

IN THE HIGH COURT OF JUDICATURE AT PATNA
SECOND APPEAL No.255 of 2008

1. Uma Pandey S/o late Mahendra Pandey Resident of Village - Haziapur, P.S. and District- Gopalganj.
2. Anil Pandey S/o Uma Pandey, Resident of Village - Haziapur, P.S. and District- Gopalganj.

... ... Appellant/s

Versus

1. Munna Pandey S/o Late Ravindra Pandey Resident of Village - Haziapur, P.S. and District- Gopalganj.
2. Tuna Pandey S/o Late Ravindra Pandey, Resident of Village - Haziapur, P.S. and District- Gopalganj.
3. Lisha Devi D/o Late Ravindra Pandey, Resident of Village - Haziapur, P.S. and District- Gopalganj.
4. Sudha Devi D/o Late Ravindra Pandey, Resident of Village - Haziapur, P.S. and District- Gopalganj.
5. Yogendra Pandey Son of Late Rama Pandey, Resident of Village - Haziapur, P.S. and District- Gopalganj.
- 6.1. Prem Pandey @ Kanaiha Pandey, Son of Late Surendra Pandey, Resident of Village - Haziapur, P.S. and District- Gopalganj.
- 6.2. Priyam Kumari D/o late Surendra Pandey, Resident of Village - Haziapur, P.S. and District- Gopalganj.
- 6.3. Priyanka Kumari D/o Late Surendra Pandey, Resident of Village - Haziapur, P.S. and District- Gopalganj.
7. Bijendra Pandey Son of Late Rama Pandey, Resident of Village - Haziapur, P.S. and District- Gopalganj.
8. Nirmala Devi D/o Late Rama Pandey, Resident of Village - Haziapur, P.S. and District- Gopalganj.
9. Bindu Devi D/o Late Rama Pandey Resident of Village - Haziapur, P.S. and District- Gopalganj.

... ... Respondent/s

Appearance :

For the Appellant/s	:	Mr. Jitendra Prasad Singh, Sr. Adv. with Mr. Abhishek Kumar, Adv. Ms. Sripriya Sinha, Adv.
For the Respondent Nos. 1 to 7	:	Mr. Shivnandan Prasad Singh, Sr. Adv. Mr. Indu Bhushan, Adv. Mr. Rakesh Kumar, Adv.
For the Respondent No. 8	:	Mr. Gaurav Kumar, Adv.

CORAM: HONOURABLE MR. JUSTICE KHATIM REZA
CAV JUDGMENT



Date : 31-10-2025

Heard Mr. Jitendra Prasad Singh, learned senior counsel assisted by Mr. Abhishek Kumar, learned counsel for the appellants and Mr. Shivnandan Prasad Singh, learned senior counsel assisted by Mr. Indu Bhushan, learned counsel for the respondents.

2. This Second Appeal has been preferred against the judgment and decree dated 14.07.2008 passed by the learned Additional District Judge-Ist, Gopalganj in Title Appeal No. 77 of 2005/06 of 2007 whereby the learned lower Appellate Court reversed the judgment and decree dated 12.07.2005 passed by the learned Sub-Judge-Vth, Gopalganj in Title (Partition) Suit No. 21 of 1993.

3. The appellants herein were the plaintiffs before the learned Trial Court and the respondents herein were defendants in the Partition Suit. The plaintiffs/appellants filed Title (Partition) Suit No. 21 of 1993 for partition of their half share in the property described in the schedules of the plaint.

4. In order to determine the matter in its correct perspective, it is necessary to briefly restate the case of the parties. The plaintiffs/appellants and the defendants/respondents are descendants of the common ancestor, namely, Ramkishun and are



related to one another. The genealogy has been admitted by both the sides.

