed appeal against the judgment and decree dated 29.06.1985 passed in T.S No. 36 of 1974 and the same was numbered as First Appeal No. 112 of 1985 (R). The first appellate court (i.e. the learned Single Judge of this Court) dismissed the appeal by holding that the postman (P.W.4) had never tendered the registered notices to the plaintiffs and there was no cogent and definite evidence

from the side of the defendant no. 2 to show that actually the said registered notices had ever been tendered to the plaintiffs which were actually refused by them.

- 12.** The first appellate court further observed that the sale deed dated 19.4.1971 was registered at District Sub-Registration Office, Ranchi only with a view to keep the entire fact in respect of transaction of the suit land concealed from the knowledge of the plaintiffs as well as for achieving the said purpose, some imaginary piece of land was included in the sale deed dated 19.4.1971 so as to confer jurisdiction to the district Sub-Registration Office, Ranchi to get the suit property registered there.
- 13.** The court also held that the land appertaining to plot No. 2138, Khata No.135 measuring an area of 10 decimals was sold by Sheo Prasad Budhia in favour of the defendant no.1 for a sum of Rs. 200/-, however the information slip and copy of *Khatiyān* (Ext. 6 and 7 respectively) provided by the concerned officials of record room indicated that the said land never belonged to him, rather it belonged to the State of Bihar being 'Gair Majrua Malik'.
- 14.** The present Letters Patent Appeal filed by the defendant no. 2 was earlier heard by a co-ordinate Bench of this Court on 02.08.2002 and the judgment was pronounced on 13.09.2002 allowing the appeal and setting aside the judgment passed by the Trial Court as well as by the First Appellate Court holding *inter alia* that the suit itself was not maintainable. It was observed that mere declaration to the effect that the sale deed executed by the defendant no. 1 in favour of the defendant no. 2 was null and void had no effect, unless a decree for

specific performance was sought in the said suit. Such declaratory relief without seeking the main relief was ineffective, infructuous and hit by the provisions of Section 34 of the Specific Relief Act, 1963 (in short, "the Act, 1963").

- 15.** Aggrieved thereby, the respondents filed Civil Appeal No. 6775 of 2003 before the Hon'ble Supreme Court which was disposed of vide order dated 04.04.2013 by observing as under: -

"This appeal has been preferred against the impugned judgment and order dated 13.9.2002 passed by the High Court of Jharkhand at Ranchi in LPA No. 511 of 1999(R) by which it has set aside the judgment and decree passed by the First Appellate Court dated 13.10.1999 in Appeal from original decree No. 112 of 1985(R) by way of which the First Appellate Court has affirmed the findings recorded in the judgment and decree of the trial Court dated 29.6.1985 in Title Suit No. 36 of 1974.

The issues in the appeal are two fold. Firstly, whether the sale deed executed in favour of the respondents at Ranchi (though the property is situate at District Palamu, now District Latehar) could be held to be valid under the provisions of Section 28 of the Registration Act, 1908 and secondly, what is the scope of the proviso to Section 34 of Specific Relief Act, 1963 in a case where the person files a suit for declaration claiming to be in possession, whether it is necessary for him to claim the consequential relief. The trial Court as well as the First Appellate Court decreed the suit of the appellant in part. However, the High Court has reversed the same observing that the suit was not maintainable as no consequential relief was prayed for and the proviso to Section 34 of the Specific Relief Act has not properly been interpreted and applied by the Courts below.

The High Court did not refer to any judgment of this Court while reaching its conclusion. More so, the issue of fraud which had been determined by the Courts

below and particularly the trial Court held that the sale deed involved herein could not have been registered at Ranchi as the property situated in Palamu district, therefore, there had been a fraud on the part of the parties.

