

IN THE HIGH COURT OF JUDICATURE AT PATNA
Second Appeal No.309 of 2009

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Mishri Lal Thakur

.... Appellant/s

Versus

Most Khatari Devi & Ors

.... Respondent/s

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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 ORDER

12 09-01-2015 Heard Mr. Prabhash Ranjan, learned Counsel appearing for
the Appellant.

The plaintiff is the appellant in this appeal against the judgment and decree of affirmance. The plaintiff filed the suit for declaration of title and recovery of possession of suit land described in Schedule of the plaint. The plaintiff has claimed his title and possession over the suit land on the basis of sale deed dated 19.12.1980 executed by Nathuni Thakur.

The defendants, on the other hand, have resisted the claim of the plaintiff and asserted to have acquired the suit land from Jiwachh Thakur by registered sale deed executed by him on 18.12.1981.

The plaintiff's case was based upon the assertion that the suit land was acquired by settlement in the year 1937 by the joint family consisting of Sri Lal Thakur (father of Jiwachh Thakur) and Nathuni Thakur along with their father Govind Thakur, who was also surviving at the time of settlement. The admitted position is that the settlement was made in the exclusive name of Sri Lal Thakur. In his deposition,

Nathuni Thakur (father of the plaintiff) has accepted that the settlement papers and the rent receipts after settlement for the suit land always remained with Sri Lal Thakur.

The defendants have claimed that the suit land was self acquisition of Sri Lal Thakur and after his death his son Jiwachh Thakur inherited the same. The defendants denied the case of acquisition of the suit land by the joint family.

Both the courts below have, after scrutiny of evidence on record, come to the conclusion that the plaintiff has failed to establish the fact that the suit land was the acquisition of the joint family of Sri Lal Thakur and Nathuni Thakur and have also come to the conclusion that the suit land was self acquisition of Sri Lal Thakur. The case set up by the plaintiff of his dispossession from the suit land by the defendants has also been disbelieved.

Learned counsel for the appellant has tried to persuade the Court for reappraisal of evidence in order to indict the concurrent findings of fact by the courts below. However, during the course of submission no perversity in any manner in the findings by the courts below could be established on behalf of the appellant. The civil disputes are decided on the basis of preponderance of probability and both the courts below have decided the issues of fact and law in favour of the defendants on the appraisal of evidence on record. In that view of the matter, this Court does not find any scope to interfere in the said finding.

In the ultimate eventuate it is held that there is no substantial question of law arising in this case.

The appeal is, accordingly, dismissed.

(V. Nath, J)

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