

**IN THE HIGH COURT OF JHARKHAND AT RANCHI**

**S.A. No. 135 of 2007**

State Bank of India,  
through its Branch Manager,  
Jhumritelaiya, Koderma

... .... **Appellant**

**Versus**

1. Premlata Devi
2. Baijnath Modi
3. The Secretary, Ministry of Finance, Govt. of India, New Delhi
4. The Chairman, State Bank of India, Central Office, Mumbai
5. Regional Manager, State Bank of India, Ranchi
6. M/s. Christian Mica Industries Ltd.

... .... **Respondents**

... ... **Proforma Respondents**

**With**

**S.A. No. 165 of 2007**

M/s Christian Mica Industries Ltd. through its Special Officer Arun Kumar  
Agarwala, Kolkata,  
West Bengal

... .... **Appellant**

**Versus**

1. Smt. Premlata Devi
2. Baijnath Modi
3. The Secretary, Ministry of Finance, Govt. of India, New Delhi
4. The Chairman, State Bank of India, Central Office, Mumbai
5. Regional Manager, State Bank of India, Regional Office, Ranchi
6. Branch Manager, State Bank of India, Jhumritelaiya, Koderma
7. State Bank of India, Jhumritelaiya Branch, Telaiya, Koderma

.... .... **Respondents**

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**CORAM: HON'BLE MR. JUSTICE GAUTAM KUMAR CHOUDHARY**  
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**In SA 135/07**

For the Appellants : M/s Rajesh Kumar, Amit Kumar  
& M.K. Sinha, Advocates

For Respondents : M/s Manjul Prasad, Sr. Advocate  
& Srijit Choudhary, Advocate

**In SA 165/07**

For the Appellants : M/s Indrajit Sinha, Advocate

For Respondents : M/s Manjul Prasad, Sr. Advocate  
& Srijit Choudhary, Advocate

**C.A.V. ON 28.03.2022**

**PRONOUNCED ON 05 / 05 /2022**

1. The M/s Christian Mica Industries Ltd (D6) and State Bank of India (D2-5) have preferred S.A. No. 165 of 2007 and S.A. No. 135 of 2007 respectively against the judgment of reversal passed in Title Appeal No. 8 of 2006 whereby and whereunder the Judgment and decree of dismissal of Title Suit No. 35 of 2001 was set aside and the suit of the plaintiffs was decreed.

2. Defendant no.6 is the contesting defendant claiming title over the suit property, but had been impleaded as proforma defendant.
3. State Bank of India was impleaded in the suit as tenant with a prayer for ejection.
4. Both the appeals have been heard together and shall be disposed of by common judgment of this Court.
5. The plaintiffs filed suit for declaration of right, title and interest over suit property and further for a decree of eviction against defendant Bank from the suit premises besides decree for realization of rent till vacation of the suit premises along with cost of the suit.
6. The case of the plaintiff in brief is that the suit property comprising of building land under C.S. Khata Nos. 76 and 292 bearing Plot No. 3263 corresponding to Revisional Survey Khata Nos. 130 & 131 bearing Plot Nos. 7394, 7401/ 7884, 7402/7882, 7402/7732 total area 1.98 acres within village Telaiya, P.S. Telaiya, District Koderma belonged to the Company M/s. Christian Mica Industries Limited (proforma defendant no.6) and the said Company by virtue of Agreement dated 22.10.1961 put Premlata Devi in possession of the aforesaid land and conveyed all right, title and interest to her. Defendant no.6 had no concern with the suit property thereafter. The further case is that during the revisional survey the aforesaid land under agreement was wrongly recorded in the name of Company (Defendant no.6) and having come to know about such mistake, plaintiff No. 1 filed a case under Section 90 of the C.N.T. Act being Case No. 6354/1970 and after thorough enquiry the Revenue Authority corrected the mistake. This order was never challenged and it attained finality. Further, under Land Ceiling Act the Government acquired excess land of the company including the suit property along with other property under the agreement. Whereupon plaintiff No. 1 raised objection with a prayer for release of her own land measuring an area of 1.98 acres and then after enquiry vide Case No. 8/1984 the Additional Collector, Land Ceiling, Hazaribag vide Order dated 27.08.1984 released the same in favour of plaintiff No. 1 and the Defendant no.6 never put claim upon the land. It is further pleaded that the plaintiff No. 1 exercising various acts of possession and right, sold portion of the acquired land to different person through registered sale deed and now they are in possession of their respective purchased land. One Rameshwar Dayal Gupta claiming himself tenant of a quarter, being portion of acquired property filed