Before us, large number of issues have been agitated and reliance has been placed on various judgments of this Court, particularly, *Veramreddi Ramaraghava Reddy and Others Vs. Konduru Seshu Reddy and others AIR 1967 SC 436; M/s. Supreme General Films Limited Vs. His Highness Maharaja Sir Brijnath Singhji Deo of Maihar and others 1975(2) SCC 530 and Meharchand Das Vs. Lal Babu Siddique and others 2007(14) SCC 253* by Mr. K.K. Rai, learned senior counsel appearing on behalf of the appellant to fortify his case that suit is maintainable under Section 34 of the Specific Relief Act without seeking consequential relief if the person claims that he is already in possession.

Be that as it may, the High Court did not give sufficient and adequate reasons to set aside the judgment and decree of the Courts below on this issue while interpreting the proviso to Section 34 of the Act 1963 nor, for the reasons best known to it, set aside the finding of fact that the sale deed by respondent no. 2 in favour of the respondent no. 1 had been a fraudulent transaction which was necessary for the reason that in case the said finding is not set aside, the respondents cannot claim any title on the basis of the sale deed in their favour.

In view of the above, we feel it necessary that the High Court must re-hear the case and consider the issues agitated by the parties, afresh.

Thus, the judgment and order of the High Court impugned dated 13.9.2002 is set aside and the case is remanded to the High Court to decide afresh strictly in accordance with law.

Needless to say that the parties are at liberty to agitate all factual and legal issues permissible in law.

In view of the fact that the litigation started in 1974 and a period of four decades have already lapsed,

we request the High Court to decide the appeal expeditiously, preferably within a period of six months, from the date of production of this order.

The Registry is directed to transmit the record to the High Court forthwith.

The parties may appear before the Hon'ble High Court of Jharkhand at Ranchi on 5th April, 2013. The Registry of the High Court is directed to list the matter before the appropriate Bench on this date for appropriate directions.

With these directions, the appeal is disposed of."

- 16.** On perusal of the record, it appears that soon after passing of the judgment by the Hon'ble Supreme Court, the case was listed before this Court for fresh hearing of the matter, however considerable time was consumed in consecutive substitution of the heirs/legal representatives of the deceased respondents and ensuring their appearance in the case. The instant appeal was also dismissed for default due to non-prosecution vide order dated 02.02.2015. Subsequently, C.M.P No. 90 of 2015 was filed which was allowed vide order dated 03.07.2023 restoring the present L.P.A. to its original file. Thereafter, the matter again lingered as the parties did not take interest in expediting the hearing of the same.
- 17.** Since the present appeal pertains to the year 1999, it was placed before this Bench on 21.01.2026 under the heading of "targeted case" and the same was heard at length.

Argument on behalf of defendant no. 2/appellant/appellant

- 18.** The learned counsel for the appellant submits that the plaintiffs themselves had admitted that the defendant no.2 had made a showy sale of 0.10 acre of land appertaining to plot no.2138 of Village Mesra, P.S. Ranchi, District Ranchi to the defendant no.1 by means of

registered sale deed dated 16.04.1971 and as such, the said land cannot be said to be a fictitious one. Moreover, there is no finding either by the trial court or the first appellate court that the land appertaining to plot No.2138 of Village-Mesra is fictitious.

- 19.** It is further submitted that the sale deed of the suit property executed in favour of the defendant no. 2 by the defendant no. 1 cannot be said to be void merely on the ground that the same was registered at District Sub-Registration Office, Ranchi.
- 20.** It is also submitted that the suit filed by the plaintiffs was barred by Section 34 of the Act, 1963 and the said pleading was made in its written statement filed in Title Suit No. 36 of 1974. The plaintiffs themselves stated in the plaint that due to difficulty in the management of the said property, the same was transferred to the defendant no.1 by virtue of a registered deed of sale. The defendant no. 2 also stated in its written statement that the suit property was in its possession.
- 21.** Learned counsel further submits that the Hon'ble Supreme Court has also remanded the matter to consider it afresh including the issue relating to Section 34 of the Act, 1963.
- 22.** It is argued that as per Section 8 of the Transfer of Property Act, 1882, unless a different intention is expressed or necessarily implied, transfer of property passes forthwith to the transferee all the interest which the transferer is then capable of passing in the property and in the legal incidents thereof.
- 23.** It is further contended that there was no question of concealing the execution of the sale deed dated 19.04.1971 from the plaintiffs as prior

to sale of the suit property to the defendant no. 2, the plaintiffs were already issued notices by the defendant no. 1 under registered cover with A/D informing them his intention to sell the said property and they had not responded to the same.

