

**HEADING OF A DECISION IN A CIVIL SUIT
IN THE COURT OF THE CIVIL JUDGE (JR. DIVN.), KHURDA**

PRESENT :-

Sri Abhilash Senapati,LL.B
Civil Judge (Jr. Divn.), Khurda.

Dated the 27th day of September, 2014

C.S. 54/2003

1. Satrughana Sahu, aged about 53(fifty three)years,
S/o: Late Hari Sahu
Vill-Narasinghpur Samil Gokulpur
P.O-Gudum, P.S/Dist-Khurda

..... Plaintiffs.

-Versus-

1. Madhusudan Panda, aged about 58 years,
S/o: Late Satrughna Panda
2. Ugrasen Panda, aged about 55 years,
S/o: Late Satrughna Panda
3. Prasanta Kumar Panda, aged about 50 years,
S/o: Late Satrughna Panda
4. Padma Charan Panda, aged about 47 years,
S/o: Late Satrughna Panda
5. Purnabasi Panda,
6. Bhagaban Panda, aged about 44 years,
S/o: Late Bharat Panda
7. Krupasindhu Panda, aged about 42 years,

S/o: Late Bharat Panda

8. Trilochan Panda, aged about 60 years,

S/o: Late Harekrushna panda

All are of Vill: Narasinghapur, P.O: Gudum

P.S/DIst: Khrodha

.....Defendants.

9. Prahallad Sahu, aged about 35 years,

S/o: Late Madhab Sahu

9(a) Bijay Laxmi Sahu, aged about 34 years,

W/o: Late Prahallad Sahu

9(b) Jyotshna Sahu, aged about 12 years,

9(c) Swapna Sahu, aged about 8 years,

9(d) Pradosh Kumar Sahu, aged about 5 years,

9(e) Prakash Kumar Sahu, aged about 3 years,

All are S/o &D/o:Late Prahallad Sahu

Vill: Narasinghapur, P.O: Gudum

P.S/Dist: Khrodha

represented by mother guardian, Bijay Laxmi Sahu,

W/o: Late Prahallad Sahu

of Vill: Narasinghapur, P.O: Gudum

P.S/Dist: Khrodha

10. Arnapurna Sahoo, aged about 61 years,

W/o: Late Madhaba Sahu

Vill: Narasinghapur, P.O: Gudum

P.S/DIst: Khrodha

.....Prof. Defendant

Counsel for Plaintiffs ... Sabitri Mishra ,Advocate
& Associates
Counsel for Defendants ... None

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Date of Argument – 11.09.2014

Date of Judgment – 27.09.2014
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JUDGEMENT

1. The plaintiff has filed this suit with a prayer for declaration of right, title and interest over the disputed land in his favour along with declaring that the record of right prepared by the consolidation authority in the year 1998 is wrong and also to pass a decree confirming the possession of the plaintiff's over the disputed property.

2. The plaintiffs' case in a nut shell is that

An area of Ac 0.099 decimal pertaining to recent consolidation plot No.669 of Khata NO.178 is the disputed property . The disputed property and the land in consolidation plot NO.68 measures a total area of Ac 0.180 decimal belonging to five co-sharers in the 1929-30 settlement in the name of Iswara, Sauri , Satrughna , Harekruhsna , Udayanatha & Radhadibya . The disputed property corresponds to plot NO.563 in Khata No.154 of the 1962 settlement and further corresponds to plot No.638 in Khata No.41 of 1929-30 settlement. The said Ac 0.180 decimal even though recorded in the name of the above tenants but the land was in exclusive possession of Bhramara

Mohapatra i.e the only son Iswara Mohapatra . In 1961 Bhramara sold away the entire extent of land measuring Ac 0.180 in favour of Madhaba Sahu through registered deed of sale bearing No.1176/dtd.22.02.61 on receipt of consideration money and gave delivery of possession of the same in favour of the said vendee Madhaba Sahu even though Bhramara was in exclusive possession but since the record stood in the name of the above five tenants, they all have executed the said deed of sale Hare Krushna died living behind his sons Hadibandhu and Trilochana for it the sale deed in question was executed by Bhramara, Sauri, Hadibandhu, Udayanath and the younger brother of Hadibandhu. The defendant Nos. 1 to 5 are the sons and wife of said Satrughna Panda. The defendant No. 6& 7 are the sons of youngest brother Sauri Panda if at all Satrughna Panda and Trilochana Panda had any share in the disputed property those have been lodged and all such right title, interest if any of them has been extinguished and perfected by adverse possession. The said Madhaba Sahu due to his open continuous, peaceful and uninterpreted possession over the suit property has been since from 22.02.1961. while the said Madhba Sahu was in such exclusive, peaceful possession over the entire area as owner thereof, he sold $\frac{1}{2}$ share of the land to an extent of Ac 0.090 decimal in favour of the plaintiff . And on receipt of valuable consideration through registered deed of sale. After death of Madhaba Sahu the deceased proforma defendant No.9 and 10 has legal hires have sold an area of Ac 0.009 decimal from the disputed plot adjacent to the earlier sold area in favour of the plaintiff for a valuable consideration. While the plaintiff's vernder purchased the suit land in the year 1961 , the settlement operation was almost over and only the