a case before the S.D.M., Koderma alleging cheating and forgery against the plaintiffs but failed to substantiate the charges and the said case was dismissed. The suit property is part and parcel of the acquired property which was let out by M/s. Christian Mica Industries Ltd to State Bank of India, Jhumritelaiya Branch and since 1961 plaintiff No. 1 became owner of the suit property on transfer of the property by M/s. Christian Mica Industries Ltd. and she is paying rent to the State after mutation. It is also averred that Premlata Devi perfected her title by prescription and adverse possession, hostile to the title of M/s. Christian Mica Industries Ltd. It is further submitted that in the year 1987-88, the Branch Manager, State Bank of India, Jhumri Telaiya entered into an oral agreement with the plaintiff wherein it was decided that the Bank shall pay Municipal Tax in the name of Premlata Devi and the amount shall be adjusted in monthly rent amounting to Rs.800/- and the Bank also promised to enhance monthly rent as per prevailing rate after consultation with senior officials but though the Bank began to pay Municipal tax but did not finalise monthly rent and delayed the matter on some pretext or other and then the plaintiff filed a case before the House Rent controller vide H.C. Case No. 5 / 01 which is still pending with direction to pay rent at old rate but has defaulted by not paying rent for two consecutive months. It has also been submitted that the House Rent Controller has determined the monthly rent at the rate of Rs.13,850/- per month which the Bank is liable to pay. The respondent / plaintiff has submitted that the plaintiffs required the suit house for her bonafide use and occupation as she is residing in a very small ancestral house having no other suitable accommodation and besides this, plaintiff's son Alok Modi is required to be settled in business as he is unemployed and hence the Bank was requested to vacate the house and to pay the due rent but nothing was done and thus the plaintiffs served a notice under Section 80 of the Code of Civil Procedure on 19.03.2001 to vacate the house and to clear the entire dues within two months to which the Bank made an evasive reply disputing plaintiff's title, hence the suit.

7. Out of the six defendants, defendant No. 1 did not turn up and the suit proceeded ex parte against him. Defendant Nos. 2, 3, 4 & 5 on behalf of the Bank have filed their joint written statement and defendant No. 6 has filed his own written statement.

8. It is the case of defendant Nos. 2 to 5 that the suit is not maintainable as the plaintiff has no right upon the suit property and the suit suffers from non-joinder of necessary party as the special officer under liquidation proceeding appointed by the Calcutta High Court has not been added as a party and the suit is hit by the principles of estoppel and acquiescence and there is no cause of action for the present suit and also the suit is barred by the Law of Limitation. Defendant Nos. 2 to 5 have admitted that the suit property belongs to defendant No. 6 and they happen to be the tenant of defendant No. 6 since 26.09.1959 and they are paying the rent accordingly. The Bank has constructed boundary wall, vehicle stand, flag hoisting platform and Iron Gate. Defendant No. 6 had borrowed substantial sum of money from Punjab National Bank, Brabourne Road, Calcutta against which a registered mortgage deed was executed in favour of Punjab National Bank on 08.04.1970 and the suit property were also included in the said mortgage and the Punjab National Bank filed two suits, one title mortgage suit where the right of Punjab National Bank was sought to be enforced over all the property of the Company and another being Money Suit before the Hon'ble Calcutta High Court, which is still pending and vide Order dated 12.12.1991, the Hon'ble High Court, Calcutta passed an order on Company Petition No. 117/1979 appointing Mr. A.K. Agrawal and Mr. A.C. Kar as Special Officer to look after and manage the affairs of the Company and accordingly rent for the suit premises had been paid to the Special Officer till September, 1992. It has further been pleaded that upon receipt of notice from Jhumritelaiya Municipality, the Bank paid tax as also for the constructed area for the period 1993-94 to 2001-02 on behalf of the landlord and obtained Municipal receipts. These defendants have shown their ignorance about alleged agreement for sale as also with record of entry in the records of right and release of suit property besides other land in a Land Ceiling proceeding. These defendants have denied that the Bank entered into any oral agreement with the plaintiffs and promised to pay Municipal tax or to enhance monthly rent up to consultation with senior officials and to pay monthly rent after adjusting the amount against that. These defendants have admitted the fact alleging filing of H.C. Case No. 5 /01, but it is pleaded that the Bank filed its show cause denying relationship of landlord and tenant.

