

IN THE HIGH COURT OF JUDICATURE AT PATNA
FIRST APPEAL No.876 of 1970

1. Vishwanath Singh (**Deceased**)
Son of Lotan Singh, resident of village- Dharampur Jadu alias Chapra, PS- Kanti, District- Muzaffarpur.
- 1(a) Uma Shankar Prasad Singh, son of Vishwanath Singh, resident of village- Dharampur Jadu alias Chapra, PS- Kanti, District- Muzaffarpur.
- 1(b) Smt. Mithlesh Devi (**Deceased**)
Daughter of Vishwanath Singh, wife of Tarkeshwar Pd. Singh, resident of village + PO- Dighra Rampur Sah, PS- Sadar, District- Muzaffarpur.
- 1(b)(i) Gobind Kumar Singh, son of Tarkeshwar Prasad Singh.
- 1(b)(ii) Nikee Kumari, daughter of Tarkshwar Prasad Singh, both resident of village + PO- Dighra Rampur Sah, PS- Sadar, District- Muzaffarpur.
- 1(b)(iii) Smt. Shabnam Kumari, daughter of Tarkeshwar Prasad Singh, wife of Rajesh Tiwari, resident of village- Muhamadpur Maksudan (Parsa) PO- Barna Basghat, PS- Sahebganj, District- Muzaffarpur.
- 1(c) Smt. Mina Devi, daughter of Vishwanath Singh, wife of Sunil Kumar Sahi, resident of village+PO+PS- Baruraj, District- Muzaffarpur.
- 1(d) Smt. Shashi Devi, Daughter of Vishwanath Singh, wife of Shyam Prakash Singh, resident of village- Chhajan Harishankar, PO- Turki, PS- Kudhani, District- Muzaffarpur.

... .. Appellant/s

Versus

1. Bisheshwar Prasad Singh (**Deceased**)
Son of Lotan Singh, resident of village- Dharampur Jadu alias Chapra, PS- Kanti, District- Muzaffarpur.
- 1(a) Ratan Shankar Prasad Singh,
- 1(b) Ravi Shankar Prasad Singh, both sons of Bisheshwar Prasad Singh, both resident of village- Dharampur Jadu alias Chapra via Kalwari, PS-Kanti, District- Muzaffarpur
- 1(c) Rita Kumari, daughter of Bisheshwar Prasad Singh, wife of late Sanjay Kumar, resident of village + PO- Bhoraha, PS- Dumri, District- Sheohar, at present resident of Mohalla- Gobarsahi Chauk, Near Railway Gumti No.04, New Professor Colony, PO- Bhagwanpur, PS- Sadar, District- Muzaffarpur
2. Ramashankar Prasad Singh, son of Bisheshwar Prasad Singh, resident of village- Dharampur Jadu alias Chapra via Kalwari, P.S.- Kanti, District- Muzaffarpur.
3. Uma Shankar Prasad Singh, son of Vishwanath Singh (Transposed as Appellant no. 1(a) vide order dated 04.09.2013.
4. Rajdulari Devi (**Deceased**),
Daughter of Lotan Singh, wife of Agraseth Singh, resident of village- Sugahi, PS- Paru, District- Muzaffarpur.
- 4(i) Chandra Bhusan Singh (**Deceased**)
son of Agraseth Singh, resident of village- Sugahi, PS- Paru, District- Muzaffarpur
- 4(i)(a) Manju Sinha, wife of Chandra Bhusan Singh,



