

IN THE HIGH COURT OF JUDICATURE AT PATNA
Second Appeal No.438 of 2008

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1. Raj Kumar Paswan Son of Chandra Paswan.
 2. Surendra Paswan, Son of Rajo Paswan.
 3. Kishori Paswan Son of Prasadi Paswan.
 4. Hari Charan Paswan @ Dhuri Paswan, Son of Prasadi Paswan.
 5. Ram Ashish Paswan Son of Darogi Pasawan.
 6. Mishri Paswan Son of Agnu Paswan.

All are resident of village- Maghara, P.S.- Deepnagar, District-Nalanda.

--Defendants-Respondents-Appellants.

Versus

1. Manorama Sinha Wife of Sri Kumar Amar, Permanent resident of village and P.O.-Manjhauli, P.S.-Cheriabariarpur, District-Begusarai, presently residing in Sheela Apartment , East Boring Canal Road, Patna.
2. a. Sudhir Kumar .
b. Randhir Kumar.
Both sons of Late Surya Bhushan Prasad Singh, Resident of village & P.O.- Maghra, P.S.-Deep Nagar, District-Nalanda at Biharsharif presently residing in Awash Apartment, East Boring Canal Road, Patna.
- c. Ruby Kumari W/o Sri Abhay Kumar, Resident of Village & P.O.- Manjhauli, P.S.-Cheriabariarpur, District-Begusarai .

--Plaintiff-Appellant-Respondent (1st set).

3. Karu Paswan, Son of Prasadi Paswan.
4. Govind Paswan @ Kallu son of Banshi Paswan.
5. Gaya Paswan @ Gaira Paswan Son of Mallu Paswan.
6. Baleshwar Ravidas Son of Munshi Ravidas.
7. Bachchu Ravidas Son of Munsu Ravidas.
8. Ishwar Ravidas.
9. Parmeshwar Ravidas.
Both sons of Late Bhutali Ravidas.
10. Prabhu Chand Ravidas Son of Bhutali Ravidas.
11. Bhushan Ravidas Son of Matalu Ravidas.
12. Baso Paswan Son of Late Darogi Paswan.
13. Gul Charan Ravidas Son of Late Ganauri Ravidas.

14. Gendhari Paswan Son of Late Dhani Paswan.

All are resident of village- Maghara, P.S.-Deepnagar, District-Nalanda.

15. The State of Bihar through Collector, Biharsharif at Nalanda.

16. The Land Reforms Deputy Collector, Biharsharif at Nalanda.

17. The Anchal Adhikari Biharsharif, Anchal Biharsharif.

18. Bihar Bhoodan Yagna Committee through its Chairman Kadamkuan,
P.S.- Kadamkuan, Jagat Narayan Road, Kadamkuan, Patna.

Defendants-Respondents-Respondents (2nd set.).

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Appearance :

For the Appellant/s : Mr. Ashok Kumar Singh
Mr. Parmeshwar Vishwakarma
Mr. Mayank Mani

For the Respondent/s : Mr. Null

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CORAM: HONOURABLE MR. JUSTICE V. NATH
ORAL ORDER

9 30-03-2015

Heard the learned counsel for the appellants.

The defendants in the suit are the appellants in
this appeal against the judgment and decree of reversal.

The suit was filed by the plaintiffs for
declaration of title and for confirmation of possession and in
the alternative for recovery of possession, if dispossessed
during the pendency of the suit.

The plaintiffs have claimed title and possession
over the suit land on the basis of settlement made by the ex-
landlord in their favour. There were altogether 19 defendants in
the suit out of whom the defendant no.16 to 19 appeared and
filed their written statement. The other defendants either did



not appear or some of them who appeared did not file their written statement. The defendant nos. 16 to 18 are the government officials and defendant no.19 is Bihar Bhoodan Yagna Committee. The written statement which has been filed on behalf of the respondent nos. 16 to 19 has disclosed that the ex-landlord donated the suit land to Bhoodan Yagna Committee and the same was ultimately settled through grant of Parcha by the said Committee in accordance with the provision of Bihar Bhoodan Yagna Act, 1954. Although, no evidence was led by the defendants in the suit to substantiate their assertions made in the written statement, the trial court on the basis of averments made in the written statement decided the issues against the plaintiffs and dismissed the suit. The appellate court on reappraisal of evidence on record has overturned the findings of the trial court, allowed the appeal and granted the decree as prayed by the plaintiffs. Some of the defendants out of defendant nos.1 to 15 have preferred this appeal.

The learned counsel for the appellants has submitted that the appellate court below has not considered the evidence on record in proper perspective. It has also been canvassed that the provision of law as contained in the Bihar

Bhoodan Yagna Act, 1954 have been ignored by the appellate court below. The learned counsel has further argued that the Bhoodan Yagna Committee may be given an opportunity of hearing to establish the case of donation of the suit land to the Bhoodan Yagna Committee and the settlement of the same to the defendant nos. 1 to 14. No other submission has been made on behalf of the defendants.

After perusing the judgments of both the courts below and considering the submissions, it is pellucid that the plaintiff has claimed the title over the suit land on the basis of settlement by the ex-landlord. The contesting defendant nos.16 to 19, however, came out with the case that the ex-landlord had donated the suit land to Bhoodan Yagna Committee which thereafter settled the same in favour of the defendant nos. 1 to 15. The appellate court below has appraised the evidence adduced by the plaintiffs in support of their case of acquisition of title by settlement by the ex-landlord and thereafter has come to the finding that the plaintiffs have succeeded in establishing their case. The appellate court below thereafter has also taken into notice that no oral or documentary evidence has been led on behalf of the defendants to prove the averments made by them in the written statement. The appellate court



below has further also held that the trial court has accepted the averments made in the written statement as proved even in absence of any supporting evidence in that regard, and in that view of the matter, the appellate court below has not concurred with the findings of the trial court. This Court does not find that the findings by the appellate court below are unreasonable or perverse in any manner. The submission on behalf of the appellants that the Bhoodan Yagna Committee (defendant no.19) should be given an opportunity to prove the case is clearly devoid of substance inasmuch as the said Committee was impleaded as one of the defendants in the suit but had chosen not to lead any evidence and even at the appellate stage also no such prayer was made by the said defendant no.19. To cap it all, the defendant no.19 has not preferred any appeal against the appellate decree nor has joined the present appellants in this appeal. The prayer on behalf of the appellants to grant an opportunity to the Bhoodan Yagna Committee (defendant no.19) to prove its case, in this backdrop, cannot be accepted. The defendant-appellants have also not assigned explanation for not filing written statement and contesting the suit by leading evidence.

For the aforesaid premised reasons, this

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

(V. Nath, J)

Nitesh/-

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