

IN THE HIGH COURT OF JUDICATURE AT PATNA
Second Appeal No.301 of 2000

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Dina Nath Singh, son of Ram Charitar Singh, resident of Village & P.O.
Dulma, P.S. Madhuban, District East Champaran
..... Plaintiff Appellant

.... Appellant

Versus

1. Most. Lalbani Kuar, wife of Late Anandi Rai
2. Birendra Rai, son of Late Anandi Rai, resident of Village Dulma, P.S. Madhuban, District East Champaran
3. Ravi Ranjan Prasad, minor son of Late Anandi Rai
4. Pratima Kumari, minor daughter of Late Anandi Rai
5. Antima Kumari, minor daughter of Late Anandi Rai, resident of Village & P.O. Dulma, P.S. Madhuban, District East Champaran ... Defendant 1st party Respondent 1st party
6. Smt. Janki Kumar Devi, wife of Durga Raut, resident of Village Bathna, P.S. Mahsi, District East Champaran Defendant 2nd party ... Respondent 2nd party
7. Ram Swaroop Thakur, son of Sheodhari Thakur, resident of Village & P.O. Dulma, P.S. Madhuban, District East Champaran Defendant 2nd party Respondent 2nd party
8. Ram Charitra Singh, son of Munsu Singh, resident of Village & P.O. Dulma, P.S. Madhuban, District East Champaran Plaintiff ... Appellant... Respondent 4th party

.... Respondents

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Appearance :

For the Appellant/s : Mr. S.S.Sinha "Shyam"

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH
ORAL ORDER

9 08-12-2015 Heard Mr. Singh, learned Counsel appearing for the appellant.

2. The plaintiff is the appellant in this appeal against the judgment and decree of affirmance. The plaintiff filed the suit for declaration of title over the suit property on the basis of purchase and further for declaration that the sale deed for the suit land in favour of defendant No. 1 was forged, fabricated and antedated document.

3. There is no dispute that the suit land belonged to the defendant No. 3 Mostt. Ramjhariya. The plaintiffs have claimed their



title over the suit land on the basis of sale deed dated 24.4.1974 (Ext. 3) executed by Mostt. Ramjhariya in favour of the plaintiffs. Prior to the execution of the said sale deed Mostt. Ramjhariya had executed agreement for sale on 8.8.1972 (Ext. 1) in favour of the plaintiffs and the sale deed was executed in pursuance of the said agreement. The plaintiffs have further alleged that the execution of the sale deed dated 17.10.1973 (Ext. B) by Mostt. Ramjhariya in favour of the defendant No. 1 was not legally valid and the said sale deed was a forged and antedated document. The defendants, on the other hand, have contested the assertion of the plaintiffs and have come out with a specific case that the agreement for sale (Mahdamana) (Ext. 1) dated 8.8.1972 propounded by the plaintiffs was an antedated document created for the purpose of frustrating the sale deed of the defendant which was executed on 17.10.1973 by Mostt. Ramjhariya in favour of the defendants.

4. Both the courts below have decided the crucial issue with regard to the validity of the agreement for sale Ext. 1 dated 8.8.1972 against the plaintiffs and have come to the finding that the said document was not legal and valid and have been fabricated by the plaintiffs. After recording the findings against the plaintiffs on other issues as well the suit was dismissed and thereafter the appeal has also been dismissed by the appellate court below.

5. Mr. Singh, learned Counsel appearing on behalf of the appellant, has submitted that both the courts below have failed to consider that the defendants have not brought on record the order in the proceeding for compulsory registration under Section 77 of the



Indian Registration Act in pursuance of which the sale deed dated 17.10.1973 (Ext. B) has been registered. It has further been submitted that the findings by the courts below with regard to Mahdanama dated 8.8.1972 is not sustainable as both the courts below have mis-appreciated the evidence on record. No other submission has been made on behalf of the appellant.

6. After perusal of the judgments of both the courts below and after considering the submission it is manifest that the plaintiffs are claiming the title over the suit land on the basis of sale deed dated 24.4.1974 (Ext. 3), whereas the defendants are claiming their title over the suit land from the same vendor by the earlier sale deed dated 17.10.1973 (Ext. B). The crucial issue therefore in view of the pleadings of the parties was the legality and validity of the Mahdanama dated 8.8.1972 (Ext. 1) propounded by the plaintiffs. Both the courts below after scrutiny of the evidence led by the parties have come to the concurrent finding that the validity of the said agreement for sale could not be established by the plaintiffs. From perusal of the judgments of both the courts below it does not appear that those findings are unreasonable or perverse in any manner. During course of submission also no perversity in those findings could be established. Once after the plaintiffs' claim on the basis of Mahdanama dated 8.8.1972 stands discarded, the sale deed of the defendants dated 17.10.1973 being earlier to the sale deed dated 24.4.1974 becomes legally valid and has rightly been held so by both the courts below.

7. The submission with regard to the non bringing on

record the order in the proceeding for registration by the defendants is concerned, it is apparent and accepted by the learned Counsel for the appellant that the fact regarding the said order has been mentioned in the sale deed dated 17.10.1973 (Ext. B). In that view of the matter, this Court does not find any substance in this submission.

8. Ex consequenti, this Court does not find any substantial question of law arising in this appeal for consideration, which is, accordingly, dismissed.

(V. Nath, J.)

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