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IN THE HIGH COURT OF ORISSA AT CUTTACK

Appeals under Section 54 of the Land Acquisition Act, 1894.

LAA No.01 of 2016

CNR No.ODHC01-026864-2016

Ushabati Patel @ Naik ... Appellant

-Versus-

**Champabati Patel and ... Respondents
others**

LAA No.02 of 2016

CNR No.ODHC01-052831-2016

Ushabati Patel @ Naik ... Appellant

-Versus-

**Champabati Patel and ... Respondents
others**

Advocates appeared in the case:

For Appellant : Mr. R.K. Mohanty, Senior
Advocate along with
Mr. A. Mohanty, Advocate

For Respondents : Mr. A.K. Nanda, Advocate and
Mr. G.N. Sahu, Advocate
(For Respondent Nos.1 & 2)

Mr. P.K. Mohanty, ASC
(For Respondent No.3)

Mr. A.P. Bose, Advocate and
Ms. R.P. Chatterjee, Advocate
(For Respondent Nos.8(a) to 8(f))



CORAM:

THE HON'BLE MR. JUSTICE MRUGANKA SEKHAR SAHOO
J U D G M E N T

Date of Hearing : 20.05.2026

Date of Judgment : 14.08.2026

MRUGANKA SEKHAR SAHOO, J.

1. The appellant has filed the appeals under Section 54 of the Land Acquisition Act, challenging two awards, dated 04.12.2015 in LA Reference Case No.25 of 2014 and LA Reference Case No.26 of 2014, both the awards arising out of LA case No.14 of 2010 of the Special Land Acquisition Officer, Ultra Mega Power Project, Sundargarh (hereinafter the LAO, for short).

The awards have been made by the Referral Court, learned Civil Judge (Senior Division), Sundargarh pursuant to references made by the LAO under sections 18 and 30 of the Land Acquisition Act, 1894.

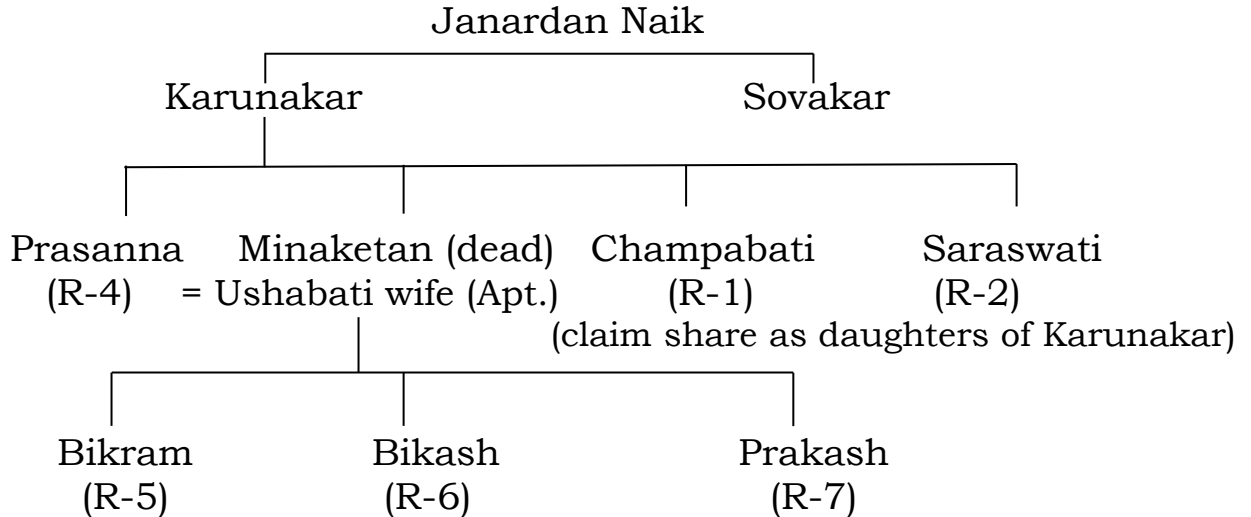
2. Both the appeals are taken up together arising out of similar judgments pertaining to one land acquisition proceeding. The quantum of compensation awarded is not under challenge. The pleadings and evidences in both the proceedings before the learned referral Court out of which the present appeals arise are identical.

The facts in brief

3. To appreciate the case of the appellant and the contentions of the respondents in the appeals in their



response, the genealogy and the chronological events with the facts are reproduced herein:



28.04.2010: The Dept. of Revenue and Disaster Management, Govt. of Odisha acquired two properties in Mouza Lankahuda and passed award U/s. 11 of the Act in respect of,

i) Khata No.4, Ac.27.860 dec. (LA Reference Case no.25/2014, pertaining to LAA No.1/2016) for a compensation of Rs.6,33,27,174/-.

ii) Khata No.5, Ac.21.150 dec. (LA Reference Caseno.26/2014, pertaining to LAA No.2/2016) for a compensation of Rs.4,80,75,008/-.

14.07.2013: Notice issued U/s. 9 of the Act inviting objections from the interested persons in respect of the acquired lands.