- 4(i)(b) Manoranjan Kumar, son of Chandra Bhushan Singh,
- 4(i)(c) Khushboo Ranjan, daughter of Chandra Bhushan Singh,
All resident of village- Sugahi, PO- Bhagwatpur, PS- Paru, District-
Muzaffarpur.
- 4(ii) Shashi Bhusan Singh, son of Agraseth Singh, resident of village-
Sugahi, PS- Paru, District- Muzaffarpur.
- 5. Lalpari Devi **(Deceased)**
Widow of Lotan Singh, resident of village- Dharampur Jadu alias, PS-
Kanti, District- Muzaffarpur
- 5(a) Smt. Sita Sinha, daughter-in-law of Lalpari Devi (Name expunged
vide order dated 27.09.2022)
- 6. Darbari Singh **(Deceased)**
Son of Lotan Singh, resident of village- Dharampur Jadu alias Chapra
via Kalwari, P.S.- Kanti, District- Muzaffarpur.
- 6(a) Rajdeo Prasad Singh **(Deceased)**
Son of Darbari Singh, resident of village- Dharampur Jadu alias
Chapra, P.S.- Kanti, District- Muzaffarpur.
- 6(a)(i) Smt. Manju Devi, widow of late Shiv Shankar Prasad Singh, pre-
deceased son of Late Rajdeo Prasad Singh.
- 6(a)(ii) Chandra Prakash alias Chandan, son of late Shiv Shankar Prasad
Singh,
- 6(a)(iii) Jay Prakash alias Pintu, son of late Shiv Shankar Prasad Singh,
- 6(a)(iv) Daya Prakash alias Pinku, son of late Shiv Shankar Praad Singh,
- 6(a)(v) Smt. Deeva Devi, widow of Late Gauri Shankar Prasad Singh, pre-
deceased son of late Rajdeo Prasad Singh,
- 6(a)(vi) Manish Kumar, son of late Gauri Shankar Prasad Singh,
- 6(a)(vii) Raja Babu, son of late Gauri Shankar Prasad Singh,
Respondent nos. 6(a)(i) to 6(a)(vii) are the resident of village-
Dharampur Jadu alias Chapra, P.S.- Kanti, District- Muzaffarpur.
- 6(a)(viii) Smt. Ashmita Kumari, daughter of late Gauri Shankar Prasad Singh,
wife of Abhishek Kumar, resident of village + PO- Bahilwara
Gobind, PS- Saraiya, District- Muzaffarpur
- 6(a)(ix) Smt. Mani Kumai, daughter of late Gauri Shankar Prasad Singh, wife
of Chandan Kumar, resident of village- Kuari, PO- Madaul, PS-
Saraiya, District- Muzaffarpur
- 6(b) Bhubneswar Prasad Singh **(Deceased)**
son of Darbari Singh, resident of village- Dharampur Jadu alias
Chapra, P.S.- Kanti, District- Muzaffarpur.
- 6(b)(i) Nirmala Devi, wife of Bhubneswar Prasad Singh, resident of village-
Dharampur Jadu alias Chapra, P.S.- Kanti, District- Muzaffarpur.
(Name expunged vide order no.48 dated 21.09.2023)
- 6(b)(ii) Neha Kumari, daughter of Baijnath Prasad, wife of Chandan Kumar,
resident of village- Gajpati, PO- Chapra Megh, PS- Maniyari,
District- Muzaffarpur.
- 6(c) Neelam Devi, daughter-in-law of Darbari Singh, resident of village-
Dharampur Jadu alias Chapra, P.S.- Kanti, District- Muzaffarpur.
- 6(d) Smt. Jaya Devi **(Deceased)**
Daughter of Darbari Singh, wife of Ganesh Prasad Singh, resident of
village- Bhelaipur, PO- Bishunpur, P.S.- Minapur, District-
Muzaffarpur
- 6(d)(i) Brij Kishor Singh, son of Ganesh Prasad Singh, resident of village-
Chakbajo, PO- Saraiya, PS- Lali Chapra, District- Muzaffarpur