9. It has further been pleaded that the bank had not defaulted in paying rent and as such is not liable for eviction. These defendants have denied that the Bank paid Municipal Tax in the name of plaintiff and it is pleaded that the notice served upon the defendants was suitably replied. These defendants have specifically denied that the plaintiffs are the landlord and they have any cause of action for the relief sought for and has prayed for dismissal of the suit with exemplary cost.

10. That the defendant No. 6 on behalf of the Company in his written statement besides contesting the case of the plaintiff by taking legal pleas has specifically pleaded that the defendant company never sold or entered into agreement of sale with respect to the suit property from the plaintiff or received any amount from them. The plaint does not disclose the consideration amount for which the agreement was entered nor the party on behalf the answering defendant who entered into the said agreement. There is no reference to any resolution of the Board of directors which had approved of the said sale. It has also been denied that no registered conveyance was ever made by the company for the alleged sale of the land in question and that the plaintiff became active after the winding up order of the defendant-company made by the Hon'ble High Court, Calcutta in the year 1979. This defendant denied that the defendant-company put Premlata Devi in possession conveying right, title and interest by purported agreement dated 22.10.1961 and there is no evidence of alleged payment or any registered document or conveyance. It has also been submitted with regard to the alleged entry in the record of right that no summons were served either upon defendant-company or official liquidator and if there is any such purported order obtained fraudulently then the same is bad in law. This defendant has denied that it had any excess land as because the Punjab National Bank is claiming mortgage right over the entire landed property and in such event Land Ceiling Act cannot apply and during the period referred to the defendant company was in liquidation and has denied that the plaintiffs have perfected any title as alleged and has, therefore, prayed for dismissal of the case.

11. The learned trial Court on the basis of the pleadings of the parties and after going into the evidence on record framed the following main issues mentioned herein below:

- i. Is the suit maintainable as framed?

- ii. Is the suit barred by law of limitation, acquiescence waiver and estoppel?
- iii. Whether plaintiff has any cause of action to sue the defendants?
- iv. Whether plaintiff has right, title, interest or possession in respect of suit land?
- v. Does the suit suffer from non-joinder and mis-joinder of parties?
- vi. Whether the plaintiff is entitled to get from the defendants vacated possession from the suit property?
- vii. Whether the plaintiff is entitled to receive the rent as claimed?
- viii. Are the plaintiffs entitled to the claimed relief/reliefs?
- ix. To what other relief or reliefs the plaintiffs are entitled to?

