



A.F.R.

IN THE HIGH COURT OF ORISSA AT CUTTACK

RSA No.564 of 2023

(In the matter of an appeal under Section 100 of the Code of Civil Procedure, 1908)

Chandramani Samal and another* *Appellants

-versus-

Sukanti Samal & Others* *Respondents

***For Appellants* - Mr.P.C.Mishra, Advocate**

***For Respondents* - Mr.Prabin Dash, Advocate
On behalf of
Mr.S.K.Dash, Advocate**

CORAM:

MR. JUSTICE A.C.BEHERA

Date of Hearing :04.02.2026:: Date of Judgment :19.02.2026

A.C. Behera, J. This Second Appeal has been preferred against the confirming judgment.

2. The Appellants in this Second Appeal being the husband and wife respectively were the Defendant Nos.1 and 2 before the learned Trial Court in the suit vide C.S. No.20 of 2019 and Appellants before the learned 1st Appellate Court in the first appeal vide R.F.A. No.16 of 2023.



The Respondent No.1 in this 2nd Appeal was the sole Plaintiff before the learned Trial Court in the suit vide C.S. No.20 of 2019 and Respondent No.1 before the learned 1st Appellate Court in the 1st appeal vide R.F.A. No.16 of 2023.

The Respondent Nos.2 to 5 in this 2nd Appeal were the Defendant Nos.3 to 6 before the learned Trial Court in the suit vide C.S. No.20 of 2019 and Respondent Nos.2 to 5 before the learned 1st Appellate Court in the first appeal vide R.F.A. No.16 of 2023.

3. The suit of the Plaintiff vide C.S. No.20 of 2019 before the learned Trial Court against the Defendant Nos.1 and 2 (Appellants in this 2nd Appeal) was a suit for mandatory and permanent injunction.

4. The Plaintiff and Defendant No.3 in the suit vide C.S. No.20 of 2019 are wife and husband respectively.

The Defendant Nos.1, 4 and 5 are the three sons of the Plaintiff and Defendant No.3.

The Defendant No.6 is the married daughter of the Plaintiff and Defendant No.3.

The Defendant No.2 is the wife of the Defendant No.1 and daughter-in-law of the Plaintiff and Defendant No.3.



5. As per the averments made in the plaint of the Plaintiff (Respondent No.1 in this 2nd appeal), the suit properties and the house standing thereon exclusively belong to the Plaintiff. She (Plaintiff) had purchased the same through registered sale No.1191 dated 08.09.1989 from one Chandramani Sethi on payment of due consideration amount. As such, since the date of purchase, she (Plaintiff) is the sole owner and in possession over the entire suit properties. She (Plaintiff) has constructed a house on the part of the suit properties. Therefore, she (Plaintiff) is the exclusive owner of the suit properties and the house standing thereon. She (Plaintiff) along with her husband i.e. Defendant No.3 are residing in the house situated in the suit properties. The Defendant Nos.1, 2, 4, 5 and 6 have no right, title, interest and possession over the suit properties and the house standing thereon. The suit properties and the house standing thereon have been recorded exclusively in the name of the Plaintiff. The two sons of the Plaintiff i.e. Defendant Nos.4 and 5 are residing in separate places and they are not residing in the house situated on the suit properties. One son of the Plaintiff i.e. Defendant No.1 has made love marriage to the Defendant No.2. After marriage, the Defendant Nos.1 and 2 were residing with the Plaintiff and Defendant No.3 in the house situated