finally published R.O.R was left to be described as a result the record remained in the names of Bhramara, Sauri, Satrughna, Udayanath and Radhadibya along with Hadibandhu and Trilochana the sons of late Hare Krushna. During the last consolidation operation the plaintiff had submitted the aforesaid sale deeds before the authority and claimed for separate record in his name. Bu the consolidation authorities must illegally recorded in the names of the defendant along with the names of the plaintiff in the finally published R.O.R gave sufficient cause of action to this plaintiff to take shelter of court. Even though the plaintiff is possession the disputed property having its right, title and interest since the date purchased but the defendant by taking advantage of such wrong recording of their names in the R.O.R are now declared publicly to transfer the disputed property to some other persons on 15.06.2003 without having any right , title , interest or possession over the same.

3. The cause of action for this suit arose on 15.06.2003 when the defendant publicly stated to sell away the disputed properties. Hence the plaintiff has prayed to declared the right, title, interest of his over the disputed land along with person of a decree of confirmation of possession of his over the disputed property and a decree declaring the record of right prepared by the consolidation authorities as wrong along with confirming the possession to the plaintiff over the disputed property and to state that the plaintiff has perfected his title by way of adverse possession.

4. The defendants have neither appeared nor have filed their show cause in this case and hence were set exparte.

5. In order to prove its case the plaintiff has examined only two witnesses and has exhibited six documents . While to disprove the averments of the plaintiff the defendants has neither adduced any evidence nor exhibited any document.

6. P.W.1 who is the plaintiff in this suit has corroborated his entire plaint and P.W.2 has corroborated to the entire evidence of P.W.1 .

7. Coming into the documents filed by the plaintiff it is seen that Ext.1 is the registered sale deed No.3680 which shows that Madhaba Sahu aged about 41 years had sold to Satrughna Sahu for consideration of Rs.500 of an area of Ac 0.090decimal from Ac 0.180 decimal from Hal Khata No.154 and plot No.563. Ext.2 is the sale deed executed by Perahallad Sahu in favour of Satrughna Sahu wherein Ac 0.009 decimal was transferred to the above plaintiff. Ext.3 series is the rent receipts , Ext.4 is the Hal Sabik co-relation which shows that plot No.563 as per Sanik settlement corresponding to plot NO.668 and 669 of about Ac 0.081 and Ac 0.099 decimal respectively in Khata No.178 as per 1998 settlement. Similarly Ext.5 shows that the plot NO.633 as per 1929-30 corresponding to plot No.563 as per 1962 settlement having an area of Ac 0.180 decimal. Ext.6 is R.O.R of Khata No.178 containing plot No.668 and 669 recorded in the name of Madhusudan, Ugrasen, Prasanna, Padma Charana, Purnabasi, Krupasindhu, Trilochana, and Satrughna . All the above documents clearly shows that the plaintiff is now the actual owner over the suit land having brought from Madhaba Sahu all the documents filed by the plaintiff

clearly shows his right, title, and interest . Further more the corroborative witnesses and unchallenged evidence of P.Ws. 1&2 clearly shows that he is in possession over the suit land and that the settlement authorities have wrongly recorded the suit land in favour of the defendant. Hence in my opinion the plaintiff is entitled to a decree in this suit. Hence order.

ORDER

The suit be and the same is allowed on ex parte against the defendants but without costs. The plaintiff's right , title , interest over the suit land is hereby declared in his favour and his possession is also confirmed over the same.

**(ABHILASH SENAPATI)
CIVIL JUDGE(JR.DIV), KHURDA.**

Transcribed to my dictation, corrected and signed by me and pronounced in the open court this the 27th day of September, 2014.

**(ABHILASH SENAPATI)
CIVIL JUDGE(JR.DIV), KHURDA.**

List of witnesses examined on behalf of Plaintiff :-

P.W.1: Satrughna Sahu

P.W.2: Kashi Sethi

List of witnesses examined on behalf of Defendants. :-

NIL

List of documents proved on behalf of the Plaintiff :-

Ext.1 sale deed dtd.03.06.1980

Ext.2 sale deed dtd.06.10.95

Ext.3,3/a to3/p Rent receipts (15 sheets)

Ext.4 Hal Sabik information

Ext.5 Hal Sabik information

Ext.6 Certified copy of R.O.R

List of documents proved on behalf of the Defendants :

NIL

**(ABHILASH SENAPATI)
CIVIL JUDGE(JR.DIV), KHURDA.**