25.07.2013: Respondents No.1 and 2 filed a petition claiming 1/4th share each in the awarded amounts.

08.08.2013: Respondents No.1 and 2 filed WP(C) No.18413/2013 praying for a direction to release 1/4th share each in the awarded amount or refer the claim U/s.30 of the Act.

23.04.2014: WP(C) No.18413/2014 was disposed of with the following direction:



“This petition seeks direction to refer the matter under Section 30 of the Land Acquisition Act, 1894.

Learned counsel for the petitioners submits that for the self same relief, the petitioners approached the opposite party No.1 by way of application dt. 25.07.2013, Annexure-3, which has not been decided.

In view of the above, we direct the opposite party No.1 to dispose of the said application of the petitioners in accordance with law, as far as possible, within one month from the date of receipt of a copy of this order.

No reference need be made to the extent claim of parties is undisputed. The undisputed amount may be paid as per award.

The petition is disposed of accordingly.”

14.10.2014: The awarded amount was deposited in the treasury.

14.12.2015: In terms of the order of this Court the LAO referred the matter to the Civil Court U/s.18 and 30 of the Act.

4. The compensation amount awarded in the LA case Rs.6,33,27,174/- (rupees six crores thirty three lakhs twenty seven thousand one hundred seventy four only) is not disputed by any of the parties and no enhancement is sought for. The appeal by the appellant is with a prayer to set aside the judgments rendered in the references and to declare that the respondent Nos.1 and 2 in both the appeals are not entitled to any share of the compensation awarded.



5. The present appellant was the Opp. Party No.3 before the learned Civil Judge (Senior Division), Sundargarh in the Referral proceedings i.e. LA Reference Case No.25 of 2014 and LA Reference Case No.26 of 2014.

The respondents No.1, 2 [2(a) to 2(e)] were the petitioners before the learned referral Court.

The respondent No.3-Special Land Acquisition Officer was the Opp. Party No.1 before the learned referral Court.

The respondents No.4 to 8 and 8(a) to 8(f) were the Opp. Party Nos.4 to 7. Some of the respondents during pendency of these appeals unfortunately passed away, they have been substituted by the respective legal heirs.

The respondents No.1 and 2 [2(a) to 2(e)] are the contesting respondents as the appellant disputes their share/claim in the land acquisition compensation. The share of the other proforma respondents i.e. respondents No.4 to 8 [respondents No.8(a) to 8(f)] are not disputed.

6. Notices to the respondents/proforma respondents were issued by the Coordinate Bench on 18.02.2026. On the said date by interim order, the awarded amount was directed not to be disbursed to any of the parties till the next date. Thereafter, the matter was listed before Coordinate Benches on several dates i.e. 17.08.2022, 20.10.2022, 01.12.2023 and 13.12.2023.

On 09.01.2024, I.A. Nos.3, 4 and 5 of 2024 were taken up by the Coordinate Bench. The I.A. seeking substitution of the deceased respondent No.2 as well as setting aside the



abatement were allowed after condoning the delay in filing the substitution application. Similarly, I.A. Nos.6, 7 and 8 with similar prayers for substituting deceased respondent No.8 and for setting aside the abatement and condonation of delay in filing the substitution application, were allowed and disposed of. Thereafter, the matter was adjourned on several dates i.e. from 14.03.2024 till 29.04.2025.

Efforts to achieve a settlement acceptable to the parties by mediation

7. Considering the age of the appellant being 65 years and respondent No.1 being 70 years and respondent No.2 having passed away during pendency of the appeal, on 09.04.2026, both the appeals were referred by this Court to Mediation for the Nation 2.0.

Taking note of the fact that the matter is from the district of Sundargarh which is at a distance of more than 300 kms. from the High Court, it was directed that the matter shall be included in the Mediation for Nation 2.0, before the District Legal Services Authority (DLSA), Sundargarh. The parties through their counsel were directed to appear before the learned Secretary, DLSA, Sundargarh for appointment of trained Mediator. Soft copy of the required records were directed to be and were forwarded by the Registry of this Court to the learned Secretary, DLSA, Sundargarh.

8. The learned instructing counsel for the appellant as well as the learned counsel for the respondents were requested to intimate the parties. The learned Secretary,



DLSA, Sundargarh was directed to fix a date and intimate the parties in their respective addresses for appearance to start mediation. The parties were directed to appear before the learned Secretary, DLSA, Sundargarh on 27.04.2026.

Thereafter, the matter was taken up for mediation before DLSA, Sundargarh. The learned Secretary, DLSA, Sundargarh by letter dated 04.05.2026 addressed to the Registry of this Court intimated that the matter was posted to 08.05.2026 for mediation.

Thereafter, by letter dated 11.05.2026, report has been submitted by the learned Secretary DLSA received in the Registry which indicates that the DMC case No.441 of 2026 has been disposed of as non-starter.