- 24.** It is also submitted that soon after the execution and registration of the sale deed dated 19.04.1971, the plaintiffs approached the defendant no. 2 to include the name of their father namely Lal Balmukund Nath Shahdeo in marble stone to be affixed in the building of the Trust in his memory as well as to keep the name of the Trust as "Rajasthan Nagbanshi Bhawan Trust". It was also decided in the meeting that the plaintiffs would not claim any interest in the subject matter of the sale deed dated 19.04.1971. The said fact would clearly reflect that the plaintiffs had full knowledge about execution of the sale deed dated 19.04.1971.
- 25.** It is further argued that the learned Single Judge has failed to consider the statutory presumption of service of notice sent through registered post to the correct address of the addressee.
- 26.** It is also contended that the learned Single Judge ought to have considered that the appellant had purchased the entire share and interest of the co-sharers with respect to the suit property and as such, it had acquired valid title over the same.

Arguments on behalf of the plaintiffs/ respondents/ respondents:

- 27.** The learned counsel for the respondents submits that the Trial Court as well as the First Appellate Court have clearly recorded the finding that the defendant no. 1 never sent notices to the plaintiffs (respondents herein) offering them to reconvey the suit property. In this regard, the

learned trial court had considered the deposition of DW-7, the then Postmaster of 'Sasang Post Office', as well as the deposition of PW-4-the then Postal Peon, and held that defendant no. 1 did not tender notices to the plaintiffs intimating them about his intention to sell the suit property as was mandated in the registered deed of agreement dated 16.12.1961.

- 28.** The learned trial court and the first appellate court also recorded concurrent finding of fact that the Chairman of defendant no. 2 executed the sale deed with respect to the 'Gair Mazjrua Malik' land situated at village *Mesra*, Ranchi for a consideration of Rs. 200/- only in favour of the defendant no. 1 with a view to get the suit property registered at District Sub-Registration Office, Ranchi so as to conceal the entire transaction from the knowledge of plaintiffs, thereby playing fraud not only against the plaintiffs but also against the District Sub-Registrar Office at Daltonganj and the Sub-Registration Office at Latehar.
- 29.** According to learned counsel for the respondents, it is the admitted case of the parties that a preliminary decree was passed in Partition Suit No. 37 of 1961 instituted by one of the widows of Late Lal Balmukund Nath Sahdeo in which it was held that the subject matter of the present proceeding was a joint family property of the plaintiffs, defendant no. 1 and two widows of Late Lal Balmukund Nath Sahdeo and they were found in joint possession of the same. Therefore, the defendant no. 2 had not acquired absolute title in respect of the suit property by virtue of the sale deed dated 19.04.1971.
- 30.** Learned counsel for the respondents also urges that the concurrent

findings recorded by both the trial court and the first appellate court regarding fraud played by the defendants cannot be re-opened at this stage particularly when those are based on pleadings and evidences on record.