on the suit properties, but, subsequently, the Defendant Nos.1 and 2 tortured to the Plaintiff and Defendant No.3 mentally and physically. For which, as per the request of the Plaintiff and Defendant No.3, a village meeting was convened on dated 27.08.2012 and in the said meeting, the Defendant Nos.1 and 2 assured not to ill-treat the Plaintiff and Defendant No.3 further, but, again the Defendant Nos.1 and 2 started ill-treating the Plaintiff and Defendant No.3. For which, a meeting was convened for the 2nd time at the instance of the Plaintiff. In the said meeting, it was decided that, the Defendant Nos.1 and 2 will leave the house of the Plaintiff situated on the suit properties, but, still then, the Defendant Nos.1 and 2 did not leave the house of the Plaintiff, rather they (Defendant Nos.1 and 2) continued their physical and mental tortures on Plaintiff and Defendant No.3 as before. For which, they (Plaintiff and Defendant No.3) were compelled to reside in the rented house of their other sons and married daughter i.e. Defendant Nos.4, 5 and 6. When, on dated 09.03.2019, the Plaintiff came to her house situated on the suit properties from the house of her married daughter i.e. from the house of the Defendant No.6, the Defendant No.2 (daughter-in-law of the Plaintiff) started scolding her and when, she (Plaintiff) informed the said incident



to her son i.e. Defendant No.1 (husband of the Defendant No.2), then, the Defendant No.1 instead of allowing the Plaintiff and Defendant No.3 to stay in that house rather assaulted and threatened them (Plaintiff and Defendant No.3) to go away from that house and reside elsewhere.

For which, she (Plaintiff) lodged F.I.R. on dated 10.03.2019, but, the Police did not take any action against the Defendant Nos.1 and 2.

So, without getting any way, the Plaintiff approached the Civil Court by filing the suit vide C.S. No.20 of 2019 against the Defendant Nos.1 and 2 arraying other Defendants i.e. Defendant Nos.3 to 6 as proforma Defendants praying for passing a decree for mandatory injunction against the Defendant Nos.1 and 2 for their eviction from her house and to injunct them (Defendant Nos.1 and 2) permanently by restraining them (Defendant Nos.1 and 2) from coming upon her house after their eviction from the same and from interfering with her possession in the same along with other reliefs, to which, she (Plaintiff) is entitled for.

6. Having been noticed from the learned Trial Court in the suit vide C.S. No.20 of 2019, the Defendant Nos.1 and 2 (Husband and



wife) challenged the suit of the Plaintiff by filing their joint written statement denying the above averments made by the Plaintiff in her plaint taking their stands specifically that, the suit of the Plaintiff is not maintainable. The Plaintiff has no cause of action for filing the suit. The suit of the Plaintiff is grossly under- valued. Onus lies upon the Plaintiff to prove her right and ownership over the Hindu Joint family suit properties and to establish, from which source, she (Plaintiff) got money to purchase the suit properties in her name. The suit is bad for non-joinder and mis-joinder of the Parties. They (Defendant Nos.1 and 2) are the members of one family with the Plaintiff and they are residing in a common residential house having its record in the name of the Plaintiff. The Defendant No.2 along with her husband i.e. Defendant No.1 and her in-laws (Plaintiff and Defendant No.3) are residing in their joint residential suit house. They (Defendant Nos.1 and 2) denied to the averments made in the plaint of the Plaintiff that, the suit schedule properties belong to the Plaintiff. They (Defendant Nos.1 and 2) both have equal right, title, interest and possession in the suit properties and the house standing thereon. The Plaintiff (mother of the Defendant No.1 and mother-in-law of the Defendant No.2) is a house-wife and dependent. She is not a earning lady and



she had no source of income to purchase the suit properties. The Defendants are earning persons and during joint mess and family, while they were going out of the village to earn money, the Plaintiff was staying in the house. All sons of the Plaintiff have paid money to the Plaintiff, as the plaintiff is their mother for purchasing the suit properties. The suit properties were purchased out of their joint fund in the name of the Plaintiff. They have constructed the house on the suit properties. They (Defendant Nos. 1 and 2) are in peaceful possession over the suit properties and the house standing thereon. They are residing in the same with their children. The Plaintiff is only the nominal head and recorded owner of the suit properties, but, actually, all the Defendants including them (Defendant Nos.1 and 2) are the joint owners of the suit properties and house standing thereon. The house on the suit properties is a joint and undivided house.

Due to some family disturbances, the Plaintiff and other defendants have made conspiracy to oust them (Defendant Nos. 1 and 2) from their shared house in the suit properties, only, taking the advantage of the revenue record of the suit house and the suit properties in the name of the plaintiff. As, they (Defendant Nos.1



and 2) have right, title, interest and possession in the suit house as well as in the suit properties, then, the suit of the Plaintiff against them (Defendant Nos.1 and 2) for their eviction from the same is not maintainable under law.