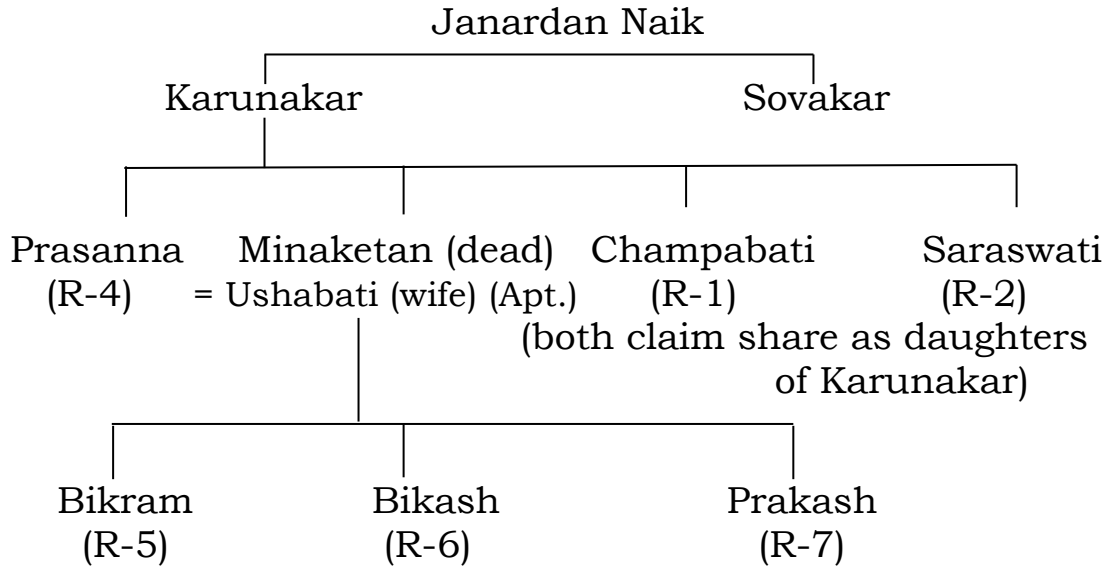
9. The efforts for mediation could not achieve the result, accordingly the matters are finally heard and are disposed of by this judgment.

10. Learned Senior Advocate Mr. R.K. Mohanty was heard assisted by learned counsel Mr. Animesh Mohanty for the appellant. Mr. A.K. Nanda, learned counsel assisted by Mr. G.N. Sahu, learned counsel was heard on behalf of respondent Nos.1 and 2 [2(a) to 2(e)]. Mr. A.P. Bose, learned counsel assisted by Ms. R.P. Chatterjee, learned counsel was heard on behalf of Respondent No.8 [Respondents No.8(a) to 8(f)]. Learned Addl. Standing Counsel Mr. P.K. Mohanty representing the Special Land Acquisition Officer was also heard.



The Judgment(s) by the learned Referral Court

11. Genealogy clarifying the relationship among the parties is reproduced again:



From the Genealogy reflected above, the branch of Karunakar indicates that Karunakar had two daughters, Champabati (respondent No.1) and Saraswati (respondent No.2) and two sons Prasanna (respondent No.4) and Minaketan. Minaketan having passed away, his surviving wife Ushabati is the appellant in the present appeals. Three sons of Minaketan and Ushabati are proforma respondents Nos.5, 6 and 7.

12. In the proceeding before the learned Civil Judge (Senior Division) Minaketan disputed and his wife Ushabati being the appellant in the present appeals disputes Champabati (R1) and Saraswati (R2) to be the sisters of her husband Minaketan-daughters of Karunakar. The claim of the appellant is supported by respondent Nos.4 to 7.



13. Learned referral Court has answered the reference U/s 18 of the LA Act 1894, giving the following findings:

“a) The Respondent Nos.1 and 2 are the daughters of Karunakar.

b) By the partition under Annexure-D Karunakar could not have bestowed exclusive properties on Prasanna and Minaketan in the absence of any registration.

c) Out of the compensation amount Respondents No.1 and 2 are entitled to get 1/12th share each and Parsuram and Minaketan, 5/12th share each.

d) Respondent No.8 is entitled to compensation in respect of his purchased area of Ac.0.24 dec.

e) The reference was thus answered in favour of Respondents No.1, 2 and 8.”

14. Based upon the above findings, consequential reliefs have been granted by the referral Court: learned Senior Civil Judge, Sundargarh along with judgment dated 14.12.2015.

“The L.A. reference be and the same is allowed on contest against the Ops with the following apportionment. Out of the total compensation amount of Rs.6,33,27,174/-, awarded with respect of acquisition of the land measuring an area of Ac.27.860 decimals under Hal Khata no.4 of mouza Lankahuda, after division of the same in four equal shares, a fraction amount of Rs.2/- becomes surplus, which is required to be adjusted in the share of one of the parties. As such, the petitioners namely Champabati, Saraswati and Op No.2 Prasanna are entitled to receive compensation of Rs.1,58,31,793/- (Rupees one crore fifty eight lakhs thirty one thousand seven hundred ninety



three) only each, whereas the legal heirs of Minaketan i.e. the Ops 3 to 6 are jointly entitled to receive a sum of Rs.1,58,31,795/- (rupees one crore fifty eight lakhs thirty one thousand seven hundred ninety five) only. The L.A. Reference is accordingly answered and disposed of with the aforesaid apportionment.”