- 31.** It is further contended that the present Letters Patent Appeal has in fact been preferred by the appellant invoking second appellate jurisdiction of this Court and as such the concurrent finding of fact arrived at by the trial court as well as the first appellate court is not required to be interfered with.
- 32.** It is also submitted that as per the defendant no. 2, the suit was barred under Section 34 of the Act, 1963 as the plaintiffs could have sought further relief of specific performance of agreement dated 16.12.1961. However, the evidence on record regarding possession of the plaintiffs is evident from the preliminary decree dated 19.08.1964 passed in Partition Suit No. 37 of 1961 in which it was held by the competent court of law that the legal representatives of Late Lal Balmukund Nath Sahdeo were found in joint possession of the suit property. The learned first appellate court while dealing with the available evidence also recorded that PW-9-Lal Suraj Nath Sahdeo in his cross-examination stated that the defendant no. 2 never came in possession of the suit property. No evidence was led on behalf of the defendant no. 2 that it had come in possession of the suit property. It is thus evident that the possession of the suit property remained with the legal representatives of Late Lal Balmukund Nath Sahdeo including the plaintiffs and as such, the suit filed by the plaintiffs was maintainable and the same was not barred under Section 34 of the Act, 1963.

- 33.** It is also submitted that Section 28 of the Indian Registration Act, 1908 provides that every document mentioned in Section 17(1), clauses (a), (b), (c), (d) and (e), Section 17 (2) and Section 18, clauses (a), (b), (c) and (cc) of the said Act has to be presented for registration in the office of a Sub-Registrar within whose Sub-District the whole or some portion of the property to which such document relates, is situated. The suit property admittedly is situated at 'Chandwa' within the district of Palamau, now Latehar, whereas the sale deed dated 19.04.1971 was presented for registration before the District Sub-Registrar, Ranchi.
- 34.** It is further argued that Section 65 of the Registration Act, 1908 is an exception to Section 28 of the said Act and since the sale deed dated 19.04.1971 was assailed by the plaintiffs inter alia on the ground that it ought to have been presented for registration at Latehar, the burden had shifted on the defendant no. 2 to adduce evidence and prove that the formalities and procedures prescribed under Section 65 were followed. However, the defendant no. 2 failed to lead any evidence to that effect.
- 35.** It is also contended that Section 22 of the Hindu Succession Act, 1956 gives preferential right to a co-sharer to acquire interest in immovable property in the event one of the co-sharers intends to transfer his or her interest. It was held by the learned trial court in Partition Suit No. 37 of 1961 that the suit property was the joint property of heirs and legal representatives of Late Lal Balmukund Nath Sahdeo and they were found in possession of the same. The learned trial court as well as the learned first appellate court also recorded concurrent finding of the fact that the defendant no. 1 did not communicate his intention to transfer

the suit property to the plaintiffs and without doing so, transferred it to the defendant no. 2 which was a stranger to the family of plaintiffs and defendant no. 1. Thus, the sale deed dated 19.04.1971 is also hit by Section 22 of the Hindu Succession Act, 1956.

Finding of the Court

Finding qua violation of the terms and conditions of the registered agreement dated 16.12.1961

- 36.** On perusal of the record, it appears that there was a registered agreement dated 16.12.1961 executed between the plaintiffs and the defendant no. 1 whereby they had agreed that if the defendant no. 1 intended to sell the suit property, he would send registered notices to the plaintiffs disclosing his intention about such sale along with the consideration and if the plaintiffs consented to purchase the said property, then the same would be sold to them and in the case of their refusal to purchase, the defendant no. 1 would be at liberty to sell the said property to someone else.
- 37.** The defendants have not been able to dispute the execution of the registered agreement dated 16.12.1961 between the defendant no. 1 as the first party and the plaintiffs as the second party, however it has been claimed by the defendant no. 2 that as per the terms and conditions of the said agreement, notices under registered cover with A/D were served to the plaintiffs by the defendant no. 1 intimating his intention to sell the suit property and in spite of proper service of the notices, the plaintiffs failed to respond the same and only thereafter the said property was sold to the defendant no. 2.
- 38.** In support of the aforesaid claim, the defendant no. 2 examined the

then post-master of 'Sasang Post Office' as D.W.-7 who deposed that two envelopes were sent by him for delivery to the plaintiffs on 13.04.1971, but the postman returned those envelopes reporting that the plaintiffs refused to receive the same and as such he made endorsements on the said envelopes as well as returned it to the sender.