5. The case of the plaintiffs, is that the lands in suit were ancestral property of the plaintiffs as well as the defendants. Further case of the plaintiffs is that due to disturbance by the family members in the family there was separation in the year 1970 by both the parties but the ancestral property as well as purchased property was not partitioned by metes and bounds, whereafter, they started cultivating some lands jointly. The property mentioned in Schedule-II of the plaint was purchased from joint nucleus and was in joint possession. It is further pleaded that some of the ancestral property was exchanged and some of the suit property was sold jointly. It is further contended that the defendants started claiming that suit property was partitioned through memorandum of partition which is totally false and there was no partition between the parties and if defendants produce any documents of partition the same is forged as plaintiffs did not participated in any partition. On the basis of pleadings, the plaintiffs/appellants sought relief for partition of half share in the Schedule-I to IV properties.

6. On summons, defendant nos. 1 to 7/defendants 1st set appeared and filed their written statement. Apart from ornamental



objection against the pleadings of the plaintiffs/appellants, the defendants Ist set pleaded that entire family property has not been included in the suit land, in as much as, the purchasers have also not been made party to the suit, hence the suit is bad for non-joinder of the party. The suit is also bad for partial partition. The plaintiffs have sold 11 *Bigha* 10 *Katthas* land of village-Bhitbharua and other lands of Ajiyapur and Kabilaspur which have not been included in the suit lands of Khata No. 23 of village-Hajiyapur, which belong to others and those are included in the suit land. The lands of *Khata* No. 17, Plot Nos. 310 and 338 also belongs to other persons. Further case of the defendant-Ist set is that partition has already taken place between the parties by metes and bounds. The purchasers of the parties are in possession of their purchased land in the names of his two sons. The partition by metes and bounds had already taken place in the year 1936 and the ancestral purchased property from joint family income were partitioned half and half between both the parties. Raghunandan Pandey and Sukhlal Pandey @ Shivnandan Pandey separated before 1936 and later in the year 1936 Mahendra Pandey are one side and Raghunandan Pandey on the other side partitioned the properties half and half and a memorandum of *kora* deed of partition was prepared on 05.09.1936 but the same in due course



of time was damaged and as such another memorandum of partition was prepared on 22.11.1970 wherein, Rama Pandey was on one side and Uma Pandey was on the other side and both of them put their respective signatures over the same. In this memorandum of partition, there was some modification also. *Panches* also put their signatures over this memorandum of partition. Accordingly, the parties were dealing their properties as per their share. The properties allotted to the ancestor of the plaintiffs is detailed in Schedule-II of the written statement of the defendants-Ist set and properties allotted to ancestors of the defendants is described in Schedule-I of the written statement. After partition Rama Pandey purchased 18 *Katthas* 16 *dhurs* bearing Plot Nos. 517 and 518 in village-Hajiyapur and has been coming in possession of the same. The plaintiffs have no concern with this land.

7. Defendant no. 12 and defendant nos. 18 to 21 appeared in the suit and filed their written statement separately but they have not adduced their evidence nor cross examined PWs or DWs. After filing of their written statement they left the *pairvi* of the case. Only defendants Ist set had contested the suit.

8. In the light of the pleadings of the parties, the learned Trial Court formulated ten issues.



9. The learned Trial Court on analyzing the evidence and materials on record has held that plaintiffs were entitled for partition of half share in Schedule-I and Schedule-III properties and also in respect of Plot Nos. 375, 424, 453 and 539 of Schedule-II properties of the plaintiff. The learned Trial Court has also held that all the other purchased lands in the name of defendants are their self-acquired property. The property in suit sold by the plaintiffs shall be deducted from their share and the learned Trial Court decreed the suit and directed that a preliminary decree be drawn up accordingly.

10. Being aggrieved by the judgment and decree of the learned Trial Court, the defendants 1st set/respondents filed Title Appeal. The learned lower Appellate Court allowed the defendants appeal and dismissed the plaintiffs' suit. The plaintiffs/appellants being aggrieved by the judgment and decree of the lower Appellate Court filed the present Second Appeal before this Court.