Therefore, the suit of the Plaintiff is liable to be dismissed against them (Defendant Nos.1 and 2).

7. Basing upon the aforesaid pleadings and matters in controversies between the parties, altogether seven numbers of issues were framed by the learned Trial Court in the suit vide C.S. No.20 of 2019 and the said issues are:-

I s s u e s

- (i) Whether the suit filed by the Plaintiff is maintainable?
- (ii) Whether the Plaintiff has got cause of action to file the suit?
- (iii) Whether the suit is under-valued and lacks pecuniary jurisdiction?
- (iv) Whether the suit land along with the house is the self-acquired property of the plaintiff and the plaintiff be considered as the exclusive owner of the suit property?
- (v) Whether the Defendant Nos.1 and 2 can claim the house constructed over the suit property as their shared household?
- (vi) Whether the Plaintiff is entitled for the relief of permanent injunction by restraining Defendant Nos.1 and 2 from entering into the suit property along with mandatory injunction by directing eviction of Defendant Nos.1 and 2 from the residential house?



- (vii) Whether the plaintiff is entitled to any other relief?

8. In order to substantiate the aforesaid reliefs, sought for by the Plaintiff in the suit against the Defendant Nos.1 and 2, she (Plaintiff) examined two numbers of witnesses from her side including her as P.W.1 and exhibited several documents on her behalf vide Exts.1 to 6.

On the contrary, in order to defeat/nullify the suit of the Plaintiff, the contesting Defendant Nos.1 and 2 examined them as D.W.1 and D.W.2 respectively without proving any document on their behalf.

9. After conclusion of hearing and on perusal of the materials, documents and evidence available in the record, the learned Trial Court answered all the issues in favour the Plaintiff and against the Defendant Nos.1 and 2 and basing upon the findings and observations made by the learned Trial Court in all the issues in favour of the Plaintiff and against the Defendant Nos.1 and 2, the learned Trial Court decreed the suit of the Plaintiff on contest against the Defendant Nos.1 and 2 as per its judgment and decree dated 31.03.2023 and 13.04.2023 respectively and passed a decree for eviction against the Defendant Nos.1 and 2 from the house



situated in the suit schedule properties directing them (Defendant Nos.1 and 2) to vacate/leave the house in favour of the Plaintiff within a span of one month and injuncted them (Defendant Nos.1 and 2) permanently from entering into the suit properties (both the land and the house) immediately upon vacation of the suit house assigning the reasons that,

“the suit properties and the house standing thereon is the self-acquired properties of the Plaintiff (Mother of the Defendant No.1 and mother-in-law of the Defendant No.2) and she (Plaintiff) is the exclusive owner of the suit properties and the house standing thereon, in which, the Defendant Nos.1 and 2 have no interest and the suit house is not the shared household of the Defendant Nos.1 and 2. The suit of the Plaintiff is well maintainable for the reliefs sought for by her (Plaintiff) against the Defendant Nos.1 and 2 in respect of the suit properties and house standing thereon.

On the basis of the aforesaid observations, the learned Trial Court passed the aforesaid judgment and decree against the Defendant Nos.1 and 2 in the suit vide C.S. No.20 of 2019”.

10. On being dissatisfied with the aforesaid judgment and decree dated 31.03.2023 and 13.04.2023 respectively passed in the suit



vide C.S. No.20 of 2019 in favour of the Plaintiff and against the Defendant Nos.1 and 2, the Defendant Nos.1 and 2 challenged the same preferring the 1st Appeal vide R.F.A. No.16 of 2023 being the Appellants against the Plaintiff arraying her (Plaintiff) as Respondent No.1 and also arraying the Defendant Nos.3 to 6 as Respondent Nos.2 to 5.

11. After hearing from both the sides, the learned 1st Appellate Court dismissed to that first Appeal vide R.F.A. No.16 of 2023 of the Defendant Nos.1 and 2 as per its judgment and decree dated 31.10.2023 and 13.11.2023 respectively confirming/concurring to the judgment and decree passed by the learned Trial Court in the suit vide C.S. No.20 of 2019 in favour of the Plaintiff and against the Defendant Nos.1 and 2.

