

IN THE HIGH COURT OF JHARKHAND, RANCHI

M.A. No.452 of 2026

Harjit Singh, son of late Nehal Singh, aged about 67 years,
resident of B-501, Shahdeo Tower, Pee Pee Compound, PO and
PS Hindpiri, District Ranchi 834001.... Appellant

-- Versus --

Birendra Pal Singh, son of late Nehal Singh, resident of Flat
No.504B, Bansal Plaza Apartment, Station Road, PO and PS
Chutia, District Ranchi 834001 Respondent

CORAM: HON'BLE MR. JUSTICE SANJAY KUMAR DWIVEDI

For the Appellant(s) :- Mr. Amar Kumar Sinha, Senior Advocate
Ms. Shivani Jaluka, Advocate
For the Respondent :- Mr. Shresth Gautam, Advocate

2/27.08.2026 Heard Mr. Amar Kumar Sinha, the learned Senior counsel
assisted by Ms. Shivani Jaluka, the learned vice counsel appearing
on behalf of the appellant and Mr. Shresth Gautam, the learned
counsel appearing on behalf of the sole respondent.

2. Mr. Shresth Gautam, the learned counsel appearing on
behalf of the respondent submits that the counter affidavit has
already been served upon the learned counsel for the appellant,

however, the same has not been filed in the Registry as the matter was on Board.

3. In view of his such submission, the said counter affidavit is taken on record.

4. This application has been preferred by the appellant under Order XLIII Rule 1(s) read with Section 104 of the Code of Civil Procedure, 1908 being aggrieved with the order dated 22.05.2026 passed by learned Civil Judge (Senior Division XV), Ranchi, in O.S. No.780 of 2024 whereby he has been pleased to allow the application filed by the respondent under Order XL Rule 1 of the Code of Civil Procedure, 1908 for appointment of receiver.

5. Mr. Amar Kumar Sinha, the learned Senior counsel appearing on behalf of the appellant submits that the respondent /plaintiff has filed the O.S. No.780 of 2024 for partition of the property situated at Mouza Siram, Thana No.210, PS Chutia, District Ranchi, Khata No.50, Plot No.882 and 883 admeasuring an area of 6 kathas along with the multi-storied commercial building/ business standing thereon. He next submits that the appellant/defendant appeared in the said suit and filed written statement as well as the counter-claim under Order VIII Rule 6(A) of the C.P.C by way of Annexure -2 and Annexure -3 respectively.

6. He next submits that in the aforesaid background, respondent /plaintiff has filed application under Order XL Rule 1 CPC for appointment of receiver of the suit property and the business

running thereon for management, protection and preservation of the entire hotel business and collection of the profits and keeping the accounts thereof. The said application is annexed as Annexure-4 in the memo of appeal. He next submits that the suit land was purchased by the appellant, however, the respondent/plaintiff was only name lender and the entire consideration amount was also paid by the appellant. He next submits that the appellant merely allowed the name of the respondent/plaintiff in both the sale deeds. He submits that the appellant in the year 2007-08 has decided to develop the said land and since the respondent was merely a name lender and allowed the appellant to develop the land at his own cost and to his exclusive right. He further submits that there was understanding between the appellant and the respondent that the respondent has no right in the suit property and the entire consideration amount was paid by the appellant and the appellant has developed the multi-storied B+G+4 Commercial building on the said land at his own cost and started a proprietorship business in the name of M/s Hotel Swarn of which the appellant is the sole proprietor. Mr. Sinha, the learned Senior counsel further submits that the appellant is running the said business and with a wrong intention the respondent/plaintiff trying to assert the right over the said business and the suit was instituted by the plaintiff/respondent. He next submits that the registration certificate issued under the GST Act, 2017 has been issued in the name of M/s Hotel

Swarn and the appellant is proprietor thereof. He also submits that the Municipal Trade Licence issued by the Ranchi Municipal Corporation is also issued in the name of Appellant as well as the Registration Certificate issued by the Commercial Taxes Department as contained in Annexure-6 of memo of appeal.

7. Mr. Sinha, the learned Senior counsel submits that in the aforesaid background after hearing the parties the learned court by the impugned order dated 22.05.2006 has allowed the application filed by the respondent/plaintiff under Order XL Rule 1 C.P.C. for appointment of receiver erroneously. By way of placing the Order XL Rule 1 Mr. Sinha the learned Senior counsel submits that a receiver can be appointed in a suit only when the Plaintiff proves that he stands a chance to succeed in the case. He submits that the next principle is to prove some damage, loss or emergency in order to get a person appointed as a receiver. He submits that in light of the said provision, the receiver is not required to be appointed if it deprives the Defendant of de-facto possession of the property. In this background, he submits that the learned court has not appreciated this aspect and has passed the order of appointment of receiver and has issued directions to make a report which is not in accordance with law. On these grounds, he submits that the impugned order may kindly be set-set aside.