- 6(e) Smt. Sushila Devi (**Deceased**)
Daughter of Drbari Singh, wife of Baijnath Prasad, resident of village- Chakbajo, PO- Saraiya, PS- Lali Chapra, District- Muzaffarpur.
- 6(e)(i) Gyanendra Kumar Singh @ Amod Kumar,
6(e)(ii) Dharmendra Kumar Singh @ Fudu Kumar, both are son of Baijnath Prasad, resident of Chakbajo, PO- Saraiya, PS- Lali Chapra, District- Muzaffarpur.
- 6(f) Rambedi Devi, daughter of Darbari Singh, wife of Umesh Prasad Singh, resident of village + PO- Dighra Rampur Sah, PS- Sadar, District- Muzaffarpur
7. Chandrika Singh (**Deceased**)
son of Ballam Singh, resident of village- Dharampur Jadu alias Chapra via Kalwari, P.S.- Kanti, District- Muzaffarpur
- 7(a) Kameshwar Prasad Singh, son of Chandrika Singh,
7(b) Hari Shankar Prasad Singh, son of Chandrika Singh,
7(c) Sunil Prasad Singh, son of Chandrika Singh,
7(d) Mostt. Shanti Kumari, wife of Rajeshwar Prasad Singh, pre-deceased son of late Chandrika Singh
Respondent nos. 7(a) to 7(d) are the resident of village+ PO- Dharampur Jadu alias Chapra via Kalwari, P.S.- Kanti, District- Muzaffarpur
- 7(e) Smt. Baban Devi, daughter of Chandrika Singh, wife of Baijnath Mishra, resident of village- Kapanpura, PO- Chapra, PS- Kanti, District- Muzaffarpur.
- 7(f) Lalan Devi (**Deceased**)
Daughter of Chandrika Singh, wife of late Surendra Singh, resident of village- Bhurkurwas, Anchal- Mahesi, PO- Rajepur, PS- Rajepur, District- Motihari.
- 7(f)(i) Bipin Kumar, son of deceased
7(f)(ii) Chunchun Kumar, son of deceased
Both resident of village- Bhurkurwas, Anchal- Mahesi, PO- Rajepur, P.S.- Rajepur, District- Motihari.
- 7(f)(iii) Smt. Baby Kumari, daughter of the deceased,
Wife of Lakhendra Thakur, resident of village- Manpura, PO- Birchi, PS- Baruraj, District- Muzaffarpur.
- 7(f)(iv) Smt. Mamta Kumari, daughter of the deceased
Wife of Santosh Shukla, resident of village- Nariyar, PO- Kanti, PS- Motipur, District- Muzaffarpur.
- 7(f)(v) Smt. Chanda Kumari, daughter of the deceased
wife of Alok Chaudhary, resident of village- Bishanpura, PO- Kamalpur Bithraul, PS- Baruraj, District- Muzaffarpur
- 7(f)(vi) Smt. Bulbul Kumari, daughter of the deceased
wife of Subodh Mishra, resident of village+PO- Medan Shrishiya, PS- Sahebganj, District- Muzaffarpur
- 7(g) Smt. Munni Devi, daughter of Chandrika Singh, wife of Rameshwar Prasad Singh, resident of village+PO- Bhilwara Govind, PS- Saraiya, District- Muzaffarpur
- 7(h) Smt. Sunita Devi, daughter of Chandrika Singh, wife of Janardan Mishra, resident of village- Manpura, PO- Haridaspur via Kanti, PS- Kanti, District- Muzaffarpur



7(i) Smt. Madhuri Devi, daughter of Chandrika Singh, wife of Ramanand Thakur, resident of village- Repura, PO- Bishundevpur, PS- Kajra, Anchal- Marwah, District- Muzaffarpur

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Ramesh Kumar Chaudhary, Advocate
For the Respondent/s : Mr. Shashi Kant Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE KHATIM REZA
ORAL ORDER

51 06-11-2023 Perused the office notes.

2. Heard learned counsel for the appellants as well as learned counsel for the respondents on Interlocutory Application No. 18 of 2022.