11. After hearing the parties, a Bench of this Court dismissed the appeal *vide* order dated 16.07.2014. Against the judgment and order of this Court, the plaintiffs filed Civil Appeal No. 3657 of 2018 by way of Special Leave in the Apex Court. The relief was granted by the Apex Court. After hearing, the Hon'ble Apex Court set aside the judgment and order dated 16.07.2014



passed by a Bench of this Court in this Appeal and remanded the Second Appeal and directed to decide this appeal on merits and also formulated substantial questions of law which are as follows:-

(i). Whether findings recorded by the first Appellate court on Exhibit-A for allowing the defendants' first appeal and, in consequence, reversing the judgment/decrees of the trial court is legally and factually sustainable?

(ii). What is the true nature of Exhibit-A? Can it be termed as "partition deed" or a document recognizing a factum of partition already effected between the parties in relation to the suit land?

(iii). Whether Exhibit-A binds the plaintiffs and, if so, how and to what extent?

(iv). Whether Exhibit-A requires registration and, if so, its effect?

(v). Since Exhibit-A was exhibited in evidence without any objection, whether any objection about its admissibility or legality can now be raised by the appellants in second appeal and, if so, its effect?

12. Accordingly, the present Second Appeal was admitted on 10.01.2023 and the substantial questions of law, which



was framed by the Hon'ble Apex Court were incorporated for just decision of the appeal.

13. Mr. Jitendra Prasad Singh, learned senior counsel for the appellants submits that the core issue involved in this present appeal is as to whether Exhibit A, a partition deed, requires registration or not and if Exhibit A was exhibited in evidence without any objection then whether any objection about its admissibility can be raised in Second Appeal.

14. Learned senior counsel for the appellants submits that plaintiff no. 1 was examined as PW-14; he has emphatically denied that he has not signed the document of partition deed of 1970. In plaint also he denied about the genuiness of partition deed Exhibit A but defendants have not taken any step for comparison of the signature of plaintiff no. 1 by the expert. It is specific case of the defendants that the partition deed of 1970 was prepared on 22.11.1970, on the basis of *kora* deed of partition of 1936, but surprisingly the said *kora* deed of 1936 has not been produced by the defendants to show that the documents of 1970 is prepared on the basis of the said deed of the year 1936. From perusal of Exhibit A, it appears that *khata* numbers and plot numbers have not been mentioned in partition deed of the year 1970 and the same is not registered and therefore it cannot be said that it is a partition deed



in absence of details of the land. From perusal of evidence of DW-7, it appears that Exhibit A was exhibited in evidence with objection as would appear from cross examination of DW-7. The specific case of the plaintiffs is that there was separation in the year 1970 and some of the properties were sold jointly by the parties in which there was recital about separation. Therefore, it cannot be said that the separation is a partition by metes and bounds. It is crystal clear from Exhibit A that there was no description of the land allotted to the parties, no evidence on record is available which would indicate that Exhibit A was prepared on the basis of *kora* deed of the year 1936. If there was mutual partition between the parties then there was no requirement of *Panches* as alleged by the defendants and if *Panches* were appointed then the same was construed an award which requires registration. In the aforesaid facts, Exhibit A is not a partition deed which has been exhibited in evidence with objection, therefore, the document is not recognizing the factum of partition that partition has already been effected between the parties in absence of *kora* deed of 1936 which was not produced by the defendants even in torn condition. On the point of separation and partition, the learned senior counsel has relied upon in the case of ***M.L.Subbaraya Setty (Dead) by LRS. & Ors. Vs. M.L. Nagappa Setty (Dead) by LRS.***



