

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Second Appeal No.481 of 2012**

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1. Shadhu Pandit S/O Late Ramautar Pandit R/O Village - Shivdeh,  
Pargana Andar, P.O. Sakara, P.S. Maharajganj, ( G.B. Nagar ), District -  
Siwan

2. Pawdhari Devi D/O Late Ramautar Pandit R/O Village - Shivdeh,  
Pargana Andar, P.O. Sakara, P.S. Maharajganj, ( G.B. Nagar ), District -  
Siwan

.... .... **Appellants.**

Versus

1. Smt. Shanti Devi W/O Nandlal Pandit @ Bigu Pandit R/O Village -  
Shivdeh, Pargana Andar, P.O. Sakara, P.S. Maharajganj, ( G.B. Nagar ),  
District - Siwan

2. Nandlal Pandit @ Bigu Pandit S/O Late Ramautar Pandit R/O Village -  
Shivdeh, Pargana Andar, P.O. Sakara, P.S. Maharajganj, ( G.B. Nagar ),  
District - Siwan

.... .... **Respondents.**

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**Appearance :**

For the Appellant/s : Mr. Chandra Kant  
For the Respondent/s : Mr.

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**CORAM: HONOURABLE MR. JUSTICE V. NATH**  
**ORAL JUDGMENT**

4      08-07-2015

Heard the learned counsel for the appellants.

The plaintiffs are the appellants in this appeal  
against the judgment and decree of affirmance dismissing the suit.

The plaintiff filed the suit for declaration of the  
gift deed dated 13.08.1986 executed by the plaintiff no.1 in favour  
of the defendant Shanti Devi, as forged, fraudulent and void  
document. The consequential reliefs have been prayed for  
declaration of the title of the plaintiffs over the suit property and  
for declaration that the defendants have got no title over the suit  
land.

The plaintiffs have come out with the case that

the gift deed dated 13.08.1986 has been obtained by the defendants by playing fraud and committing forgery. It has also been averred in the plaint that the suit property was acquired by the plaintiff no.1 out of the income of his son plaintiff no.3-Sadhu Pandit. The defendant denied the assertions of the plaintiffs and has claimed the gift deed in question to be legal and valid, conferring valid title upon the defendants.

Both the courts below have returned the concurrent finding of fact that the plaintiffs failed to establish the case of fraud and forgery by leading cogent evidence. The suit was dismissed and thereafter the appeal filed by the plaintiff has also been dismissed by the impugned judgment and decree.

The learned counsel for the appellants has submitted that the property subject matter of the gift deed was the joint family property of the plaintiffs and therefore the plaintiff no.1 could not have the right to alienate the same by executing the gift deed in question. It has also been argued that the courts below have not properly appreciated the evidence led on behalf of the parties. No other submission has been made on behalf of the appellants.

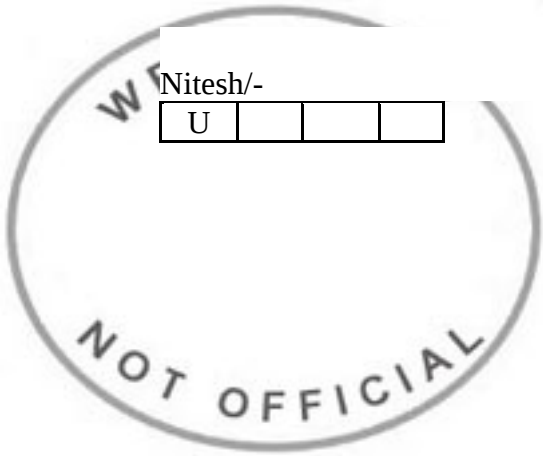
After perusal of the judgments of both the courts below and considering the submissions, it is limpid that the suit has been filed by the plaintiffs assailing the gift deed in



question in favour of the defendant Shanti Devi on the ground of forgery and fraud. The findings recorded by both the courts below concurrently in this regard are based upon the elaborate scrutiny of the evidence led on behalf of the parties. No unreasonableness or perversity in any manner could be established in those findings on behalf of the appellants during the course of argument. At the appellate stage, the prayer for reappraisal of evidence is not tenable unless the findings are shown to be perverse in any manner. The submission on behalf of the appellants has mainly centered around reappraisal of evidence with particular emphasis that the property in question was joint family property of the plaintiffs and could not have been alienated by executing the gift deed. However, the learned counsel for the appellants has fairly submitted that no such pleading is there in the plaint. Even otherwise also, it is evident from the judgment of the courts below that the specific case of the plaintiff was that the property in question was acquired in the name of the plaintiff no.1 from the money sent to him by the plaintiff no.3. This fact is manifestly inconsistent with the case of coparcenary as argued by the learned counsel for the appellants.

Ex consequenti, this Court comes to the conclusion that there is no substantial question of law arising for

consideration in this appeal, which is, accordingly, dismissed.



(V. Nath, J)