

IN THE HIGH COURT OF JUDICATURE AT PATNA

Second Appeal No.514 of 2012

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1. Prabhawati Kuer W/o Late Raja Ram Bind Resident Of Village- Rupin, P.S- Chainpur, District- Kaimur ( Bhabhua)
  2. Pakhandu Bind (Minor) S/O Raja Ram Bind, Through Raja Ram Bind, Father And Natural Guardian. Resident Of Village- Rupin, P.S- Chainpur, District- Kaimur ( Bhabhua)
  3. Sheo Baran Bind S/O Late Bhikhari Bind Resident Of Village- Rupin, P.S- Chainpur, District- Kaimur ( Bhabhua)
  4. Shyam Narayan Bind (Minor) S/O Sheo Baran Bind, Through Sheo Baran Bind, Father And Natural Guardian Resident Of Village- Rupin, P.S- Chainpur, District- Kaimur ( Bhabhua)
  5. Ram Narayan Bind (Minor) S/O Sheo Baran Bind, Through Sheo Baran Bind, Father And Natural Guardian Resident Of Village- Rupin, P.S- Chainpur, District- Kaimur ( Bhabhua)
  6. Lal Barat Bind S/O Late Bhikhari Bind Resident Of Village- Rupin, P.S- Chainpur, District- Kaimur ( Bhabhua)
  7. Subhash Chandra Bind (Minors) S/O Late Barat Bind, Father And Natural Guardian. Resident Of Village- Rupin, P.S- Chainpur, District- Kaimur ( Bhabhua)
  8. Null Null Null

.... .... Appellant/s

Versus

1. Praye Bind S/O Deo Raj Bind Resident Of Village- Rupin, P.S- Chainpur, District- Kaimur (Bhabhua)
2. Lal Bihari Bind S/O Deo Raj Bind Resident Of Village- Rupin, P.S- Chainpur, District- Kaimur (Bhabhua)
3. Dular Bind (Minor) S/O Pyare Bind Resident Of Village- Rupin, P.S- Chainpur, District- Kaimur (Bhabhua)
4. Pramod Bind (Minor) S/O Pyare Bind Resident Of Village- Rupin, P.S- Chainpur, District- Kaimur (Bhabhua)
5. Vinod Bind (Minor) S/O Pyare Bind Resident Of Village- Rupin, P.S- Chainpur, District- Kaimur (Bhabhua)
6. Bhola Bind (Minor ) S/O Pyare Bind Resident Of Village- Rupin, P.S- Chainpur, District- Kaimur (Bhabhua)
7. Vidhani Bind S/O Late Ram Din Bind Resident Of Village- Itahi, P.S- Durgawati, District- Kaimur (Bhabhua)

.... .... Respondent/s

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**Appearance :**

For the Appellant/s : Mr. K.N.Choubey, Sr. Advocate  
For the Respondent/s : Mr. null

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

**ORAL JUDGMENT**

**Date: 30-03-2015**

Heard Mr. K. N. Choubey, learned Senior Counsel appearing

on behalf of the appellants.

2. The plaintiffs are the appellants in this appeal against the judgment and decree of affirmance. The suit was filed for partition of 5/12<sup>th</sup> share of the plaintiffs in the suit property. A counter claim was filed on behalf of the contesting defendant no. 14, Phulmati Kuer, for declaring her half share in the suit property as widow and heir of Late Loku Bind in the suit property.

3. The trial court returned the finding, after scrutiny of evidence, that the contesting defendant no. 14, Phulmati Kuer, was married with Loku Bind and is entitled to half share in the suit property as heir of Loku Bind. The suit was dismissed but the counter claim was decreed on contest, directing partition of half share of the contesting defendant no. 14 Phulmati Kuer by metes and bounds.

4. In appeal by the plaintiffs, the appellate court after reappraisal of the pleadings and evidence has upheld the judgment and decree of dismissal by the trial court for the entire suit property except 14 dec.of Chak Khata No. 54. This appeal has been filed by the plaintiffs. No cross appeal has been filed on behalf of the contesting defendant no. 14.

5. Assailing the impugned judgment and decree, Mr. Choubey, learned Senior Counsel appearing for the appellants, has raised the sole submission that the courts below have not properly considered the evidence of the parties and, therefore, the impugned judgment and decree is vitiated.

6. However, after perusal of the judgments of the courts below this Court finds that the findings have been arrived by the courts below on appreciation of evidence. At the second appellate stage the

concurrent findings of fact cannot be interfered after reappraisal of the evidence of the parties, unless those findings are shown to be unreasonable or perverse. This Court has not been persuaded to hold the findings to be unreasonable or perverse in any manner.

7. Ex consequenti, this Court does not find any substantial question of the law arising for consideration in this Second Appeal, which is, accordingly, dismissed.

**(V. Nath, J.)**

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