

IN THE HIGH COURT OF JUDICATURE AT PATNA

Second Appeal No.140 of 2008

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1. Reena Sharma, widow of Late Yogendra Sharma
 2. Anand Mohjan Singh, son of Late Yogendra Sharma
 3. Krishna Mohan Singh, son of Late Yogendra Sharma
 4. Soni Kumari, daughter of of Late Yogendra Sharma

All residents of Village Mafo, PS Mehus, District Sheikhpura

..... Defendants Appellants

.... Appellants

Versus

1. Parbha Devi, wife of Krishnandan Singh, resident of Village Powari, PS Harnaut, District Nalanda
2. Maya Devi, wife of Sukhdeo Singh, resident of Village Rahatpur, PS Lakhisarai, District Lakhisarai, Both Sl.Nos. 1 and 2 are daughters of Doman Singh
3. Bhuneshwar Sharma, son of Doman Singh
4. Ranju Devi, widow of Late Binay Sharma
5. Brajesh Kumar, son of Late Binay Sharma, residents of Village Mafo, PS Mahus, District Sheikhpura
6. Bipin Kumar
7. Manoj Kumar
8. Sudhanshu Kumar, Sl. Nos. 6 to 8 are sons of Doman Sharma, minor under the guardianship of their father Doman Sharma
9. Hari @ Haricharan Prasad Singh, son of Jagdish Narayan Singh, Professor Rajnioti Vibhag RD & DJ College Munger
10. Tunu Babu @ Satish Pd. Singh, son of Jagdish Narayan Singh, resident of Village Tenusm Rajendra Nagar Road No. 3, Patna – 16
11. Bibeka Prasad Singh, son of Late Radha Krishna Prasad Singh, resident of Doctor City Hospital, Patna – 8
12. Brij Kumari Devi, widow of Late Gowardhan Singh, resident of Village Tenus PO Barbigha, District Munger, residing at present Tenus kothi, Kadam Kuan, Patna – 3
13. Sunil Prasad Singh, son of Kedar Prasad Singh, resident of Village Tenus, PS Barbigha, District Muinger
- Defendants..... Respondents
14. Lalan Prasad Singh, son of Parmeshwar Singh
15. Upendra Pd. Singh, son of Parmeshwar Singh , all resident of Village Mafo, PS Shjeikhpura, District Munger
- Defendants Respondents
16. Shila Nath Prasad Singh, son of Lakhan Pd. Singh, resident of Village Newari, PS Jehanabad, District Gaya
- Defendant Respondent
17. Baban Singh
18. Bidya Pati Singh, both sons of Lakhan Singh, resident of Village Mafo, PS Sheikhpura, District Munger

..... Defendants Respondents

.... Respondents

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Appearance :

For the Appellant/s : Mr. Dronacharya
Dr. Anjani Prasad Singh
For the Respondent/s : Mr. Bishwanath Choudhary
Mr. Bimlendu Shekhar Thakur

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CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL JUDGMENT

Date: 13-05-2015

Heard Mr. Dronacharya, learned Counsel appearing for the appellants. Mr. Bishwanath Choudhary, learned Counsel for the respondents is also present.

2. The defendants are the appellants in this appeal against the judgment and decree of affirmance by which the suit has been decreed.

3. The plaintiffs filed the suit for declaration of their title and possession over the suit land. The plaintiffs claimed that their predecessor in interest and since thereafter the plaintiffs have been coming in possession over the suit land as owner thereof. The defendants resisted the claim of the plaintiff on the basis that the entire suit land was auction sold and purchased by the ex landlord themselves, who later on sold part of the suit land in favour of the defendant-appellants.

4. The trial court after considering the pleadings and evidence returned the finding that the contesting defendants could not establish that the delivery of possession was effected in pursuance of the auction sale. After further considering the other evidence on record also including the date of relinquishment executed by the ex-landlord in favour of the plaintiffs the trial court disbelieved the case of the contesting defendants



and granted the decree as prayed by the plaintiff. The appeal was preferred only by the present defendant- appellants. The other contesting defendants did not chose to assail the judgment and decree passed against them by the trial court. It would be pertinent at this juncture to mention that defendant-appellants are purchasers of only part of the suit property though their case is that entire suit property was auction sold in execution of the rent decree against the predecessor of the plaintiffs. The appellate court below after reappraisal of the evidence has concurred with the findings and conclusions of the trial court and dismissed the appeal by the impugned judgment.

5. Mr. Dronacharya, learned Counsel for the appellants, has made his submissions in support of the appeal. However, after considering the submissions and perusal of the judgment of both the courts below it is manifest that concurrent finding has been recorded by both the courts below that the delivery of possession over the suit land in pursuance of he rent decree could not be proved either by the defendant-appellant and other contesting defendants. The fact also cannot be ignored that other defendants who are admittedly the vendor of the present defendant-appellants did not challenge the decree passed in the instant case by the trial court.

6. From perusal of the judgments of both the courts below it is further transparent that the evidence led by the parties on the issues have been elaborately analysed and thereafter finding has been recorded. This Court has not been persuaded to find any unreasonableness or perversity in the findings recorded by both the courts below.

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

(V. Nath, J.)

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