- 39.** On the contrary, the contention of the plaintiffs is that no notices were ever served to them fulfilling the terms and conditions of the registered agreement dated 16.12.1961. The plaintiffs also examined the concerned postman of 'Sasang Post-office' as P.W. 4 who stated that neither he had gone to deliver the registered envelopes to the plaintiffs nor had reported to the postmaster that the plaintiffs had refused to receive the envelopes.
- 40.** Looking to the evidences of P.W. 4 and D.W.7, the trial court as well as the first appellate court have given concurrent findings of fact that actually the defendant no. 1 did not tender the notices to the plaintiffs intimating them his intention to sell the suit property before selling the same to the defendant no. 2 as was provided in the registered deed of agreement dated 16.12.1961.
- 41.** Before this court also, the defendant no. 2 has failed to controvert the said finding of fact arrived at by the trial court and the first appellate court on the basis of the materials available on record.
- 42.** In the case of **K.N. Nagarajappa & Others Vs. H. Narasimha Reddy** reported in **(2021) 18 SCC 263**, the Hon'ble Supreme Court has held as under: -

"16. In the judgment in [Municipal Committee, Hoshiarpur v. Punjab SEB, (2010) 13 SCC 216], this Court held as follows: (SCC pp. 228-29, paras 26-28)

"26. Thus, it is evident that Section 103 CPC is not an exception to Section 100CPC nor is it meant to supplant it, rather it is to serve the same purpose. Even while pressing Section 103 CPC in service, the High Court has to record a finding that it had to exercise such power, because it found that finding(s) of fact recorded by the court(s) below stood vitiated because of perversity. More so, such power can be exercised only in exceptional circumstances and with circumspection, where the core question involved in the case has not been decided by the court(s) below.

27. There is no prohibition on entertaining a second appeal even on a question of fact provided the court is satisfied that the findings of fact recorded by the courts below stood vitiated by non-consideration of relevant evidence or by showing an erroneous approach to the matter i.e. that the findings of fact are found to be perverse. But the High Court cannot interfere with the concurrent findings of fact in a routine and casual manner by substituting its subjective satisfaction in place of that of the lower courts. (Vide [Jagdish Singh v. Natthu Singh, (1992) 1 SCC 647]; [Karnataka Board of Wakf v. Anjuman-E-Ismail Madris-Un-Niswan, (1999) 6 SCC 343] and [Dinesh Kumar v. Yusuf Ali, (2010) 12 SCC 740].)

28. If a finding of fact is arrived at by ignoring or excluding relevant material or by taking into consideration irrelevant material or if the finding so outrageously defies logic as to suffer from the vice of irrationality incurring the blame of being perverse, then the finding is rendered infirm in the eye of the law. If the findings of the Court are based on no evidence or evidence which is thoroughly unreliable or evidence that suffers from the vice of procedural irregularity or the findings are such that no reasonable person would have arrived at those findings, then the findings may be said to be perverse. Further if the findings are either ipse dixit of the Court or based on conjecture and surmises, the judgment

suffers from the additional infirmity of non-application of mind and thus, stands vitiated. (Vide [Bharatha Matha v. R. Vijaya Renganathan, (2010) 11 SCC 483].)”

