

IN THE HIGH COURT OF JUDICATURE AT PATNA
Second Appeal No.221 of 2013

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1. State of Bihar through Collector, Kaimur At/P.O./P.S.-Mohania, District-Kaimur.
 2. Deputy Collector Land Reforms, Mohania At/P.O./P.S. Mohania, District-Kaimur.
 3. Anchal Adhikari, Mohania At/P.O./P.S.-Mohania, District-Kaimur.

.... Appellant/s

Versus

1. Bhanu Pratap Sharma.
2. Jai Prakash Roy, both sons of late Ram Dayal Roy, both resident of village-Barhupar, P.S.-Mohania, District-Kaimur (Bhabua).
3. Rash Bihari Mishra, son of late Rishikesh Rai, resident of village-Barhupar, P.S.-Mohania, District-Kaimur (Bhabua).

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Neeraj Kumar, Adv.

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH
ORAL JUDGMENT

7 28-04-2015 Heard Mr. Neeraj Kumar, the learned counsel
appearing on behalf of the appellants.

The appellants have preferred this second appeal against the judgment and decree of reversal by the appellate court setting aside the dismissal of the suit and granting the decree to the plaintiffs, as prayed. The plaintiffs have filed the suit for declaration of their title over the suit land and grant of injunction restraining the defendants from interfering in their possession. The plaintiffs have claimed the suit land to be their ancestral land. The



defendant-appellants denied the claim of the plaintiffs and contested the suit. The suit land is plot no. 3385. According to the case of the plaintiffs, this plot no. 3385 has been carved out of C.S. plot no. 2432 which belonged to the plaintiffs. The defendants denied this fact in the written statement. The crucial issue, therefore, in the suit was whether this suit plot no. 3385 has been carved out of plot no. 2432 and whether the plaintiffs have got title and possession over the same. The defendant-appellants have not disclosed in the written statement the old plot number out of which the suit plot no. 3385 has been carved out nor there is any oral and documentary evidence on behalf of the defendants in this regard.

The appellate court below, on reappraisal of oral and documentary evidence adduced on behalf of the parties, has come to the finding that the suit plot no. 3385 has been carved of old plot no. 2432. It has also been further found on the basis of evidence that the old plot no. 2432 belonged to the plaintiffs. The conclusions by the appellate court below are on the basis of scrutiny of the evidence on record and no unreasonableness or perversity in any manner could be established on behalf of the appellants during the course of submissions. In fact, the entire submission on behalf of the appellants has centered around re-

appreciation of evidence but the same cannot be ventured at the second appellate stage unless the findings are shown to be illegal or perverse.

Mr. Neeraj Kumar, the learned counsel for the appellants has laid much stress to stray oral as well as documentary evidence in order to establish that the plaintiffs have failed to establish their title and possession over the suit land. However, it is well settled that the civil litigations are decided on the basis of the preponderance of probability and the entire evidence has to be considered in totality. As such, this Court does not find any substance in the submissions on behalf of the appellants. No other submissions have been made on behalf of the appellants.

Ex consequenti, there is no substantial questions of law arising for consideration in this appeal, which is, accordingly, dismissed.

(V. Nath, J)

Devendra/-

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