

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 13778 OF 2025
(Arising out of SLP(Civil) No. 8540/2025)

SHAHID ALAM

PETITIONER(S)

VERSUS

ARUN KUMAR YADAV @ BALMIKI YADAV & ORS.

RESPONDENT(S)

R1 : Arun Kumar Yadav @ Balmiki Yadav
R2 : RAMCHANDRA YADAV
R3 : ASHOK YADAV
R4 : DEWANTI DEVI,
R5 : BAIJANTI DEVI
R6 : CHINTA DEVI
R7 : ANITA DEVI
R8 : REKHA DEVI
R9 : MANJIT YADAV
R10 : SURAJ YADAV
R11 : SUJIT YADAV
R12 : AJIT YADAV
R13 : AMARJIT YADAV

O R D E R

Heard learned counsel for the parties.

2. Leave granted.

3. The appellant is aggrieved by the fact that in the suit filed by the respondent no.1, his petition to dismiss the same on the ground of *res judicata*, has not been considered and it has been held that the same would be considered along with the main suit finally, has been

upheld by the High Court.

4. Learned counsel for the appellant submits that despite there being two rounds of litigation in the past between the parties, who were parties in all those litigations, either in the capacity of the plaintiff or the defendant, the same issue being re-agitated for the third time, is clearly hit by the principle of *res judicata*. It is submitted that it would be an abuse of the process of the Court and amount to harassment as the appellant despite having gone through two rounds of litigation, right up to this Court, and having won; by way of subterfuge, the so called adopted son of one of the claimant is now raising the same very plea and thus, the appellant's petition for dismissal of the suit on *res judicata* being rejected, is erroneous.

5. *Per contra*, learned counsel for the respondent no.1/plaintiff submits that he has challenged the very capacity of the vendor of the appellant to transfer the land, which also belonged to his mother and this needs to be gone into afresh. However, on a direct query of the Court as to where was the issue of *res judicata* considered by the High Court while upholding the challenge to the same made by the appellant, he fairly submits that such issue has not been discussed.

6. Having considered the matter, we find that the order

impugned cannot be sustained for the simple reason that the issue of *res judicata* is a right which inheres in a person who raises the same, and has to be considered on its own merits. It is also an established fact that the plea of *res judicata* has to be taken at the very first instance so as to prevent the misuse and abuse of the process of the Court so that matters already decided are not re-agitated and have to go through the same paraphernalia. Thus, there has to be judicial application of mind to arrive at a decision whether such plea is sustainable, which we find has absolutely not been done under the order impugned.

7. Accordingly, on the said short point, the appeal stands allowed. The order impugned is set aside. The matter is remanded back to the High Court for fresh consideration on merits, especially with regard to the issue of *res judicata*.

8. The petition CMP No. 602 of 2024 is revived to its original number on the file of the High Court. The High Court shall consider the same after giving opportunity of hearing to all the sides concerned. It goes without saying that the High Court shall go into the merits independently and shall not be prejudiced by the present order.

9. In the meantime, *status quo*, as it exists today, shall be maintained by the parties in all aspects.

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

.....J.
(AHSANUDDIN AMANULLAH)

.....J.
(PRASHANT KUMAR MISHRA)

NEW DELHI
18th NOVEMBER, 2025

ITEM NO.20

COURT NO.14

SECTION XVII-B

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

PETITION FOR SPECIAL LEAVE TO APPEAL (C) NO. 8540/2025

[Arising out of impugned final judgment and order dated 16-01-2025 in CMP No. 602/2024 passed by the High Court of Jharkhand at Ranchi]

SHAHID ALAM

PETITIONER(S)

VERSUS

ARUN KUMAR YADAV @ BALMIKI YADAV & ORS.

RESPONDENT(S)

FOR ADMISSION

Date : 18-11-2025 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE AHSANUDDIN AMANULLAH
HON'BLE MR. JUSTICE PRASHANT KUMAR MISHRA

For Petitioner(s) :Mr. S. B. Upadhyay, Sr. Adv.
Mr. Abhinav Kathuria, Adv.
Ms. Anisha Upadhyay, AOR

For Respondent(s) :
Mr. Jay Kishor Singh, AOR
Mr. Sanchit Maheshwari, Adv.

UPON hearing the counsel, the Court made the following
O R D E R

Leave granted.

2. The appeal is allowed in terms of the signed order,
which is placed on the file.

(POOJA SHARMA)
AR-CUM-PS

(ANJALI PANWAR)
ASSISTANT REGISTRAR