Interlocutory Application No. 18 of 2022

3. This interlocutory application has been filed under Order XXIII Rule 3 as well as Section 151 of the Code of Civil Procedure on behalf of the appellant nos. 1(a) to 1(d) as well as on behalf of the respondents 1st party i.e., respondent nos. 1(a), 1(b), 1(c), respondent no. 2 and heirs of respondent no. 5(a)- Smt. Sita Sinha (deceased) for disposal of this appeal in terms of the compromise petition.

4. It has been submitted that on the intervention of the friends, well wishers and relatives all the parties except respondent nos. 4(i) and 4(ii) have amicably settled their dispute outside the Court and compromised the matter on the terms and conditions as mentioned in paragraph no. 1(i) to 1(xiii) of the



interlocutory application, which reads as follows:

- “1(i) *The appeal as against the Respondent no. 4(i) and 4(ii), heirs of the deceased Respondent no. 4, shall be dismissed;*
- (ii) *The Advocate Commissioner shall first exclude the share of Respondent no. 4(i) and 4(ii) as per decree of the Trial Court;*
- (iii) *On exclusion of the land etc. falling in the share of Respondent no. 4(i) and 4(ii) by the Advocate Commissioner, the remaining land and other properties shall be divided by the Advocate Commissioner amongst the appellants and in the respondents half and half;*
- (iv) *In regard to agricultural lands and residential house situated at Chapra Dharampur Jaddu and the land and house at Mohalla Brahmpura (Muzaffapur) and landed property which are mentioned at Schedule-II of the plaint will be divided half and half i.e. half to the appellant and another half to the Respondent 1st party by the Advocate Commissioner in the Court below;*
- (v) *Respondents, under this compromise, will not claim the assets of Homeopathic shop which is not in existence;*
- (vi) *The agricultural land of Schedule-1 of the plaint will be allotted half to the respondents 4th party and another half will be divided in two parts half and half to the appellants and respondents 1st party. The landed property will be divided by the Advocate Commissioner in the court below;*
- (vii) *Sisters and Bhagnas & Bhaginis of the Appellant No.1(A) have given up their claim entire/whatsoever in favour of Appellant No.1(A), namely, Umashankar Prasad Singh;*
- (viii) *Similarly, respondent no. 1(c) has given up her entire claim in favour of respondent no. 1(a), 1(b) and respondent no. 2;*
- (ix) *Though the defendant 2nd party, now*



respondent 4th party, have not signed this compromise petition but the parties to this compromise do admit their half share in Schedule-1 property and Advocate Commissioner will carve out his separate Takhta and so this appeal shall also stand dismissed as against them;

- (x) The compromise petition is for the benefits of all the parties;*
- (xi) The parties herein will approach the Trial Court for appointment of Advocate Commissioner and preparation of final decree and they will bear the cost of preparation of final decree;*
- (xii) The parties herein shall bear their own cost of litigation through out;*
- (xiii) This compromise petition will form part of decree of this Hon'ble Court."*

5. Learned counsel for the appellants specifically submits that the defendant 2nd set now respondent no. 4th party have not signed this compromise petition, but all the parties to this compromise petition (interlocutory application) do admit their half share in Schedule-1 property as per the decree and the Advocate Commissioner will carve out their separate *Takhta* and so this appeal shall also stand dismissed against them.

6. In view of the submissions as well as terms of compromise set out in the compromise petition (interlocutory application), prayer is allowed.

7. Accordingly, Interlocutory Application No. 18 of 2022 stands allowed.

First Appeal No.876 of 1970



8. In view of the fact that Interlocutory Application No. 18 of 2022 has been allowed, let the First Appeal be disposed of in terms of the compromise petition which will form part of the decree.

9. Office is directed to prepare decree and the compromise petition (Interlocutory Application No.18 of 2022) shall be part of the decree.

10. Pending interlocutory application(s), if any, stands disposed of.

(Khatim Reza, J)

J. Alam/-

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