

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Second Appeal No.201 of 2013**

- =====
1. Fuleshwari Devi W/O Late Jhanu Singh Yadav Resident Of Village- Bajar (Mathiya), Buxar, P.S + Anchal+ District- Buxar.
  2. Satyadeo Singh Yadav S/O Late Jhannu Singh Yadav Resident Of Village- Bajar (Mathiya), Buxar, P.S + Anchal+ District- Buxar.
  3. Prabhawati Devi D/O Late Jhannu Singh Yadav Resident Of Village- Bajar (Mathiya), Buxar, P.S + Anchal+ District- Buxar.
  4. Kapildeo Ahir S/O Late Ramadhar Ahir Resident Of Village- Bajar (Mathiya), Buxar, P.S + Anchal+ District- Buxar.
  5. Asha Devi D/O Late Jhannu Singh Yadav Resident Of Village- Bajar (Mathiya), Buxar, P.S + Anchal+ District- Buxar.....     **Appellants.**

Versus

1. Bihar Sarkar Through Collector, Buxar.
2. Circle Officer, Buxar, District- Buxar.
- Defendant-Respondent 1<sup>st</sup> set-Respondent.**
3. Mukhiya, Gram Panchayat, Pandeypatti, P.S- Buxar, P.S + Anchal+ District- Buxar.
- Defendant-Respondent 2<sup>nd</sup> set- Respondent.**

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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**

8       20-03-2015

Heard Ms. Mallika Mazumdar, the learned  
counsel appearing for the appellants.

The plaintiffs are the appellants in this appeal  
against the judgment and decree of affirmance.

The suit was filed by the plaintiff for  
declaration that the suit property was the purchased property of  
their ancestors and the plaintiffs have acquired their right of  
easement, right of way and right of user as well as title by adverse  
possession and for further declaration that the survey entry for the  
suit land as Sarv Sadharan is entirely wrong and without any basis.

The relief was also sought for against the defendants for permanent injunction restraining them from interfering in possession of the plaintiffs or from making any settlement.

Both the courts below after the scrutiny of the pleadings and evidence have come to the concurrent conclusion that the plaintiffs have failed to establish that the suit land was the purchased property of their ancestors by oral sale. Both the courts below have further also found that the plaintiffs have failed to establish the acquisition of right of easement, right of way and right of user over the suit land. It has also been found by both the courts below that the plaintiffs did not acquire right by adverse possession over the suit land. The suit, was therefore, dismissed on the basis of these findings. In appeal by the plaintiffs, the appellate court below has concurred with the findings of the trial court and dismissed the appeal.

Ms. Mallika Mazumdar, the learned counsel for the appellants has made the solitary submission that both the courts below have erred in law in not appreciating the evidence of the plaintiffs in proper perspective. It has been canvassed by the learned counsel for the appellants that if the correct interpretation of the evidence would be given, the plaintiffs would succeed in establishing the case as pleaded by them entitling them to the

decree as prayed. 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 manifest that the findings have been recorded by both the courts below on the basis of the appreciation of evidence. It is well settled that the civil litigations are decided on the basis of the preponderance of probability and further the plaintiff has to succeed on the strength of his own case by establishing the same after leading cogent evidence and not on the weakness of the case of the defendant. The reappraisal of evidence in order to interdict the concurrent findings on facts is not permissible under the second appellate jurisdiction unless the findings are established or shown to be unreasonable or perverse in any manner. This Court has not been persuaded to conclude that the findings recorded by both the courts below are unreasonable or perverse in any manner.

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

**(V. Nath, J)**

Nitesh/-

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