15. By the impugned judgment it is directed Respondents No.1 and 2 and proforma Respondent No.4 are entitled to Rs.1,58,31,793/- each. The present appellant along with proforma Respondents No.5 to 7 have been jointly awarded Rs.1,58,31,795/-.

The quantum of compensation determined has become final, not being challenged by anybody. The appellant has filed Misc. Case No.17 and 18 of 2017 praying to release the admitted share pending disposal of the appeal.

Submissions on behalf of the appellant:

16. The submissions of the learned Senior Counsel for appellant are that during pendency of the proceedings in the Civil Court the Appellant along with her three sons Respondents No.5 to 7 filed application on 14.11.2014 for releasing the undisputed share in their favour. On 10.02.2015 the learned Court below rejected such prayer. Challenging the order, the appellant filed WP(C) Nos.1030/2016 and 1031/2016 which were disposed of granting liberty to the appellant to move the appropriate forum as the impugned award had already been passed.



17. It is submitted that the learned trial Court proceeded on an error of record to the effect that the Opp. Party No.3-deceased appellant (since substituted) had admitted in his depositions that the Respondents No.1 and 2 are daughters of Karunakar. In fact, it is clear case of the Appellant-Opp. Party No.3 that the respondent(s) 1 and 2 are not the daughters for which they had not been given any share in Ext.D, a deed 'showing partition of property', which can also be treated as a 'Will'.

It is submitted the learned referral Court erred in law by ignoring Ext.D for its non-registration; at least the learned Court should have utilized the same for the collateral purpose of deciding the question of daughtership of the Respondent Nos.1 & 2. Moreover, the document could have been construed as a Will bestowing certain properties on Prasanna (R-4) and Minaketan (husband of Appellant) to the exclusion of others.

18. It is alternatively argued by learned Senior Counsel for appellants that probate being not required and the document (Ext.D) having not been challenged should have been accepted as a document bestowing certain properties distinctly on the two brothers Prasanna and Minaketan, son of Karunakar to the exclusion of the daughters if any. That apart the said document if read in its proper perspective will reveal that it is a document recording a 'complete earlier partition' and not creating a partition for the first time.



Submissions on behalf of the Respondents

19. The submissions of the learned counsel Mr. Nanda are that the case of the Respondent Nos.1 and 2 is that they are the daughters of Karunakar.

It is submitted, during trial the Opp. Party No.2 in the proceeding before learned referral Court namely Prasanna, and Opp. Party Nos.3 to 6 in the said proceeding have admitted present Respondent Nos.1 and 2 to be the daughters of Karunakar. Learned counsel Mr. Nanda refers to para 9 of the Judgment dated 14.12.2015 i.e. under challenge: Adhar Card of P.W.1 marked as Ext.2 shows that P.W.1 is the daughter of Karunakar.

20. Mr. Nanda, learned counsel submits that the settled principle of law laid down by the Hon'ble Apex Court in ***Vineeta Sharma vs. Rakesh Sharma and others***¹ as held in Paragraph 129 of the said judgment, the provisions contained in the substituted Section 6 of the Hindu Succession Act, 1956 confer status of coparcener on the daughter born before or after amendment, in the same manner as son, with the same rights and liabilities. The daughters cannot be deprived of their right of equality conferred upon them by Section 6.

21. It is submitted in view of the evidence of Prasanna Naik: O.P.W.1 at Paragraph 11, admitting that the Respondent Nos.1 and 2 are his sisters, the learned Senior Civil Judge, Sundargarh by appreciation of the facts and the

¹ AIR 2020 SC 3717: (2020) 9 SCC 1



law in their proper perspective has given findings in Paragraph 9 and 10 of the judgment.

22. It is submitted, admittedly the Respondent No.1 and mother of Respondent Nos.2(a) to 2(e) are daughters of Karunakar and the judgment dated 14.12.2015 by the learned Senior Civil Judge, Sundargarh is legal and justified.

Submission is: there being no infirmity or illegality in the impugned judgments, both the Land Acquisition Appeals are not to be interfered with and are liable to be dismissed.

Submissions of learned counsel for the parties regarding apportionment of the amount awarded

23. Learned counsel for the respondent Mr. Nanda refers to direction of the learned Senior Civil Judge, Sundargarh regarding apportionment of the compensation in terms of the genealogy. He submits that the issue is no more *res integra*, the share of the daughter who becomes coparcener with effect from the date of amendment of Hindu Succession Act, 1956 i.e. 09-09-2005 has to be granted/determined whether or not she was born before the said amendment.

It is submitted, the amendment to the Hindu Succession Act, 1956 has conferred right of daughters in coparcenary property under substituted section 6 of the 1956 Act. He relies on the decision of the larger Bench of the Hon'ble Supreme Court in **Vineeta Sharma** (*supra*).

24. Learned Senior Counsel for appellant submits that the issue regarding share of the daughters having been



authoritatively dealt with and settled by the Hon'ble Supreme Court in **Vineeta Sharma** (*supra*) needs no further deliberation before this Court.

