

**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 6<sup>th</sup> day of September, 2014

**C.S. 59/2004**

1. Sri Kishore Chandra Pattanaik,  
S/o: Late Govinda Chandra Pattanaik  
Vill/P.O: Mukunda Prasad, P.S/Dist: Khordha

..... Plaintiff.

-Versus-

1. Sri Padma Charan Parida  
S/o: Late Jambu Parida  
Vill: Ghusuri Sahi (Raghunath Sahi)  
College Road, Mukundaprasad  
P.O; Mukundaprasad,  
P.S/Dist: Khordha

.....Defendant

Counsel for Plaintiff      ...      Sri Akshya Kumar Das,Advocate  
& Associates

Counsel for Defendant      ...      Ex-parte

.....  
Date of Argument – 22.08.2014  
Date of Judgment – 06.09.2014  
.....

### **JUDGEMENT**

1. This is a suit filed for passing of a decree of permanent injunction against the defendant going over the suit land and from creating any disturbances in the peaceful possession of the plaintiff.

2. The plaintiffs' case in short is as follows ;

That the landed properties measuring an area of AC 0.060 decimal out of Ac 0.470 decimal from West in Khata No.70 and Khata No.71 are described as the suit land. The suit properties as per 1961-62 settlement, is recorded in the name of Kanakmali Dei. The said Kanakamali Dei died during 1998 leaving behind her, the plaintiff and other two brothers of the plaintiff. During her lifetime the said Kanakamali Dei was possessing the entire plot with her exclusive right, title, interest and payment of rent to the state. After her death the plaintiff being the son of his deceased mother possessed the suit land as son and also paid the rent for the same. The defendant having no manner of right, title, interest or possession over the suit land and having his residential house on the western side of the suit land out of greediness and mischief on 25.06.2004 along with some labourers forcibly entered inside the suit land and tried to dig plinth over the suit

land by encroaching Ac 0.020 decimal from plot No.1680 and Ac 0.040 decimal from plot No.1681. On protest by the plaintiff the defendant threatened him with dire consequences . The defendant was not successful in his ill attempt due to intervention of some village gentries. Due to such illegal action of the defendant the plaintiff on 28.06.2004 initiated the proceedings U/s.144 Cr.P.C in the court of Executive Magistrate, Khordha whereby the defendant was restrained from going over the suit land.

3. The cause of action for this suit arose on 25.06.2004 and 27.06.2004 when the defendant threatened the plaintiff to dig a plinth over the suit land. Hence the plaintiff has prayed for passing of a decree for permanent injunction against the defendants from going over the suit land and from creating any short of disturbances in the peaceful possession of the plaintiff over the suit land.

The defendant have neither appeared nor have filed their W.S in their suit hence have been set exparte.

4. In order to prove its case the plaintiffs have examined one witness as P.W.1 and has exhibited 3 documents which includes the R.O.R of Khata No.70 & 71 and rent receipts. while to disprove the averments of the plaintiff the defendants have neither adduced any evidence nor have filed any document.

5. P.W.1 who is the plaintiff in this suit has corroborated his entire plaint. He has filed three documents Ext.1 is the R.O.R of Khata No.71

which shows that the same is recorded in the name of Kanakamali Dei and that she is the recorded owner of Khata No.1680 of area of Ac 0.130 decimal. Ext.2 is of Khata No.70 containing plot No.1668 and 1681 of title of area of about Ac 0.400 decimal recorded in the name of the same Kanamala Dei. Ext.3 series is the rent receipts for Khata Nos. 70& 71 . all the above documents filed by the plaintiff clearly shows that his mother is the recorded owner of the suit land and that he has a prima facie case to succeed. Further more the defendants having not submitted his W.S , having no contested in the suit is clearly able to show that the plaintiff has a balance of convenience also in his favour . To aid to it the plaintiff in Para-4 of his plaint has stated that in order to construct a house over the suit land he had start 600-700 of and the same over it. The allegation of the plaintiff about the disturbance caused by the defendants and their threat for construction is well corroborated by P.W.1. And in absence of any contradicting evidence of the defendants it can be clearly said that the plaintiff has also been able to prove the defendants threat of encroachment. Hence the plaintiff would suffer irreparable loss and injury if relief is not granted to him. The plaintiff has also been able to prove the defendants threat of encroachment. Hence the plaintiff is for a relief in this suit. Hence ordered.

### **ORDER**

The suit be and the same is decreed on exparte against the defendants but without costs. The defendants have permanently injuncted from going over the suit land and from creating any short of

disturbances in the peaceful possession of the plaintiff 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 6<sup>th</sup> day of September , 2014.

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

List of witnesses examined on behalf of Plaintiff :-

P.W.1: Kishore Chandra Pattanaik

List of witnesses examined on behalf of Defendants. :-

None

List of documents proved on behalf of the Plaintiff :-

Ext.1 R.O.R of Khata No.71 of Mouza Mukunda Prasad

Ext.2 R.O.R of Khata No.70 of Mouza Mukunda Prasad

Ext.3 to 3/6 Rent Receipts.

List of documents proved on behalf of the Defendants :

Nil

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