8. On the other hand, Mr. Shresth Gautam, the learned counsel appearing on behalf of the sole respondent draws the

attention of the Court to the plaint and submits that in the plaint itself in paragraph no.4, 5 and 6, it has been stated that both the parties used to reside jointly and do small hotel business in the said property along with the family members and later on it was mutually decided to get both the aforesaid six kathas of land to jointly develop into a multi-storied commercial building for the purpose of running hotel business. He next submits that the loan aspect has also been dealt in paragraph no.5 of the plaint itself and in paragraph no.6 it has been dealt that as to how many rooms for the guests are there in Hotel Swarn and in paragraph no.10 of the said plaint, further it has been stated that joint hotel business is the only source of livelihood of the plaintiff and his family members and only a meager amount was paid since last couple of years to the plaintiff. He next submits that in the written statement filed by the defendant, particularly in paragraph no.11, statement is made about taking of loan from Tata Capital Housing Finance Limited for the development of the suit property bearing loan account no.9492617 and about the payment of the E.M.I to the tune of Rs.60,376/-. Mr. Shresth Gautam, the learned counsel appearing on behalf of the sole respondent further submits that in the reply filed by the appellant to the petition of the plaintiff under Order XL Rule 1 C.P.C in paragraph no.7 it has been stated that the defendant took a loan from the said finance company and the loan amount is also same. He then draws the attention of the Court to page 38 of the counter

affidavit filed by the respondent/ plaintiff and submits that the loan number is similar in the loan application. By way of referring page 47, he submits that the signature of the co-borrower is there, that is, plaintiff, namely Birendra Pal Singh and in the schedule of the loan agreement at page 51, the plaintiff is also co-borrower along with the son. He submits that page no.58 is the sanction letter of the loan and sanction letter is also in the name of Harjit Singh and Mr. Birendra Pal Singh who are the appellant/defendant and the plaintiff/respondent and at pages 59 and 60, the name of the co-applicants are mentioned. He submits that all these documents clearly suggest that the loan is taken by the defendant and the plaintiff both and the learned court considering all these aspects has passed the order only to maintain the management of the suit property and that too, by the appellant and only a report was sought from the receiver. He submits that even the appellant-herein has not been restrained to do the business and first part of the direction is clearly on that point. He submits that once these facts are proved, prima facie, before the learned court, the learned court has rightly passed the order merely appointing the receiver and sought a report and ensure proper maintenance of income and expenditure of the business, preservation of GST records and other business records.

9. In view of the above submission of the learned counsels for the parties and after going through the materials on record, the

court finds it is an admitted position that the appellant and the respondent are own brother.

10. From the two sale deeds, it further transpires that the same is purchased by both the brothers, however, the argument has been made that the entire money has been paid by the appellant and that is the subject matter of trial. From the documents on record as well as the plaint, written statement and the reply, it also transpires that the loan was sanctioned in the name of both the brothers. The plaintiff herein has not concealed the fact that the loan was sanctioned in favour of both the brothers and that is proved in light of the documents contained at pages 38 and 51 of the counter affidavit filed by the respondent/ plaintiff whereat the loan number is similar to the loan application and in the schedule of the loan agreement at page 51, the plaintiff is also co-borrower along with his son.

11. In view of above documents, prima facie, it is proved that the loan was taken by both the brothers and even the son of the plaintiff is also there in the loan document and the learned trial court by the impugned order has directed in the following manner which are as under:

"(i) O/C to issue letter to the learned Judicial Commissioner, Ranchi for nomination/appointment of a suitable Receiver/Commissioner from the approved panel for supervision of the suit property and the hotel business being run in the name and style of 'M/s Hotel Swan'.

(ii) The defendant shall continue day-to-day operation of the

hotel business, however, the defendant shall maintain proper accounts of income and expenditure of the business from today onwards and shall preserve all GST records, bank statements, account books and other business related documents.

(iii) The defendant is further restrained from alienating, encumbering or creating any third party interest over the suit property without prior leave of this Court. Both parties are also directed not to make any structural alteration or change the nature and character of the suit property during pendency of the suit.

(iv) "The Receiver/Advocate Commissioner, upon nomination by the learned Judicial Commissioner, Ranchi, shall visit and inspect the suit property as well as the hotel business being run in the name and style of 'M's Hotel Swarm and shall submit a detailed report before this Court specifically regarding:-

(a) the present nature and physical condition of the suit property,

(b) the person(s) found in actual possession, occupation and management of the hotel business;

(c) the existing mode of operation and management of the establishment;

(d) availability and maintenance of account books, GST records, licences, bank transaction details and other business related documents;

(e) approximate nature of income generating activities being carried out from the suit premises;

(f) whether any structural alteration, transfer, encumbrance or change in nature of the property appears to have been made; and

(g) any other fact which the Receiver/Advocate commissioner may consider necessary for effective adjudication of the present dispute.

(v)The receiver/ Advocate commissioner shall be at liberty to inspect the relevant business records and both the parties shall extend full cooperation during such inspection."

12. In view of above direction of the learned court, it

transpires that the learned court has not restrained the appellant herein to run the business and maintain the said premises. The learned court by way of aforesaid direction, has only sought a report about the business, the physical condition, mode of operation, maintenance of account books, maintenance of GST records, License, Bank transactions, approximate nature of income generating activities and not to create a third-party interest.

13. In light of the above discussions, the Court finds that prima-facie the argument of Mr. Sinha, the learned Senior counsel appearing on behalf of the appellant about the condition of appointing the receiver is fulfilled as noted supra in the argument of Mr. Sinha, the learned Senior counsel appearing on behalf of the appellant. The Court finds that there is no illegality in the impugned order, and accordingly, this appeal fails, and as such, this appeal being M.A. No.452 of 2026, is, hereby, dismissed.

14. Pending petition, if any, also stands disposed of.

(Sanjay Kumar Dwivedi, J.)

Dated : 27.08.2026

SI/ **A.F.R.**