12. Learned trial Court dismissed the suit of the plaintiff on the ground that the plaintiff failed to adduce into evidence any document of title in support of their claim. The claim of title was based on agreement to sell, said to be made by the defendant in favour of the plaintiff no.1, but the said document was not adduced into evidence. The certified copy of the agreement to sell that had been brought on record, could not be marked as exhibit for want of legal requirement. The learned Trial Court disbelieved this document as it bore new khata and plot numbers which were not even available when the agreement is purported to have been entered. These plot numbers were created in the revisional survey and the record of right was published on 25.7.1966 and its certificate was signed on 2.3.1967 much after 22.10.1961. There was no pleading or evidence regarding payment of consideration amount. It has also been noted that agreement to sell did not conclude in a registered deed of sale. In the absence of evidence of conveyance of title, subsequent claim of right title and interest had no basis. The trial Court noted that without foundational document of title entries made in the revisional survey record of right, release of the agreement of sale by Addl. Collector (land ceiling, Hazaribag) or payment of rent is of no consequence. The order passed in Case no. 6354/70 upon objection under Section 90 of the C.N.T Act was passed ex parte without service of notice on defendant no.6. Similarly, the order in Ceiling Case No. 8/84 was passed without service of notice upon defendant no.6. All these orders were passed by the revenue courts in the teeth of the order of the High Court of Calcutta passed in Company petition no. 117/1979 on 12.12.91 from which it was apparent that defendant company was in liquidation since 1973 and Sri Arun

Kumar Agarwal and Sri A.C Kar had been appointed as official liquidators and were given charge of the property. The trial Court also took note of the evidence that the defendants in the premises including the Bank recognized defendant no.6 as the land lord and paid rent to company and not to the plaintiffs.

13. The learned First Appellate Court after hearing the parties and going through the materials available on record has come to the conclusion that Premlata Devi acquired valid right, title and interest over the suit property by adverse possession to the knowledge of defendant No. 6 and hence entitled for a decree as claimed by the plaintiff. The evidence of revenue records have been proffered as evidence of possession in favour of plaintiff. The evidences referred to are Ext 2 order passed in case no.6354/70 on 9.7.84 regarding entry of Premlata Devi in revenue records with respect to 1.98 acres of land. On the basis of different orders passed by the revenue officers like that in ceiling case, mutation case and being paid on behalf of the plaintiff number one was accepted as a conclusive evidence of title and adverse possession. His subsequent sale deeds executed by plaintiff no.1 with respect to part of the suit land to different persons was act of possession. On these evidences it has been concluded in para-24 of the judgment that plaintiff no.1 had acquired occupancy right and valid right title and interest over the suit property.

14. The appeal has been admitted to be heard on the following substantial questions of law:

- i. *Whether the Court of appeal below has committed serious error of law in reversing the judgment and decree passed by the trial Court?*
- ii. *Whether on the basis of declaration of title of plaintiff-respondent a decree for eviction should have been passed against the appellant?*

15. It is argued on behalf of the appellant Bank that premises has already been vacated and the Bank has shifted to other premises, therefore, the cause of action does survive against it.

16. It is argued on behalf of the appellant contesting defendant 6 that the learned court of first appeal has committed a gross error of fact and law while reversing the well discussed and reasoned Judgment of the trial court. The appellate court has totally banked on the entries in the revenue records which were made after the company went into liquidation, to record a finding of title in favour of the plaintiff. These entries were made in ex-

parte proceedings drawn against defendant no.6 and could not have been the basis of title. The claim of title has been made on the basis of a forged and fictitious which has not even been adduced before the trial Court as evidence. The falsity of claim is exposed by the plot numbers shown in the said agreement to sell produced before the Court but never proved.

17. On the other hand, the counsel on behalf of the respondent has defended the judgment passed by the first court of appeal. It is argued that there is clinching documentary to the evidence of continuous and hostile possession in favour the plaintiffs and there was no error in findings recorded by the learned appellate court. ***Ravinder Kaur Grewal v. Manjit Kaur, (2019) 8 SCC 729*** : “53. Law of adverse possession does not qualify only a defendant for the acquisition of title by way of adverse possession, it may be perfected by a person who is filing a suit. It only restricts a right of the owner to recover possession before the period of limitation fixed for the extinction of his rights expires. Once the right is extinguished another person acquires prescriptive right which cannot be defeated by re-entry by the owner or subsequent acknowledgment of his rights. In such a case suit can be filed by a person whose right is sought to be defeated”.