- 43.** Thus, second appeal can be entertained even on the question of fact if the court is satisfied that the findings of fact recorded by the courts below stand vitiated by non-consideration of relevant evidence or the findings of fact so recorded are found to be perverse. However, the concurrent findings of fact arrived at by the courts below cannot be interfered with in a routine and casual manner by substituting subjective satisfaction.
- 44.** If a finding of fact is arrived at by ignoring or excluding relevant material or by taking into consideration irrelevant material or if the finding so outrageously defies logic as to suffer from the vice of irrationality incurring the blame of being perverse, then such finding is rendered infirm in the eye of the law.
- 45.** Further, if the findings of the Court are based on no evidence or evidence which is thoroughly unreliable or the evidence that suffers from the vice of procedural irregularity or the findings are such that no reasonable person would have arrived at those findings, then the findings may be said to be perverse. Moreover, if the findings are either the court's *ipse dixit* or based on conjecture and surmises, the judgment suffers from the additional infirmity of non-application of mind and thus, stands vitiated.
- 46.** However, in the present case, the appellants have failed to show that the concurrent finding of facts arrived at by the trial court as well as the appellate court is based on no evidence or evidence which is thoroughly unreliable or the evidence suffers from the vice of procedural irregularity

or the findings which no reasonable person would have arrived at by ignoring or excluding relevant material or by taking into consideration irrelevant material.

- 47.** It rather appears that the finding of fact arrived at by the trial court as well as the appellate court is based on the evidences of the witnesses produced by the parties before the trial court. Thus, no ground is made out to interfere with the finding of fact arrived at by the trial court as well as the first appellate court to the effect that the defendant no. 1 had failed to serve notices to the plaintiffs as per the terms and conditions of the agreement dated 16.12.1961. A registered agreement is a legally binding contract and the parties to such agreement are bound by its terms.

Finding qua fraud committed by the defendants to the District Sub-registration office(s)

- 48.** It is not in dispute that the suit property was situated in the district of Palamau (now Latehar). Thus, the Sub-Registration office at Latehar and the District Sub-Registration office at Daltonganj only had the jurisdiction to register the sale deed with respect to the said property in view of Section 28 of the Indian Registration Act, 1908 which clearly stipulates that every document relating to immovable property (land related deeds) is to be registered in the office of a Sub-Registrar within whose sub-district, the whole or some portion of the property to which such document relates, is situated. However, the sale deed of the said property executed by the defendant no. 1 in favour of defendant no. 2 was registered on 19.04.1971 at District Sub-Registration Office, Ranchi.
- 49.** The trial court and the first appellate court have recorded concurrent finding of fact that in order to defraud the Sub-Registration office at

Latehar and District Sub-Registration Office at Daltonganj, the defendant no. 2 transferred 10 decimals of land situated at village Mesra, P.S Ranchi, District Ranchi in favour of the defendant no. 1 against a quite meagre consideration of Rs.200/- and executed a showy sale deed on 16.04.1971. Curiously enough, just after two days i.e. on 19.04.1971, the defendant no. 1 transferred the suit property along with 10 decimals of land situated at Village-Mesra, Ranchi to the defendant no. 2 by same sale deed and got the entire land registered at District Sub-Registration Office, Ranchi. The entire transaction was made with a view to conceal sale of the suit property from the eyes of the plaintiffs.

- 50.** The appellant has failed to provide any reasonable justification before this Court as to why the suit property was registered at District Sub-Registration Office, Ranchi. The appellant has also failed to explain as to why its land situated at village- Mesra, District- Ranchi was transferred to the defendant no. 1 and again within two days, the same was re-transferred to it along with the suit property. The entire conduct of the defendant nos. 1 and 2 was doubtful which in turn substantiated the claim of the plaintiffs that the said showy transaction was made with an intention to conceal the transaction of suit property from the plaintiffs and thereby they committed fraud with the Sub-Registration Offices at Palamu and Latehar.
- 51.** In the case of **Sonamati Devi and Others Versus Mahendra Vishwakarma and Others** reported in **2021 SCC OnLine SC 3600**, the Hon'ble Supreme Court has categorically held that the fraud vitiates every solemn act.
- 52.** Thus, the sale transaction between the defendant nos. 1 and 2 with

respect to the suit property was void as a result of which the defendant no. 2 cannot claim right, title and interest over the said property on the basis of the sale deed dated 19.04.1971.

