

IN THE HIGH COURT OF JUDICATURE AT PATNA

Second Appeal No.165 of 2013

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1. Sarwan Yadav son of late Nunu Ram Yadav.
 2. Sukhdeo Yadav son of late Nunu Ram Yadav.
 3. Bhedo Yadav son of late Nunu Ram Yadav.
 4. Ucho Yadav @ Uchit Yadav son of late Kulan Yadav.
 5. Dhano Yadav son of late Kulan Yadav.
 6. Aklu Yadav son of late Kulan Yadav.
 7. Nago Yadav son of late Kulan Yadav.
 8. Maheshwar Yadav son of late Kulan Yadav, all resident of village-
Anandpur, Tola Khirbhojna P.O. and P.S. Laxmipur, District-Jamui.

.... Appellant/s

Versus

1. Manoj Kumar Murmu son of late Doman Murmu.
2. Sunil Kumar Murmu son of late Doman Murmu.
3. Susil Kumar Murmu son of late Doman Murmu.
4. Basanti Kumari Daughter of late Doman Murmu.
5. Saro Devi wife of late Doman Murmu, all resident of village-Dubratari
Kanar, P.S. Laxmipur District-Jamui.
6. Rupi Devi wife of Durga Soren.
7. Ram Chandar Murmu son of late Nayaka Murmu.
8. Babulal Soren son of late Budhu Soren.
9. Gulo Soren son of late Budhu Soren, 6 to 9 resident of village-Anandpur
Salouna, P.S. Laxmipur, District-Jamui.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr.

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL JUDGMENT

Date: 10-02-2015

Heard Mr. Jha, the learned counsel appearing on behalf of
the appellants.

The defendants in the suit are the appellants in this second appeal against the judgment and decree of reversal.

The plaintiffs filed the suit for declaration of title and confirmation of possession and alternative for recovery of possession over the suit land. The plaintiffs have based their claim for title over the suit land on the basis of sale deed dated 10.08.1984 executed by Jolha Soren whereas the defendants have based their claim for title over the suit land on the basis of the sale deed dated 16.06.1984 executed by Durga Soren son of Jolha Soren. It is admitted that the suit lands in both the sale deeds are same. The plaintiffs' case is that Jolha Soren was allotted this property on partition and the said fact was also accepted by the parties before the Deputy Collector Land Reforms (ceiling) as apparent from the order (Ext. 6) passed therein.

The trial court dismissed the suit but the appellate court, on reappraisal of evidence, has decreed the suit overturning the judgment and decree of the trial court.

Mr. Jha, the learned counsel for the appellants has submitted that the suit has been filed after 17 years of the date of execution of the sale deed and therefore it was barred by limitation and the said question has been wrongly decided by the appellate court below. It has also been submitted that the defendants, on the basis of the sale deed, got their names recorded in the Register-II much before

and therefore also the suit is barred by limitation. The learned counsel has also canvassed that the plaintiffs have got no cause of action for filing the suit as the land has already been transferred in favour of the defendants. No other submission has been made on behalf of the appellants.

After perusal of the judgments of both the courts below and considering the submissions, it is limpid that the issue of limitation has been considered by the appellate court. The appellate court has found that the suit has been filed within three years when the possession of the plaintiffs over the suit land was threatened by the defendants and therefore the suit was not barred by limitation. It has now been well settled that the entry in the revenue records are not the starting point of limitation for the purpose of considering the bar of limitation as provided in Articles 58 and 59 of the Limitation Act which prescribes the right to sue first accruing as the starting point of limitation. In the case of **Daya Singh Vs. Gurden Singh 2010 (2) SCC 194** the Apex Court has considered the said aspect and has laid down the aforesaid principle. The defendants have not led any evidence to show that the allotment of land as mentioned in the order (Ext.6) in the ceiling case was wrongly or fraudulently made or their vendor had no information regarding the same. As such, the presumption of correctness will be there with regard to the facts

mentioned in Ext.-6 unless rebutted by cogent evidence. The plaintiffs, who have purchased the suit land from Jolha Soren has definitely acquired a better title as the defendants have failed to establish that Durga Soren son of Jolha Soren had in any manner the exclusive title over the suit land. The appellate court below has recorded the findings on the basis of scrutiny of evidence and it has not been established during the submission that those findings are unreasonable or perverse in any manner.

In the ultimate eventuate, there is no substantial question of law arising for consideration in this appeal which is accordingly dismissed.

(V. Nath, J)

Devendra/-

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