Discussions of the materials/evidence on record, pleadings, submissions made, the case law and analysis of the judgment(s) under challenge

25. The learned Senior Civil Judge, Sundargarh has relied upon the evidences of P.W.1-Champabati-present respondent No.1 and another witness on behalf of the plaintiffs/petitioners. The present proforma respondent No.4 was the Opp. Party No.2 before the learned referral Court. He himself appeared as O.P.W.1 and examined two other witnesses in his favour. The present appellant being Opp. Party No.3 before the learned referral Court and the present proforma respondent Nos.5, 6 and 7 being the Opp. Parties No.4, 5 and 6 supported the Opp. Party No.3. The present proforma respondent No.5 was examined as the witness on their behalf. The present proforma respondent No.8 being Opp. Party No.7 before the learned referral Court examined witness: O.P.W.5.

The LCR was called for and has been placed for reference of this Court.

26. The petitioners before the learned referral Court-present respondent Nos.1 and 2 produced Exts.1 to 4 supporting their claim which were marked as exhibits. The husband of present appellant produced Exts.A to D marked as exhibits in support of his claim.



27. Based on the pleadings, depositions, cross-examination of the witnesses from both the sides and by referring to and dealing with the admitted documents marked as exhibits, the learned Civil Judge (Senior Division), Sundargarh dealt with the issues and has reflected in the judgment and order, which are reproduced herein:

“9. ... it is felt prudent to reflect some admitted facts of the case. Admittedly, the petitioners and the Op no.2 are related to each other as sisters and brother respectively. It is also an admitted fact that, in their show cause, the Op No.2 and so also the Op Nos.3 to 6 have denied the petitioners to be the daughters of Karunakar Naik, whereas during trial, they have admitted the petitioners to be the daughters of Karunakar. It is also an admitted fact that, the entire land under hal khata nos.4, 5 and 6 of mouza Lankahuda have been acquired by the govt. for the UMP Projecct and compensation amount has already been awarded in favour of the awardees. But now it is to be decided, whether the petitioners are the daughters and legal heirs of Karunakar and if so, if they have got any right, title and interest over the property of their father in respect of the land under khata no.4 or not.”

28. Dealing with the submission and assertion of the petitioners before the learned referral Court that they are the daughters of Karunakar, the learned Judge has discussed the evidence and given the findings which are reproduced herein:

“10. ... the petitioners have examined the petitioner no.1 examined as P.W.1, who has stated on oath that, she and her sister Saraswati are the daughters of Karunakara Naik, who was the recorded tenant



of the lands under hal khata nos. 4, 5 and 6 of mouza Lankahuda. P.W.1 has proved her original Adhar card, which clearly shows that she is the daughter of Karunakara Naik. Nothing substantial has been elicited from the mouth of P.W.1 to dislodge her testimony with regard to the fact that, she is the daughter of Karunakar Naik. Rather, none of the Ops has challenged the said Adhar card vide Ext.2 during her cross-examination. The petitioners have also examined one Jamuna Naik who is examined as P.W.2. Her evidence speaks about the inter-se relationship of the parties. From the testimony of P.W.2 it is clear that, the petitioners are the daughters of Karunakara Naik and the sisters of Op No.2 and Minaketan. Such evidence of P.W.2 has not been demolished during cross-examination by the Ops which remained unassailed. At this juncture, the testimony of O.P.W.1 (Prasanna Naik) shows that, the petitioners are his sisters, because in para-11 of his cross-examination, he has admitted the fact that Saraswati, Champa and Bishnu are his three sisters and out of them, Bishnu is dead. He has also admitted that, Saraswati and Champabati are alive now: Thus, from the aforesaid evidence of the petitioners and Op no.2, it is crystal clear that, the present petitioners are the daughters of Karunakara Naik and as such, the Op No.2 is their brother. In this context, it may be noted here that, the Op Nos.2 to 6 in their show cause, have suppressed the truth by not admitting the petitioners to be the daughters of Karunakara, whereas during trial, all of them admitted the same, for which it can be said that the present Op Nos.2 to 6, in order to swallow the entire compensation amount in respect of acquisition of the land under khata no.4, were misleading the Court by suppressing the material fact.”



29. The learned referral Court has elaborately dealt with the other contentions raised by the parties and has answered them with the following findings:

“11. Now the question arises, whether the entire properties of Karunakara has been partitioned between his two sons or it was with him till his death, being his exclusive property. In this regard, I may mention here that, the Op Nos. 3 to 6 have not pleaded in their show cause regarding any partition between the two brothers by Karunakara during his life time. At the cost of repetition, be it mentioned here that, initially, the Op Nos. 3 to 6 have not admitted the petitioners to be the daughters of Karunakara. However, the Op No.2 (O.P.W.1) has pleaded about partition of the property of Karunakara during his life time and further admitted in his cross-examination that, his father died about 30 years ago and his father had received bhogra settlement ROR in respect of khata no.4 and his father was also possessing the said bhogra land after receiving the ROR. Further, in para-13 of his cross-examination, he has stated that his father partitioned the bhogra land between himself and his brother Minaketan by virtue of the family partition deed, which has not been registered. He has further stated that mutation was effected in their names after the death of his father on the basis of succession and not by virtue of partition deed, as they have not produced the same before the Tahasildar and that for the first time, he has filed the partition deed in this Court. The other witness Basanta Kumar Patel, who is examined as O.P.W.2 has stated on oath that, his grand father Nityananda scribed the family partition deed in his presence and as he is acquainted with the hand writing and signature of his grand father, he proved the signature of his grand father vide Ext.D/3. In his cross-examination, he has stated that Karunakara Naik was succeeded by two sons