Finding qua the suit being barred under Section 34 of the Act, 1963

- 53.** The learned counsel for the appellants has given much emphasis to the argument that the suit filed by the plaintiffs was barred by section 34 of the Act, 1963 in view of the fact that the plaintiffs had failed to make consequential prayer in the said suit regarding delivery of possession of the suit property.
- 54.** Evidently, it has already been proved in this case that the sale transaction between the defendant no. 1 and 2 was void being a fraudulent transaction and hence, the defendant no. 2 cannot claim any right, title and interest over the suit property on the basis of sale deed dated 19.04.1971. However, since the appellant was granted liberty by the Hon'ble Supreme Court in Civil Appeal No. 6775 of 2003 to raise before this Court all the factual and legal issues permissible in law pursuant to which the appellant has raised the issue regarding the suit being barred under section 34 of the Act, 1963, the said issue is also being considered by this court on merit.
- 55.** Section 34 of the Act, 1963 provides that any person entitled to any legal character, or to any right as to any property, may institute a suit against any person denying, or interested to deny, his title to such character or right, and the court may in its discretion make therein a declaration that he is so entitled, and the plaintiff need not in such suit ask for any further relief. It is further provided that no court shall make

any such declaration where the plaintiff, being able to seek further relief than a mere declaration of title, omits to do so.

56. The claim of the plaintiffs is that since they were in possession of the suit property, there was no need to ask for further relief. In support of the said contention, the learned counsel for the plaintiffs has relied upon the judgment rendered by the Hon'ble Supreme Court in the case of **Meharchand Das Vs. Lal Babu Siddique & Others** reported in **(2007) 14 SCC 253** wherein the Hon'ble Supreme Court has held that if the plaintiff is in possession of the suit land, then a suit for mere declaration would be maintainable, however if the plaintiff is not in possession, a suit for mere declaration is not maintainable.

57. In the case of **Hussain Ahmed Choudhury and Others Vs. Habibur Rahman (Dead) through Lrs. and Others** reported in **2025 SCC OnLine SC 892**, the Hon'ble Supreme Court has held as under: -

"28. The words used in proviso to Section 34 are "further relief" and "no other relief". Since, a further relief must flow necessarily from the relief of declaration, if such further relief is remote and is not connected in any way with the cause of action which has accrued in favour of the plaintiffs, then there is no need to claim a further relief and the proviso to Section 34 will not be a bar. All that the proviso forbids is a suit for pure declaration without necessary relief where the plaintiff being able to seek such a relief, has omitted to do so. The proviso must not be construed in a manner which compels the plaintiff to sue for any and all the reliefs which could possibly be granted to him. The plaintiff must not be debarred from obtaining a relief that he wants for the reason that he has failed to seek a relief which is not directly flowing from the relief of declaration already sought for."

58. Thus, in a suit for declaration, there is no need to seek delivery of possession of suit land, if the same is in possession of the plaintiff. The proviso to Section 34 of the Act, 1963 must not be construed in a

manner which compels the plaintiff to sue for any or all the reliefs which are not directly flowing from the relief of declaration already sought.

- 59.** Though the defendant no. 2 has claimed that the possession of the suit property was transferred to it by the defendant no. 1, however it has failed to produce any documentary evidence either before the trial court or before the appellate court and even before this Court establishing its possession over the suit property. Thus, we do not find any substance in the said argument of the learned counsel for the defendant no. 2.
- 60.** In view of the above discussion, we do not find any ground to interfere with the impugned judgment dated 13.10.1999 passed by the learned Single Judge of this Court in First Appeal from Original Decree No. 112 of 1985 (R).
- 61.** The present appeal is, accordingly, dismissed.
- 62.** Pending interlocutory application(s), if any, stands disposed of.

(M.S. Sonak, C.J.)

(Rajesh Shankar, J.)

February 16, 2026
Ritesh/**A.F.R.**
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