18. A suit for declaration of title can be based on either possessory title or proprietary title. When a claim of title is made on the basis of adverse possession or ouster there need to be specific averment in the pleading in that regard on the ownership prior to the commencement of adverse possession; and continuous conduct thereafter. The proprietary title can devolve by a method known to law such as inheritance, testamentary succession, registered sale or gift deed which needs to be specifically pleaded and proved. The source of title along with the chain of title, is needed to be pleaded in the plaint along with the documents enclosed with the plaint in terms of Order 7 R 14 of the Code of Civil Procedure.

19. The admitted position of the plaintiff is that the suit land originally belonged to the defendant company (D 6). The claim of title of the plaintiff is based on an agreement to sell executed by the company and it is asserted in para one that the said agreement conveyed all right, title and interest to plaintiff no.1 by it. The very claim of conveyance of title by an agreement to sell is fallacious, unless it is followed by registered deed of sale. There is no further details in the pleading regarding the person by whom the said agreement was executed and for what consideration amount it

was entered into. This agreement to sell which is the foundation of the claim of the plaintiff has not been proved during trial so as to be read into evidence. The trial Court notes that to certified copy of agreement to sell was produced, had plot numbers mentioned therein of the revisional survey of 1967, whereas the agreement to sell purported to be of the year 1961. This showed that the agreement was ante-dated and manufactured much after the date when it was claimed to have been made. For reasons best known to the plaintiff, the agreement to sell was not formally proved. Thus, the very document on which the edifice of title has been raised, remained elusive and unsubstantiated during trial.

20. The second limb of claim of title hinges on possession. It has been pleaded that after the agreement with the defendant Company the title was conveyed, the plaintiff entered into possession. The main evidence of possession is as under:

- I. Revisional survey record of right in the name of defendant company was removed and the name of plaintiff no.1 was entered by the objection of the plaintiff under Section 90 of the C.N.T Act in case no. 6354/1970 (Ext 2). The trial Court has noted that order was passed in this case without service of notice on defendant no.6 and proceeding was heard ex-parte.
- II. The 1.98 acre of land claimed by the State govt. under the ceiling Act was released in favour of the plaintiff no.1 vide Case No. 8/1984 (Ext. 2/A). The trial Court has noted that no notice was issued in this case on defendant Company.
- III. Mutation order passed in favour of the plaintiffs Exts. 2/B to 2/D.
- IV. Part of the suit land has been transferred by plaintiff to different parties by registered sale and gift deeds (Exts. 8 to 9).

21. Before proceeding further it will be necessary to examine the principles of claim of title based on possession. Hon'ble Supreme Court observed in *Maria Margarida Sequeira Fernandes v. Erasmo Jack de Sequeira*, (2012) 5 SCC 3

“62. Possession is an incidence of ownership and can be transferred by the owner of an immovable property to another such as in a mortgage or lease. A licensee holds possession on behalf of the owner.

63. Possession is important when there are no title documents and other relevant records before the court, but, once the documents and records of

title come before the court, it is the title which has to be looked at first and due weightage be given to it. Possession cannot be considered in vacuum.

**64.** There is a presumption that possession of a person, other than the owner, if at all it is to be called possession, is permissive on behalf of the titleholder. Further, possession of the past is one thing, and the right to remain or continue in future is another thing. It is the latter which is usually more in controversy than the former, and it is the latter which has seen much abuse and misuse before the courts.

**67.** In an action for recovery of possession of immovable property, or for protecting possession thereof, upon the legal title to the property being established, the possession or occupation of the property by a person other than the holder of the legal title will be presumed to have been under and in subordination to the legal title, and it will be for the person resisting a claim for recovery of possession or claiming a right to continue in possession, to establish that he has such a right. To put it differently, wherever pleadings and documents establish title to a particular property and possession is in question, it will be for the person in possession to give sufficiently detailed pleadings, particulars and documents to support his claim in order to continue in possession.