and after his death, his two sons Minaketan and Prasanna are in possession of their respective shares as per Ext.D and except those two persons, no one else has ever possessed the land. This witness has also admitted in para-11 of his cross-examination that Karunakara was having three daughters namely Bishnu, Saraswati and Champa, out of whom, Bishnu is dead now. As regards the partition, this witness appears to have been deposing falsehood, because in his evidence affidavit, he has stated that, he has heard about the partition, whereas while deposing in Court on oath, he stated differently and claims his presence at the time of preparation of the partition deed vide Ext.D. Further, his evidence in cross-examination also falsifies his testimony, because this witness in para-12 of his cross-examination has stated that, he was present at the time of partition and by then, he was 25 years old. As it appears on 23.7.2015 when he was examined as O.P.W.2, he stated his age as 60 years and as such, if the same will be taken into account, then by the time of preparation of the partition deed, certainly, he was a boy of 13 years of age and not a man of 25 years old as is claimed by him.

12. Now coming to the evidence of Op No.4, examined as O.P.W.4, he has stated that he was not present when the suit land was partitioned by his grand father. In addition to that, O.P.W.3 has stated in para-11 of his cross-examination that, the wife of Karunakara died after the partition. He has further stated that he cannot say, if Karunakara was looking after the entire property till his death or not. He also cannot say, if the property was recorded in his name or not. More so, O.P.W.5 who is examined on behalf of the Op No.7, has stated in his evidence that Karunakara was having three daughters and two sons and till his death, Karunakara was in cultivating possession of his own land. At this juncture, the learned counsel for



the petitioners submitted that for the land under khata no.5, the L.A.O has referred the matter which has been registered as L.A. Ref. Case No.26/2014 and in the said case, the parties are same in which, one of the witnesses i.e. O.P.W.6, examined on behalf of Op No.7 has stated in para-10 of his cross-examination that, Karunakara had not partitioned the suit land among his sons and daughters. Further, O.P.W.7 of that case, has stated in para-10 of his cross-examination that, Karunakara has not partitioned his land among his sons and daughters. Further, O.P.W.8 of that case has also stated in para-12 of his cross-examination that, Karunakara was in cultivating possession of his landed property till his death.

13. At this juncture, the learned counsel for the Ops 3 to 6 in course of argument, submitted that the document vide Ext.D is a family settlement and the same is admissible in evidence being a document of the year 1968. Undoubtedly, on perusal of the said document, it is found that the same is a partition deed. Section 91 of the Evidence Act speaks that, when there is a written document to ascertain the intention of the document, the document itself has to be perused and no outside evidence is permissible. As it appears, the document, itself, shows that through it the land has been partitioned. But on perusal of the document, it is not clear, as to whether the suit land has been partitioned or not. In this regard, it cannot be lost sight of the fact that, under the Indian Stamp Act, partition document requires proper stamp. Under Section 3 of the Indian Stamp Act, when a document which requires to be properly stamped and is enumerated in the schedule of the Stamp Act, if not properly stamped, then it is inadmissible. As per Section 35, no instrument chargeable with duty shall be admitted in evidence for any purpose by any person having by law or consent of parties authority to receive evidence, or shall be acted



upon, registered or authenticated by any such person or by any public officer, unless such instrument is duly stamped.”

30. The learned referral Court has concluded that the entire properties of Karunakar was not partitioned till his death. By way of partition, the property could not have been partitioned giving share only to his sons, Respondent No.4 and deceased husband of the appellant.

31. Further analysis of evidence, and the findings of the learned referral Court there upon, are reproduced herein:

“16. Further, in course of argument, the learned counsel for the Op Nos.3 to 6 has contended that, Karunakar has blended the said separate property and as such, the present petitioners shall have no right over the said property of Karunakar, even though they are his class-I heirs. In this regard, on perusal of the show cause of the Ops, nowhere the Ops have taken such a plea regarding blending. As such a plea is beyond pleading, no evidence led in that aspect, is inadmissible to that effect. Further, the witnesses examined on behalf of the Ops have clearly proved that Karunakara was possessing the land till his death and he has not partitioned his landed property among his sons and daughters. This shows that the plea of blending is a false one. Merely because an owner allows his other family members to possess his land, it does not show that others have title over it. When the Op No.2 Prasanna claims partition, the other Ops does not put their claim regarding partition in their show cause. It is also evident from the materials available on record that, in the mutation proceeding, that document was also not produced and as such, mutation was effected basing on succession and not by virtue of partition, which the Op No.2 has admitted in para-13 of his cross-



examination. So, when there are two daughters (the present petitioners), who are the class-I heirs and their names were not recorded in col.2 of the R.O.Rs, this shows that mutation has been obtained fraudulently by suppressing the materials facts and by keeping the present petitioners in dark, which is very much apparent from the show cause of the Ops itself. In that view of the matter, when it is proved by evidence that, the properties in question are the separate properties of Karunakara, as per Section 8 of the Hindu Succession Act, the petitioners will take the properties simultaneously. That besides, as per Section 10, each of the sons and daughters are entitled to get one. Hence, the land of khata no.4 is required to be partitioned equally among all the four sons and daughters of Karunakara.