& Ors. reported in **(2002) 4 SCC 743**. The Hon'ble Apex Court has held that on mere severance of status of joint family, the character of any joint family property does not change with such severance. *It retains the character of joint family property till partition.* Learned senior counsel further submits that separate in mess and separate cultivation amongst the co-sharer does not mean that there was partition by metes and bounds or separation of one of the co-parceners from the ancestral property. This view has been decided in the case of **Deoki Mallah Vs. Surji Mallahain & Ors.** reported in **(1999) 1 PLJR 199**. There is a specific denial by plaintiff no. 1 that he was not signatory on the document of partition dated 22.11.1970 and cannot be relied upon. This aspect has not been proved by the defendants Ist set. It is further submitted that the claim of the defendants is based on *kora* deed of partition dated 05.09.1936 (unregistered deed of partition) which was fresh prepared in the year 1970 but defendants have failed to produce the documents of 1936 even in torn condition. The fresh partition deed dated 22.11.1970 is required registration under Section 17 of the Registration Act. A reliance has also been placed in the case of **Sita Ram Bahma Vs. Ramvatar Bahma** reported in **(2018) 2 PLJR 279**.



15. Per contra, learned senior counsel for the defendants Ist set submits that the partition between the parties have taken place in the year 1936 and a memorandum of partition was prepared but the document became damaged due to moisture and hence a fresh memorandum of partition was prepared in the year 1970 which was signed by the plaintiff Uma Pandey and defendants' father Rama Pandey and also by *Panches*. There is recital in this document that the partition has taken place in 1343 *Fasli* which comes to 1936, there is recital of memorandum of partition of 1936 which stood soiled so this document i.e. Exhibit A was prepared. Exhibit A fully incorporates and proves defendants' case of partition in the year 1936 but this document has been disbelieved by the Trial Court, firstly, on the ground that it is doubtful as to whether the plaintiff Uma Pandey signed the document. All these documents have not been compared by any Handwriting Expert and secondly, the document being a partition deed is not admissible in absence of its registration. It is further submitted that Exhibit A is not a partition deed, rather, the fact of 1936 partition has been mentioned in it so it does not require registration. DW-17 has adduced his evidence that he was a *Panch* and Exhibit A was prepared in his presence and was signed by Rama Pandey and Uma Pandey and he had also signed Exhibit A



in capacity of a *Panch*. DW-10, who is also a *Panch* and had signed on Exhibit A, has stated that Rama Pandey and Uma Pandey had signed on Exhibit A in his presence. DW-18, who is contesting defendant no. 4, has also proved execution of Exhibit A. Against the aforesaid evidence, there is nothing on the record to disbelieve genuiness of Exhibit A. If plaintiffs had any grievance of genuiness of Exhibit A, burden is upon them to prove that Exhibit A is a forged document but they have not adduced any evidence on this point, hence the document of *kora batwara* of 1970 is *yadasht of Batwara* of 1936. The deposition of plaintiffs' mother, namely, Basmati Kunwar in SCC Suit No. 258 of 1938 has clearly stated in her deposition that her husband died two years ago and her son Uma Pandey (plaintiff no. 1) is *Karta* of her family because she is separate hence her statement falsifies the case of the plaintiffs that family of plaintiffs and defendants were joint in 1970. Learned senior counsel further submits that wife of Uma Pandey (plaintiff no. 1), namely Sushila Devi has stated in her deposition in Title Suit No. 21 of 1966 that Rama Pandey and Uma Pandey were separate since the time of Raghunandan Pandey and Sukhlal @ Shivnandan Pandey. Exhibit-N is mortgage deed which proves separate dealings. Admission of mother of plaintiff no. 1 clearly supports that partition had taken place in the year