12. On being aggrieved with the aforesaid judgment and decree of the dismissal of the first Appeal vide R.F.A. No.16 of 2023 of the Defendant Nos.1 and 2, they (Defendant Nos.1 and 2) challenged the same preferring this 2nd appeal being the Appellants against the Plaintiff arraying her (Plaintiff) as Respondent No.1 and also arraying the Defendant No.3 to 6 as Respondent Nos.2 to 5.



13. This 2nd Appeal was admitted on formulation of the following substantial questions of law and the said substantial questions of law are as follows i.e.:-

(i) Whether the suit property is the absolute property of the plaintiff under the provision of Section 14 of the Hindu Succession Act, when the plaintiff P.W.1 herself admitted that, she has no income of her own and the property was purchased out of the income of her husband?

(ii) Whether the reported decision between ***Manohari Devi and others Vrs. Choudhury Sibanava Das and others*** in ***AIR 1983 Orissa 135*** is squarely applicable and whether both the learned courts below should have relied the said decision in answering the issue i.e. whether the suit property is the self-acquired property of the Plaintiff?

(iii) Whether the findings of the learned courts below are acceptable in view of the provisions of Section 12(2), 17, 19, 20, 22, 23, 25, 26 and 28 of the D.V. Act, in respect of the matter i.e., whether defendant Nos.1 and 2 can claim the house constructed over the suit property as their shared household?

14. I have already heard from the learned counsel for the Appellants and learned counsel for the Respondents.



15. When, as per the findings and observations made by the learned Trial Court as well as learned 1st Appellate Court on the basis of the pleadings and evidence of the Parties, the aforesaid formulated three substantial questions of law are interlinked having ample nexus with each other, then, all the aforesaid formulated substantial questions of law are taken up together analogously for their discussions hereunder:-

16. It is the undisputed case of the Parties that, the suit properties, on which, the house stands, the same was purchased in the name of the Plaintiff through registered sale deed No.1191 dated 08.09.1989 vide Ext.2 and the R.o.Rs thereof stands exclusively in the name of the Plaintiff (mother of the Defendant No.1 and mother-in-law of the Defendant No.2).

The law relating to the legal status of the property on the basis of the sale deed and R.o.R. in the name of a female Hindu like the Plaintiff in the suit vide C.S. No.20 of 2019 at hand has already been clarified in the ratio of the following decisions:-

- (i) In a case between *Gangamma etc. Vrs. G.Nagarathnamma and others reported in 2009*
- (II) *CLR (S.C.) 483 in Para No.19 that,*



When the properties, which stands in the name of any female, she is the full owner thereof and on which, the claim of the joint family members out of joint family income cannot stand.

(ii) In a case between *Marabasappa (dead) by Lrs. and others Vrs. Ningappa (dead) by LR. and others* reported in (2011) 9 SCC 451 that,

When, The suit properties stands in the name of the Plaintiff's mother-in-law, mother-in-law becomes the full owner of the property by operation of Section 14 of the Hindu Succession Act, 1956.

17. Here in this suit/appeal at hand, when, the suit properties and the house standing thereon are in the name of the Plaintiff (mother of the Defendant No.1 and mother-in-law of the Defendant No.2) as per Exts.2, 3 and 5, then at this juncture, in view of the principles of law enunciated in the ratio of the aforesaid decisions of the Apex Court, it cannot be held that, the suit properties are the joint and undivided properties of the Plaintiff and Defendants and the house standing thereon is the shared household of the Defendant Nos.1 and 2 (Appellants in this 2nd appeal).

For which, in other words, accepting the concurrent findings of the learned Trial Court as well as learned 1st Appellate Court, it is held that, the suit properties and the house standing thereon is



the exclusively owned properties and house of the Plaintiff (Respondent No.1 in this 2nd appeal)

18. Now it will be seen, whether the Defendant Nos.1 and 2 have their right to stay/reside in the house of the Plaintiff situated on her properties against the wish of the Plaintiff, when, she (Plaintiff) (mother of the Defendant No.1 and mother-in-law of the Defendant No.2) is not interested to allow them (Defendant Nos.1 and 2) to stay/reside in her house alleging physical and mental tortures against them (Defendant Nos.1 and 2) on her (Plaintiff) and her husband (Defendant No.3).