**70.** It would be imperative that one who claims possession must give all such details as enumerated hereunder. They are only illustrative and not exhaustive:

- (a) who is or are the owner or owners of the property;
- (b) title of the property;
- (c) who is in possession of the title documents;
- (d) identity of the claimant or claimants to possession;
- (e) the date of entry into possession;
- (f) how he came into possession—whether he purchased the property or inherited or got the same in gift or by any other method;
- (g) in case he purchased the property, what is the consideration; if he has taken it on rent, how much is the rent, licence fee or lease amount;
- (h) If taken on rent, licence fee or lease—then insist on rent deed, licence deed or lease deed;
- (i) who are the persons in possession/occupation or otherwise living with him, in what capacity; as family members, friends or servants, etc.;

(j) subsequent conduct i.e. any event which might have extinguished his entitlement to possession or caused shift therein; and

(k) basis of his claim that not to deliver possession but continue in possession”. conveys any title

In *Raheja Universal Ltd. v. NRC Ltd.*, (2012) 4 SCC 148 it has been held that an agreement of sale or possession obtained by the transferee does not convey any title or creates any charge neither Section 54 nor Section 53 A of the Transfer of Property Act. Their Lordships observed:

“100. Section 54 defines “sale” as a transfer of ownership in exchange for price paid or promised or part-paid and part-promised. Such a transfer of tangible immovable property of the value of Rs 100 and upwards can be made only by a registered instrument. The “contract for sale” has been explained under this very provision as follows:

“*Contract for sale.*—A contract for the sale of immovable property is a contract that a sale of such property shall take place on terms settled between the parties.

It does not, of itself, create any interest in or charge on such property.”

Thus, on a plain reading of the statutory provisions, it is clear that an agreement for sale or an agreement to sell itself does not create any interest or charge in such property.

101. Mulla on *Transfer of Property Act*, 9th Edn., p. 181, clearly states that Section 54 enacts that an agreement for the sale of land does not itself create an interest in land.

106. The provisions of Section 53-A of TPA 1882 recognise a right of a transferee, where a transferor has given and the transferee has taken possession of the property or any part thereof. Even this provision does not create title of the transferee in the property in question but gives him a very limited right, that too, subject to the satisfaction of the conditions as stated in Section 53-A of TPA 1882 itself’.

22. The very claim that title was conveyed by the agreement to sell is misconceived, misleading and fallacious. Ironically as discussed above, even the agreement to sell has not been adduced into evidence and whatever document that was produced before the trial Court, had all the hallmark of being forged and fabricated, and for obvious reason was not proved before the Court. Any entry made in the revenue records based on the fictitious agreement to sell has no value in the eye of law.

23. It is argued on behalf of the plaintiffs that they had perfected title by adverse possession. Reliance in this regard is placed on *Ravinder Kaur Grewal v. Manjit Kaur*, (2019) 8 SCC 729 wherein it has been held “53. Law of adverse possession does not qualify only a defendant for the acquisition of title by way of adverse possession, it may be perfected by a person who is filing a suit. It only restricts a right of the owner to recover possession before the period of limitation fixed for the extinction of his rights expires. Once the right is extinguished another person acquires prescriptive right which cannot be defeated by re-entry by the owner or subsequent acknowledgment of his rights. In such a case suit can be filed by a person whose right is sought to be defeated”.

It has been further laid down the three classical requirements in this case for adverse possession.

60. The adverse possession requires all the three classic requirements to co-exist at the same time, namely, *nec vi* i.e. adequate in continuity, *nec clam* i.e. adequate in publicity and *nec precario* i.e. adverse to a competitor, in denial of title and his knowledge. Visible, notorious and peaceful so that if the owner does not take care to know notorious facts, knowledge is attributed to him on the basis that but for due diligence he would have known it. Adverse possession cannot be decreed on a title which is not pleaded. *Animus possidendi* under hostile colour of title is required. Trespasser's long possession is not synonymous with adverse possession. Trespasser's possession is construed to be on behalf of the owner, the casual user does not constitute adverse possession. The owner can take possession from a trespasser at any point in time. Possessor looks after the property, protects it and in case of agricultural property by and large the concept is that actual tiller should own the land who works by dint of his hard labour and makes the land cultivable. The legislature in various States confers rights based on possession”.

24. Here in the present case I am of the view that the plaintiffs have failed to prove title on the basis of adverse possession for the reasons stated below.