1936, therefore, second partition is not maintainable in the eye of law. It is further submitted that the partition had taken place in the year 1936 and the plaintiffs/appellants sold so many lands of their share and Exhibit A is true copy of memorandum of partition of 1936. It was prepared in the year 1970 over which plaintiff Uma Pandey and defendants' father Rama Pandey and others put their signatures. Exhibit A has been proved by DWs- 4, 7, 10 and 17 and burden lies upon the plaintiffs to disprove Exhibit A by proving it to be forged and fabricated document, but no evidence was adduced on this point by the plaintiffs, therefore, Exhibit A proves that partition had taken place in the year 1936 and Exhibit A is true copy of memorandum of partition prepared in the year 1936, which was re-prepared in the year 1970. It is vehemently submitted that Exhibit A is the true copy of memorandum of partition of 1936 duly signed by the plaintiff no. 1 therefore Exhibit A is binding upon the plaintiffs because the plaintiffs have been enjoying their shares and have been selling their shares of lands. Since Exhibit A is *yadaasht* of memorandum of partition of 1936 it is not required to be registered under Section 17 of the Registration Act. Exhibit A has been exhibited without any objection, therefore, admissibility and legality of Exhibit A cannot be raised by the appellants in this Second Appeal.



16. Learned counsel for the defendants submitted that Ext. A was marked without objection permitting a document to be marked by consent means that the party consenting is willing to waive his right to have the document in question proved. Reliance has been placed in the case of *A.V.S. Perumal Vs. Vadivelu Asari* reported in *AIR 1986 Madras 341*. It is further contented that when a document is admitted without objection by the plaintiffs, the contents of such documents may not be conclusive evidence are also admitted, this view has been taken in the case of *P.C. Purushothama Reddiar vs. S. Perumal* reported in *AIR 1972 SC 608*. Learned counsel for the defendants further submitted that plaintiffs claim partition with regard to suit land. They have not included some of the lands in the suit which were alienated by them or by the defendants. Hence, no suit for partial partition can proceed. Reliance has been placed in the case of *Chattu Pradhan Vs. Kailash Pradhan* reported in *AIR 1991 (1) BLJR 711*.

17. Respondent no. 8 is represented through Mr. Gaurav Kumar, Advocate. The submissions made on behalf of respondent no. 8 is that there was a partition in the year 1936 and the same was merely re-written in Ext. A in the year 1970. The reason behind the same is also stated in the document itself. This fact is further supported by the fact that both the parties came into



possession of their respective shares allotted to them in the year 1936. They also executed several sale deeds acknowledging the partition of 1936.

18. The Appellate Court relied upon depositions of D.W. 17 and D.W. 10, who were purchasers and signatories on Ext. A. D.W. 18, the contesting defendant no. 4, also proved execution of Ext. A. Conversely, no evidence was adduced on behalf of the plaintiffs to disbelieve Ext. A. The genuiness of Ext. A having been questioned by the plaintiffs and as such, the burden of proof was also upon them to establish that Ext. A was a forged or fabricated document. However, no evidence on this point was adduced by the plaintiffs. Therefore, Ext. A was accepted as valid document.

19. It is vehemently submitted that Ext. A, being a *Yadasht* only, required no registration and registration is not at all necessary for a *Yadasht* or a memorandum of partition prepared after partition. The conduct of the parties, especially the execution of sale deed even after 1970, supports the preparation of Ext. A and shows that the partition between the parties was acted upon. In this regard, reliance has been placed in the case of ***Kale and Ors vs. Deputy Director of Consolidation and Ors*** reported in (1976) 3 SCC 119. It is further submitted that similar question has been



answered in the case of ***Ravinder Kaur Grewal and Ors Vs. Manjit Kaur and Ors*** reported in **(2020) 9 SCC 706**.

20. The main objection with regard to Ext. A was raised by appellants at the time of argument that plot number and *khata* number has not been given in the kora batwara (Ext. A), but on perusal of the document, it appears that in the remarks column every land has been specifically described, from which it can be inferred that the exact land and its area have been clearly indicated in Ext. A.