17. So far as the claim of the Op No.7 in respect of the land for an area of Ac.0.24 decimals out of plot no.1554 under hal of Khata no.5 is concerned, it may be mentioned here that although the said Op no.7 entered appearance in this case and filed his show cause and so also led evidence by adducing one witness, yet his claim revolves around hal khata no.5, which is to be decided in L.A. Reference case No.26/2014 and as such, the same not being the subject matter of this case, is not taken up for consideration in this case. Hence, there is no need to discuss and analyze the evidence concerning the share of the Op No.7 in this reference.”

[Underlined portions are considered and also emphasized for consideration of present appeals by this Court]

32. To support his conclusions, the learned Civil Judge (Senior Division) has analyzed and applied the law laid down by the Hon'ble Supreme Court as well as this Court in various decisions, which are summarized herein:



32.1 Golak Behari Biswal and another Vrs. Karunakar Rout²: wherein this Court has considered the principles regarding requirement as to registration of a document. It has been held for a document comprising settlement between members of family, itself creating or extinguishing right to property or enlarging or limiting it-Registration is compulsory for it to be admissible in evidence.

32.2 Hon'ble Supreme Court in Roshan Singh and others Vrs. Zile Singh and others³ have laid down that an instrument of partition which operates or is intended to operate as a declared volition constituting or severing ownership and causes a change of legal relation to the property divided amongst the parties to it, requires registration under section 17(1)(b) of the Indian Registration Act, 1908. The said section lays down that a document for which registration is compulsory should, by its own force, operate or purport to operate to create or declare some right in immovable property.

A partition may be effected orally; but if it is subsequently reduced into form of a document and that document purports by itself to effect a division and embodies all the terms of bargain, it will be necessary to register it. If it is not registered, Section 49 of the Act will prevent its being admitted in evidence.

32.3 It is the settled law that mutation entries do not convey or extinguish any title as laid down by the Hon'ble

² AIR 1987 Ori 236

³ AIR 1988 SC 881



Supreme Court in **H. Lakshmaiah Reddy & others Vrs. Venkatesh Reddy**⁴, wherein it has been observed that:

... Mutation of a property in the revenue record does not create or extinguish title nor has it any presumptive value on title. It only enables the person in whose favour mutation is ordered to pay the land revenue in question...

33. Now for consideration of the appeal against judgment of learned Referral Court, this Court has gone through the evidence of O.P.W.1 (at paragraph 11) as available in the scanned copy of the LCR, and he has stated on oath thus:

“11. My father died about 30 years ago. We are two brothers and three sisters. Bishnu, my sister is dead and Saraswati and Champa are alive. My father received the Bhogra settlement ROR in respect of khata no.4 in 1963-64. My father possessed the same after receiving the R.O.R. In 1977 the settlement operation took place. We have not filed the ROR recorded in my father’s name in respect of khata no.4 before the settlement authorities. We are living separately since the time of our father without any disturbance between us.”

The evidence of OPW1 remains unimpeached.

34. In considered opinion of this Court, the conclusions of the learned referral Court based on the above evidence and discussed in detail in the judgment as indicated (underlined) above, is just and proper, inasmuch as any ordinarily prudent, reasonable person would arrive at the conclusion that the O.P.W.1-present respondent No.4 did refer to present respondent No.1 and respondent No.2 as his

⁴ (2015) 14 SCC 784



two sisters and they being the surviving two daughters of Karunakar; in his evidence also he did not support the contention raised regarding partition of property in the lifetime of Karunakar, the common ancestor.

35. In the inimitable words of Krishna Iyer, J speaking for the larger Bench of the Hon'ble Supreme Court in ***Dollar Company, Madras v. Collector of Madras***⁵, at paragraph 4 of SCC print, the law regarding exercise of appellate power by appellate Court has been summerised. The said paragraph is reproduced herein:

“4. At the outset, we must warn ourselves of the broad guideline that in an appeal from an award granting compensation this Court will not interfere unless there is something to show not merely that on the balance of evidence it is possible to reach a different conclusion but that the judgment cannot be supported by reason of a wrong application of principle or because some important point affecting valuation has been overlooked or misapplied. Moreover, there is a prudent condition to which the appellate power, generally speaking, is subject. A court of appeal interferes not when the judgment under attack is not right but only when it is shown to be wrong. These twin principles serve as backdrop to our approach to the rival contentions in the case.”

[Underlined to supply emphasis]

The above observations have been made as the Hon'ble Supreme Court considered an appeal seeking enhancement of compensation awarded by the city civil and the High Court, by a land owner whose property was acquired by the State.

