

IN THE HIGH COURT OF JUDICATURE AT PATNA

Second Appeal No.53 of 2008

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1. Chandra Narain Sah, son of Jali Sah @ Jangli Sah
 2. Ashok Kumar Sah
 3. Manoj Kumar Sah
 4. Sanjay Kumar Sah

Nos. 2 to 4 are sons of Chandra Narain Sah, All Nos. 1 to 4 are residents of Village Murliganj, Ward no. 6, Police Station Murliganj, P.O. Murliganj, District Madhepura

..... Plaintiffs Appellants

.... Appellants

Versus

1. The State of Bihar through the Collector, Madhepura
2. The Anchal Adhikari, Murliganj, P.O. Police Station Murliganj, District Madhepura

..... Defendants Respondents

.... Respondents

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Appearance :

For the Appellant/s : Mr. PRABHAS RANJAN
Mr. Ashok Kumar Prasad

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL JUDGMENT

Date: 29-06-2015

Heard learned Counsel for the appellants.

2. The plaintiffs have filed the suit for declaration of their title and confirmation of possession and in the alternative for recovery of possession, if dispossessed from the suit property during pendency of the suit.

3. The plaintiffs have come out with a case that the suit land as mentioned in Schedule of the plaint was originally *Gairmazarua Khas* land and the ex-landlord had settled the same with the plaintiffs predecessors and since then they are coming in possession over the same as title holders. In the recent survey proceeding the suit land has been recorded as *Anabad Bihar Sarkar* and it is the case of the plaintiffs

that their names have been recorded in the remark column showing them to be in illegal possession.

4. The defendant State of Bihar was precluded from filing the written statement.

5. The trial court returned the finding on the material issues against the plaintiffs holding that the plaintiffs had failed to substantiate their case of acquisition of title over the suit land by settlement from the ex-landlord and their case of possession over the suit land as title holders. In appeal, the appellate court below after reappraisal of evidence has affirmed the findings of the trial court and dismissed the appeal by the impugned judgment and decree.

6. Learned Counsel for the appellants has submitted that both the courts below have erred in law in not appreciating the evidence on record in proper perspective. It has been canvassed that the plaintiffs have succeeded in establishing their title and possession over the suit land by leading substantial evidence which includes the deed of settlement (Ext. 5) and the rent receipts granted by the ex-landlord.

7. After perusal of the judgments of both the courts below and considering the submission it is limpid that the crucial issue in the suit was acquisition of title by the plaintiffs' predecessors over the suit land by way of settlement. The deed of settlement (Ext. 5) and the rent receipts which the plaintiffs have claimed to have been granted by the ex-landlord, have not been found to be genuine documents by the Court. Moreover, the plaintiffs have also not brought on record the return filed by the ex-landlord or Register II prepared on the basis of the said return to corroborate their case of settlement. The appellate court below has

also taken into notice that though the plaintiffs have mentioned the old survey khata numbers and plot numbers along with new survey khata numbers and plot numbers in the Schedule of the plaint but have led no evidence to establish that the suit land as recorded in the recent survey proceeding have been carved out from the old khata numbers and plot numbers. It has also been taken into notice by the courts below that in the remark column of the recent survey khatian the name of Gujjar Sah, son of Rabi Sah has been mentioned showing his illegal possession over the land but the plaintiffs have not made any endeavour to explain the said entry in the name of Gujjar Sah nor have impleaded the said Gujjar Sah as party in the suit. It transpires from the perusal of the judgments of the courts below that scrutiny of oral and documentary evidence has been made and thereafter the conclusions have been arrived.

8. This Court does not find substance in the submission on behalf of the appellants that material evidence have not been considered by the courts below in proper perspective. No unreasonableness or perversity could be established in the finding of both the courts below during course of submission on behalf of the appellants.

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

(V. Nath, J.)

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