On this aspect, the propositions of law has already been clarified by the Hon'ble Courts and Apex Court in the ratio of the following decisions:-

(i) In a case between ***Ritesh Khatri Vrs. Shyam Sundar Khatri reported in 2026 (1) CCC 110 (Raj.) that,***

If, father allows his son/daughter to continue in possession of his house or property or its portion, same does not, by itself, create any legal right in favour of the child to claim that, property as his own, unless property is an ancestral or of Hindu undivided property. Injunction against the children sought for by the father is allowed.

(ii) In a case between ***Sachin and another Vrs. Jhabbu Lal and another reported in AIR 2017 (Delhi) 1 in Para No.15 that,***



where, the house is the self-acquired house of the parents, then, son whether married or unmarried has no legal right to live in that house and he can live in that house only at the mercy of his parents up to the time the parents allow. Merely because the parents have allowed him to live in the house so long as his relations with the parents were cordial, does not mean that, the parents have to bear his burden throughout his life.

(iii) In a case between ***Suresh Sharma and another Vrs. Dhanwanti Sharma reported in 2022 (3) Civ.C.C. 79 (Rajasthan) that,***

Property of mother—Mother sought for eviction of son and daughter-in-law—Mother despite being the owner of suit property was ousted out of it by son and daughter-in-law and was meted out with severe ill-treatment including mental, social and physical abuse by them—She (Mother-in-law) categorically stated that, living with the petitioners (Son and daughter-in-law) would pose a threat to her life and mental well being—Son and daughter-in-law rightly evicted from suit property.

(iv) In a case between ***Anil Kumar Tiwary Vrs. State of Jharkhand reported in 2021 (3) Civ.C.C. 664 (Jharkhand) that,***

Property in question is the self-acquired property of the senior citizen—Petitioners being son and daughter-in-law are conjointly fighting with senior citizen—Petitioners claiming right to live in suit property, as earning of son is not sufficient to hire separate house and daughter-in-law has right to live in the house with full dignity.

Allegation of senior citizen is that, Petitioners have been subjecting mental torture to him, thus, he wants to evict both his son and daughter-in-law. Petitioners rightly evicted.

(v) In a case between ***Namdeo s/o. Babuji Bangde Vrs. State of Maharashtra and others reported in 2022 (3) Civ.C.C. 131 (Bombay) that,***



Eviction of son and daughter-in-law residing in self-acquired property of senior citizens—Safety and security of senior citizens shall be in jeopardy unless son and daughter-in-law are evicted—Son is not expected to brand his aged father a ‘swindler’ or then allege that, aged parents have lost mental balance—Eviction order upheld by observing that, it is absolutely necessary to ensure the physical and emotional health and safety of parents.

(vi) In a case between **Krishan and another Vrs. The Deputy Magistrate-cum-Appellate Tribunal, Panipat and others reported in 2024 (1) Civ.C.C. 477 (P and H) that,**

Property of mother—Mother sought for eviction of sons—Mother is a 70 years old widow lady and she is the owner of the property—Petitioners have been misbehaving with their mother—It is irrelevant, whether Petitioners have any house or not, as it is the right of mother, which is to be seen under the Act—In order to ensure protection of mother, eviction of Petitioners is necessary—Eviction order upheld.

(vii) In a case between **Ravi Kumar Vrs. Deputy Commissioner-cum-Appellate Tribunal, Jhajjar and others reported in 2024 (1) Civ.C.C. 492 (P and H) that,**

Property of senior citizen—Eviction of son—Petitioner son contended that, suit property is ancestral property—However, no document or material on record to show that, property is ancestral in nature, in which, petitioner had any right—More so, Petitioner himself raised the plea in written statement that, he had contributed in purchasing the house in question—Plea of property being ancestral is contrary to said plea—Mother of petitioner is thus, exclusive owner of suit property—Order of eviction upheld.