21. So far as the question that whether Ext. A can be treated as partition deed or as a document recognizing a factum of partition already effected is concerned, Ext. A itself states that the partition had taken place in the year 1936. Therefore, it is not a document of partition, rather, it is a document recognizing the factum of partition that had already been effected in the year 1936 therefore, Ext. A does not require registration. Ext. 1/B, M, M/1 and M/2 which are sale deeds dated 01.08.1981 executed by the plaintiffs in favour of Babulal Bhagat reciting therein, that the land in sale deed dated 01.08.1981 was allotted to the plaintiffs in partition. Ext. A was exhibited in evidence without any objection; whether any objection about its admissibility or legality can now be raised by the appellants in Second Appeal ? In this regard,



learned counsel for the respondent no. 8 submitted that the document was exhibited without any objection and hence in this regard, the law is very settled that now no objection can be raised at the Second Appeal stage with regard to validity of Ext. A.

22. Having considered the submissions made on behalf of the parties and perusal of the impugned judgments as well as substantial questions of law having been framed by the Hon'ble Apex Court, it appears to me that substantial question no. (ii) is the main question involved in the present appeal which is, What is the true nature of Ext. A ? Can it be termed as 'partition deed' or a document recognizing a factum of partition already effected between the parties in relation to the suit land ? Other substantial questions of law depend upon substantial question of law no. (ii).

23. On perusal of Ext. A, which is unregistered document in which nature of document has been mentioned as *Kora Batwara Bakhudha*, it appears that there is a recital in the document that partition had taken in the year 1936 (1343 fasli). On that basis Raghunandan Pandey (father of Rama Pandey) and Mahendra Pandey (father of Uma Pandey) were separate in possession of the property given in the said partition. Accordingly, a *Kora Batwara* was prepared. Since the said *Kora Batwara* document was damaged being too old hence, according to old



Kora Batwara, a fresh document is required to rewrite. There is specific averment in the said document that we (both the parties) are exchanging the properties mentioned in No. 2 of the original *Kora Batwara* as per our convenience. Therefore, the said statement shows that allotment of property mentioned in original *Kora Batwara* of 1936 has been changed in *Kora Batwara* of 1970 (Ext. A).

24. Accordingly, property mentioned in Schedule I was allotted to Rama Pandey (1st party) and property mentioned in Schedule II was allotted to Uma Pandey (2nd party). On that basis, both the parties agreed to mutate their names in the revenue records of Government of Bihar. In both the Schedules Khata no. and plot no. has not been mentioned, only area has been mentioned in the said Schedules. Moreover, at page 5 of Ext. A, it has been stated that we (both the parties) also agreed to follow the following terms:-

- (i) Bathan (Cattle-fold) allotted to party no. 2 (Uma Pandey) along with constructed structure over the land and Sehan.
- (ii) Entire lands of house, entire lands of old house as well as entire purchased property by Chili Pandey and also homestead land allotted to Rama Pandey (party no. 1).



(iii) We (both the parties) also agreed that properties purchased after earlier partition will remain with Rama Pandey (party no. 1).

(iv) Both the parties shall abide by the terms nos. 1 and 2 by 30th Jeth 1378 (Fasli).

25. As per the recital and plain reading of the said document (Ext. A) it reveals that even according to case of the defendants, the Ext. A is not the same document as the *kora batwara* of 1936 as claimed by them. The terms and conditions mentioned in page 5 of the Ext. A clarifies the fresh allotment with regard to old house, homestead land, cattle-fold and property purchased after *Kora Batwara* of 1936 were incorporated in the Ext. A for the first time. The said terms and conditions also creates a transfer of property right. The fresh partition of the properties reduces to the form of writing with the purpose that the terms should be evidenced by it. It requires registration and without registration, it is an inadmissible document. It is also apparent from the aforesaid four terms and conditions that the nature of document could not be accepted as memorandum of partition or *Yadasht* of partition. The certain property as claimed by the defendants was partitioned through Ext. A for the first time therefore, Ext. A is partition deed (unregistered). It is apparent



from the evidence adduced by D.W. 7 that Ext. A was exhibited in evidence with objection as would appear from cross-examination of D.W. 7 at para 11.