**Firstly**, the plaintiffs in their pleadings have not acknowledged the title of defendant Company (D6), rather claimed that the title of the property was conveyed by agreement to sell.

**Secondly**, the State Bank of India (D2 to D5) which was inducted by defendant Company (D6) as tenant in the building standing on the part of suit property, has taken a consistent stand in the pleading that the rent was not being paid to the plaintiff, but to the special officer appointed in the liquidation proceeding. The actual physical possession has not been proved in favour of the plaintiffs.

**Thirdly**, entry in revenue records is not a conclusive evidence of possession. As stated earlier any entry obtained on the basis of the agreement to sell that has never been produced before the court for judicial scrutiny cannot be considered as evidence of possession. Hon'ble Supreme Court in *Uttam Chand v. Nathu Ram*, (2020) 11 SCC 263 held that the payment of tax and mere possession for some years was found insufficient to claim adverse possession.

**Fourthly**, the Hon'ble High Court, Calcutta passed an order on Company Petition No. 117/1979 appointing Mr. A.K. Agrawal and Mr. A.C. Kar as Special Officer to look after and manage the affairs of the Company and, accordingly, rent for the suit premises had been paid to the Special Officer up to September, 1992. Ext. B is the order of Calcutta High Court on 12.12.91 which shows that the Company was in liquidation since 1973. The possession of the suit property was with the official liquidator.

25. The learned court of first appeal committed gross error in fact and law to reverse the well-reasoned judgment of the trial Court without assigning any reason for the same. The appellate court failed to formulate points for determination as per the mandate of order 41 rule 31 and declared the title and ordered eviction of the Bank from the suit premises only on the basis of entries made in revenue records and the order passed by revenue court which are neither evidence of title. The appellate court in a declaratory suit for title, decreed the suit without any specific pleading of proof of title. An agreement to sell, in any case cannot convey title, unless and until a deed of sale was executed on its basis. For the reasons discussed above the claim of title on the basis of possession is riddled with infirmities and is not sustainable.

26. In view of the above discussion the first substantial question of law is answered in favour of the appellant defendants that the appellate Court committed gross error of fact and law to reverse the Judgment and decree of trial Court without assigning any cogent reasons.

27. The second substantial question of law is answered in favour of defendant nos.2 to 5, as the appellate Court decreed the suit in favour of the plaintiff without any valid proof title or landlord- tenant relationship in its favour accordingly the order of eviction was perverse.

The judgment and decree passed by the court of first appeal is perverse and is therefore set aside. The Judgment of the trial Court is restored in view of the observations made above.

**Both the appeals are allowed with cost. Cost assessed to Rs.1,00,000/- through out to be paid to defendant no.6.**

Consequently, I.A. No. 6997 of 2015 of S.A. No. 135 of 2007 stands disposed of.

Before parting, it is necessary to take note of certain features of claim of title made by plaintiffs in the present suit which occupied more than two decades of the judicial time and resources of the civil, the revenue, appellate and this Court. The claim of title was based on an agreement to sell which though not formally adduced into evidence, was marked as X for identification by the trial court. The trial court has noted that this document bore plot numbers which were not even in existence when the agreement to sell was purported to be made. The said plot numbers were allotted in the survey settlement published after 1966, whereas the agreement is said to be of the year 1961. From this it appears that the plaintiffs brought a civil action founded on a forged and fabricated document which was withheld and not formally adduced into evidence to save themselves from the consequences of perjury. It was also a false claim of title to the property. The plaintiffs not only brought a false claim in courts of law which is an offence under Section 209 of the I.P.C, they also sold part of the suit property to different persons on the basis of claim of title.

Under the aforesaid facts and circumstances, I deem it expedient in the interests of justice to direct a preliminary enquiry under section 340 of the Cr.P.C. by the Court of Sub Judge-II, Koderma against the plaintiffs of this case and to proceed in accordance with the law.

**(Gautam Kumar Choudhary, J.)**

Jharkhand High Court, Ranchi

Dated the 5<sup>th</sup> May, 2022

AFR / Anit