(viii) In a case between **Deepak Kumar and another Vrs. District Magistrate-cum-**



Appellate Tribunal, Hoshiarpur and another reported in 2024 (2) Civ.C.C. 747 (P and H) that,

Eviction of son sought for by mother—Mother is owner of the suit property—She is an old person having no source of income and is mentally and physically weak—Petitioners have misbehaved with mother and did not provide her with basic needs—Mother is not residing in the suit property—Orders for eviction of Petitioners rightly passed.

(ix) In a case between **Rajeswar Prasad Roy Vrs. The State of Bihar and others reported in 2025 (2) Civ.C.C. 403 (S.C.) that,**

Eviction of son and daughter-in-law from self-acquired property of senior citizen—Senior citizen 75 years of age—Son and daughter-in-law have not only encroached upon self-acquired property, but, also threatened senior citizen of false criminal complaints, abusing and creating hurdles in running of Rest House and thereby causing mental and physical harassment to old parents. Eviction order against the son and daughter-in-law rightly passed.

(x) In a case between **Urmila Dixit Vrs Sunil Sharan Dixit and others reported in 2025 (3) Civil LJ 341 (SC) that,**

The Maintenance and Welfare of Parents and Senior Citizens Act, 2007 and Rules thereof are the beneficial statute. The beneficial statutes must receive liberal construction inconsonance with the objects to be served by it. Courts or Tribunals should adopt purpose oriented approach. Literal construction be avoided. It is the duty of the Court to discern the intention of legislature while enacting it. Beneficial statute should be given purposive construction, which should be line with its object.

Statement of objects, reasons and preamble of Maintenance and Welfare of Parents and Senior Citizens Act, 2007 shows that, it is indented towards more effective maintenance and



welfare of parents and senior citizens, it is as such beneficial piece of legislation. In earlier cases Supreme Court has highlighted that, it is the social obligation of both sons and daughters to maintain their parents, who are unable to maintain themselves. Therefore, Court is bound to advance social justice to them, when such case comes before it. (Paras 8 & 11)

19. Here in this suit/appeal at hand, when, the old mother of the Defendant No.1 and old mother-in-law of Defendant No.2 i.e. Plaintiff being more than 75 years in age is not interested to allow her son (Defendant No.1) and Daughter-in-law (Defendant No.2) to stay/reside in her house situated on the suit properties, in which, she (Plaintiff) is the exclusive owner apprehending danger to her life as well as to the life of her old husband i.e. Defendant No.3 alleging allegations against them (Defendant Nos.1 and 2) that, they (Defendant Nos.1 and 2) are giving physical and mental tortures to her (Plaintiff) and her husband (Defendant No.3) continuously, then at this juncture, in view of the principles of law enunciated in the ratio of the aforesaid decisions of the Hon'ble Courts and Apex Court, the judgment and decree for eviction from the house situated on the suit properties passed against the Defendant Nos.1 and 2 (Appellants in this 2nd appeal) and permanent injunction against them (Defendant Nos.1 and 2) immediately after their eviction from the suit house by the learned



Trial Court in C.S. No.20 of 2019 and confirmation to the same by the learned 1st Appellate Court in R.F.A. No.16 of 2023 cannot be held as erroneous.

For which, the question of interfering with the same through this 2nd Appeal filed by the Appellants (Defendant Nos.1 and 2) does not arise.

Therefore, there is no merit in this 2nd appeal filed by the appellants (Defendant Nos.1 and 2). The same must fail.

20. In result, the 2nd appeal filed by the appellants (Defendant Nos.1 and 2) is dismissed on contest, but without cost.

The judgments and decrees passed by the learned Trial Court as well as learned 1st Appellate Court in C.S. No.20 of 2019 and R.F.A. No.16 of 2023 respectively in favour of the Plaintiff and against the Defendant Nos.1 and 2 are confirmed.

(A.C. Behera),
Judge

Orissa High Court, Cuttack
19th of February, 2026/ Binayak Sahoo//
Junior Stenographer