

IN THE HIGH COURT OF JUDICATURE AT PATNA
Second Appeal No.284 of 2013

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Mosmat Nanhki Kuar @ Naiki Kuar, wife of Late Hardeo Rai, Resident of village- Kolharampur, P.S.-Barahara, District- Bhojpur.... **Appellant.**

Versus

1. Narabdeswar Singh, son of Late Nagdeo Singh
 2. Mahendra Singh
 3. Krishna Singh
 4. Bindeshwar Singh, all sons of Late Chandradeo Singh
 5. Tetari Devi
 6. Shail Kumari Devi, both daughters of Late Chandradeo Singh, All resident of village- Chatar, P.S.-Barahara, District- Bhojpur.
 7. Most. Deo Muni Kuar, wife of Late Radha Kishun Rai
 8. Rama Shankar Yadav
 9. Hari Shankar Yadav
 10. Bishnu Shankar Yadav, all aons of Late Radha Kishun Yadav,
 11. Lilawati Devi, wife of Sheo Bachan
 12. Chinta Kumari (minor) daughter of Late Radha Kishun Yadav, under the Natural Guardianship her own brother of Hari Shankar yadav, Resident of Village- Pawat, Thana- Ara Moffasil, district- Bhojpur.
 13. Ranjit Rai, son of Late Hardeo Rai, Resident of village- Kolharampur, P.s.- Barahara, District- Bhojpur. **..Respondents.**
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Appearance :

For the Appellant/s : Mr. Dronacharya, Adv.

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH
ORAL JUDGMENT

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Heard Mr.Dronacharya, the learned counsel

appearing on behalf of the appellants.

The plaintiff is the appellant in this appeal against the judgment and decree of reversal.

The suit was filed by the plaintiff for declaration of title and confirmation of possession. Admittedly the suit property belonged to Krit Gope. It is the case of the plaintiff that the suit property was auction sold for arrears of rent in Execution Case No.177/1920 and purchased by Sarifan Gope. The plaintiff

has further stated that the suit property was purchased by the predecessor of the plaintiff from Sarifan Gope by sale deed dated 26.05.1929 and on that basis the plaintiff has asserted his title and possession over the suit land. On the other hand the defendants have come out with the case that there was a title suit in between the predecessor of the defendants and Krit Gope and by compromise decree passed in the said title suit, the 60 decimals land (suit land) was given to the predecessor of the defendants and since then the predecessor of the defendants and thereafter the defendants have been coming in possession over the same as title holder.

The trial court returned the findings on the issues in favour of the plaintiff and granted the decree as prayed. The appellate court below in appeal by the defendants, on reappraisal of the evidence, has reversed the findings of the trial court, set aside the judgment and decree and dismissed the suit by the impugned judgment and decree.

Mr. Dronacharya, the learned counsel appearing for the appellant has submitted that the appellate court below has not correctly appreciated the facts and evidence on record on behalf of the plaintiff. It has been canvassed that the trial court has given good reasonings for granting the decree to the plaintiff but the reasonings assigned by the appellate court below are equally perverse. No other submission has been made on behalf of the

appellant.

After perusal of the judgments of both the courts below and considering the submissions, it is manifest that the plaintiff has based his claim of title and possession over the suit land on the basis of auction sale in Execution Case No.177/1920 and the purchase of the suit property by the plaintiff from the auction purchaser Sarifan Gope by sale deed dated 26.05.1929. However, the appellate court below has found that there is no evidence adduced on behalf of the plaintiff that the auction purchaser Sarifan Gope was ever put in possession over the property by delivery of possession in the execution proceeding and the sale deed dated 26.05.1929 in favour of the plaintiff was ever acted upon. On scrutiny of evidence, the appellate court has further found that in the return (Ext.5) the name of the plaintiff or the vendor of the plaintiff does not find mention against the suit land. It has also been found by the appellate court below that the defendant's claim of title and possession over the suit land on the basis of the compromise decree in T.S.No.514/1911 has been supported by cogent evidence on record and the said compromise decree has not been challenged by the plaintiff. During the course of submissions, this Court has not been persuaded to find any perversity or unreasonableness in the findings as well as reasonings of the appellate court below.

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

(V. Nath, J)

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