26. Moreover, it is well settled that a Hindu family is presumed to be joint unless earlier partition had not been proved. The conduct of the parties clearly shows that the properties of the family were dealt with by both the parties jointly. Ext. 1, registered sale deed executed by the plaintiff no. 1 and father of Rama Pandey on 13.01.1983, Ext. 1/A, sale deed executed by Rama Pandey and Uma Pandey on 13.01.1983 with regard to the ancestral property of the plaintiffs and defendants.

27. Learned Appellate Court wrongly held that Basmati Kuer in her deposition has deposed (Ext. G/2, which is certified copy of the deposition of plaintiffs' mother namely, Basmati Kuer in Small Cause Court Suit No. 258 of 1938) that her husband died two years ago and her son Uma Pandey (plaintiff no. 1) is Karta of her family because she is separate hence, this statement of the plaintiffs' mother falsify the plaintiffs' case that family of plaintiffs and defendants were joint till 1970. The learned Appellate Court wrongly noted the deposition of Basmati Kuer (mother of the plaintiffs), the said deposition was recorded on 11.12.1938, wherein, she adduced in her cross-examination that "it is two years



ago that my husband died. Uma Pandey is my son of four years of age. Raghunandan Pandey was the Karta of the family. We are joint. But I am the karta since we are separate”.

28. From the perusal of evidence of Basamati Kuer recorded in the Small Cause Court Case No. 258 of 1938, it is clear that she has specifically stated that Raghunandan Pandey was Karta of the family. They are joint. Uma Pandey was minor aged about 4 years at the time of evidence. The said evidence does not prove the factum of earlier partition.

29. It appears from perusal of Ext. 1/B, which is certified copy of sale deed executed by Rama Pandey and Uma Pandey, that both jointly sold the land on 15.09.1978 much after so called *Kora Batwara* in the year 1970. It is also apparent from Ext. 1/A, which is sale deed executed by Rama Pandey and Uma Pandey, that they again jointly sold the ancestral land on 13.01.1983.

30. Ext. 1, 1/B were executed jointly by Rama Pandey and Uma Pandey. Further, according to defendants, partition had taken place by meets and bounds in the year 1936 or even after the year 1970, but it is apparent from Ext. A, so called partition deed, that the same did not contain Khata no. and Plot no. The said Ext. A did not disclose what properties were allotted to the parties. The



defendants also did not prove the case of previous partition by meets and bounds.

31. In the aforesaid facts and circumstances as well as upon perusal of the materials on records, it is held that Ext. A is unregistered partition deed which required registration under Section 17 (1) (B) of the Registration Act and without registration, it is inadmissible in evidence. Therefore, Ext. A does not bind the plaintiffs.

32. Accordingly, the substantial questions of law formulated by the Apex Court in this regard are answered in favour of the appellants.

33. In view of the discussions made hereinabove, this Court is of the considered opinion that the judgment and decree dated 14.07.2008 passed by 1st Additional District Judge, Gopalganj in Title Appeal No. 77 of 2005/06 of 2007 whereby the appeal filed by the defendants was allowed and the plaintiffs' suit for partition was dismissed is not sustainable in the eyes of law and on facts.

34. Accordingly, the impugned judgment and decree dated 14.07.2008 passed by the Additional District Judge-Ist, Gopalganj in Title Appeal No. 71 of 2005/06 of 2007 are set aside.



35. Consequently, the judgment and decree dated 12.07.2005 passed by the Sub Judge Vth, Gopalganj in Title (Partition) Suit No. 21 of 1993 is restored and affirmed.

36. In the result, the appeal succeeds and is allowed.

37. There shall be no order as to costs.

38. Pending interlocutory application(s), if any, shall stand disposed of.

39. Let the lower Court records be transmitted to the Courts below forthwith.

(Khatim Reza, J)

prabhat/sankalp

AFR/NAFR	AFR
CAV DATE	19.08.2025
Uploading Date	03.11.2025
Transmission Date	N/A