⁵ AIR 1975 SC 1670: (1975) 2 SCC 730



36. The principles summarized by the larger Bench of the Hon'ble Apex Court in **Dollar Company** (*supra*) have been reiterated in **Padma Uppal v. State of Punjab**⁶ (paragraph 9 of SCC print) and is quoted herein:

*“9. Let us now deal with the second set of the aforesaid eight appeals preferred by the State of Punjab. While doing so, it would be well to recall that it is well established that in an appeal from an award granting compensation, this Court should not interfere unless there is a wrong application of any well-settled principle or unless there is something to show not merely that on the balance of evidence it is possible to reach a different conclusion but that the judgment cannot be supported by reason of a wrong application of a principle or because some important point affecting valuation has been overlooked or misapplied. Moreover, there is a prudent condition to which the appellate power, generally speaking is subject. A Court of appeal interferes not when the judgment under attack is not right but only when it is shown to be wrong. (See **Special Land Acquisition Officer, Bangalore v. T. Adinarayan Setty** [1959 Supp 1 SCR 404 : AIR 1959 SC 429 : 1959 Cri LJ 526] ; **Dattatraya Shankarbhat Ambalgi v. Collector of Sholapur** [(1971) 3 SCC 43] and **Dollar Company, Madras v. Collector of Madras** [(1975) 2 SCC 730]”*

[Underlined to supply emphasis]

Conclusions

37. In considered view of this Court the principles of law as laid down in **Dollar Company** (*supra*), reiterated in

⁶ (1977) 1 SCC 330



Padma Uppal (*supra*), *Padma Uppal* having followed earlier decisions of the Hon'ble Supreme Court in *Spl. LAO, Bangalore; Dattatraya Shankarbhat Ambalgi*; have to be followed and applied when this Court is considering the appeals under Section 54 of the L.A. Act, 1954. The principles are still good law having been reiterated/referred to in several subsequent decisions of the Hon'ble Supreme Court.

38. Having considered the relevant provisions of law, the pleadings of the parties, the submission of the learned Senior Counsel for the appellant and the learned counsel for the respondents and by applying the principles enunciated in the case law cited at the bar, referred to by the learned Civil Judge, Senior Division and this Court;

it has to be and is held that the judgments and orders dated 14.12.2015 passed by the learned Senior Civil Judge, Sundargarh in LA reference case No.25 of 2014 and in LA reference case No.26 of 2014, both arising out of LA case No.14 of 2010 of the Special LAO, UMPP, Sundargarh, are just and proper; being based on consideration and appreciation of relevant materials, evidences, pleadings on record, and by application of correct propositions of law.

39. It is held that no case is made out by the appellant in these Appeals U/s 54 of the LA Act for this Court to interfere with the awards made U/s 18 of the LA Act, 1894.

Regarding the apportionment, this Court accepts the contention of the learned counsel for the respondents as



well as the learned Senior Advocate for Appellant that it has to be dealt with in terms of the judgment of the larger Bench of the Hon'ble Supreme Court in **Vineeta Sharma** (*supra*).

40. The only rider that can be added to the very well-discussed judgments is that the apportionment/partition of the amount deposited along with the accrued interest till the date of disbursement, shall abide by and shall be in the terms of the judgment of the Hon'ble Supreme Court in **Vineeta Sharma** (*supra*).

41. Before parting with the appeals, this Court puts on record its appreciation of the able assistance rendered by learned Senior Counsel Mr. R.K. Mohanty as well as learned counsel Mr. A.K. Nanda and Mr. Bose in deciding the appeals pending for more than ten years, the references before learned Senior Civil Judge being of the year 2014 and the acquisitions being of the year 2010. This Court also records its appreciation of the endeavor of the learned counsel in trying to arrive at a mediated settlement though it could not be achieved.

42. Copies of this judgment shall be forwarded by the Registry to the learned Senior Civil Judge, Sundargarh to be made part of the records of LA reference case No. 25 of 2014 and LA reference case No.26 of 2014, both arising out of LA case No.14 of 2010 of the Special LAO, UMPP, Sundargarh.

43. The learned Senior Civil Judge, Sundargarh/learned Court in seisin of the matter shall immediately take steps for determination of share of each of the appellants/legal



heirs and respondents/legal heirs, by following the principle laid down in **Vineeta Sharma** (*supra*).

44. The amount so determined along with interest accrued till disbursal shall be disbursed immediately in accordance with law;

the learned Court shall not detain itself for availability/appearance of all the parties/beneficiaries and shall do well to determine share of each of the parties upon apportionment and direct disbursal of the amount to the parties whosoever are immediately available/ are appearing;

any of the parties if they do not appear shall be issued notice by the learned Court in seisin, in their present correct address to receive their share of the LA compensation.

45. Both the land acquisition appeals fail and are dismissed, both the awards under challenge are confirmed with the further directions/clarifications indicated above.

All the subsisting interim orders stand vacated/merge with the final directions.

Costs reluctantly made easy.

(Mruganka Sekhar Sahoo)
Judge

Orissa High Court, Cuttack
The 14th August, 2026/Gs/Rajesh