IN THE HIGH COURT OF JHARKHAND, RANCHI
C.M.P. No. 1174 of 2026
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1. Raj Kumar Pandey, aged about 45 years, son of Kamta Pandey

2. Sandhya Devi, aged about 40 years, wife of Raj Kumar Pandey

Both are residents of village – Pandariya Tola, Belpahri, PO – Chapri, PS – Bhawnathpur, District – Garhwa, Jharkhand

.... Petitioners

-- Versus --

1. Ajay Prasad Gupta

2. Niraj Prasad Gupta

Both are sons of Late Ram Khelawan Saw, resident of village – Bhawnathpur, PO and PS – Bhawnathpur, District – Garhwa, Jharkhand

3. Vijay Prasad Gupta, S/o Late Ram Khelawan Sao, resident of village – Bhawnathpur, PO and PS – Bhawnathpur, District – Garhwa, Jharkhand

4. Mirtunjy Prasad Gupta

5. Mithlesh Kumar Gupta

Both are sons of Late Baijnath Prasad Gupta, resident of village – Ketar, PO and PS -Ketar, District – Garhwa, Jharkhand

.... Opposite Parties

CORAM: HON'BLE MR. JUSTICE SANJAY KUMAR DWIVEDI

For the Petitioners :- Mr. Ajay Kr. Pathak, Advocate
For the O.Ps :-

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*02**/05.11.2026*** Heard learned counsel appearing for the petitioners.

2. This petition has been filed under Article 227 of the Constitution of India for setting aside the order dated 05.02.2023 passed by learned Principal District Judge, Garhwa in Civil Appeal Case No.10/2025 whereby the said appeal was allowed and the matter has been remanded back to the learned Civil Judge Senior Division, Nagar Untari to decide the Civil

Miscellaneous Case No.1/2022 afresh.

3. Learned counsel appearing for the petitioners submits that the petitioners being the plaintiffs of Original Suit No.159 of 2017 instituted for the relief as sought for in the plaint of the suit against the principal defendant namely Vijay Prasad Gupta, S/o Late Ram Khalawan Sah and his wife namely Lalita Devi, who executed the sale deed being Sale Deed No.1154/1145 and the Deed No.1155/1146 on 06.03.2014 with respect to piece of land under C.S. Khata No.178/159, C.S. Plot No.03/1050/344 area 0.07 1/2 acres which the vendor/defendant No.1 got thought the amicable partition of the ancestral land. He further submits that the said suit being Original Suit No.159/2017 was decreed in favour of the plaintiff/petitioners vide judgment and decree dated 31.08.2018 and 11.09.2018 and for execution of the said decree the Execution Case No.12/2018 was filed. He then submits that the opposite party herein filed the objection petition under Order 21 Rule 99, 101 and under Section 151 of CPC and the objection petition was dismissed by the judgment dated 27.03.2025 which was challenged by the opposite party herein in Civil Appeal Case No.10/2025 which was allowed by the judgment dated 05.02.2026 by learned Principal District Judge, Garhwa setting aside the order dated 27.03.2025 and remanded the said petition under Order 21 Rule 99 of CPC to decide afresh. He next submits that the learned Principal District Judge, Garhwa has erred in remanding the said order to decide afresh which is not in accordance with law and the Nazir report has not been considered and in view of that the impugned order may kindly be set aside.

4. On perusal of the judgment dated 05.02.2023 passed by learned

Principal District Judge, Garhwa, it transpires that the learned appellate court has framed the points and thereafter has decided the said appeal. Learned first appellate court has found that the learned trial court has decreed the suit declaring the plaintiff to be the owner of the suit property and also confirming the possession of the plaintiff over the suit property. Learned Court has held that the declaring decrees are not executable decrees because there is nothing to be executed once a declaration has been given. Learned Court has also found that the confirmation of possession is there and the learned trial court has come to the conclusion observing that the plaintiff is in possession over the suit property then how and what was to be executed is beyond imagination and why the execution proceeding is continuing is also not understood. In this background, the learned Court has framed two points and remanded the said petition to decide afresh.

5. In view of the above, it transpires that the learned Court has passed the cogent reason and finding of the learned Court are correct. There is no illegality in the impugned judgment, as such this C.M.P. is hereby dismissed.

6. It is open to the petitioners to take all the points in the said petition which has been remanded before the learned Court.

(Sanjay Kumar Dwivedi, J.)

Dated 05.11.2026
Sangam/