

IN THE HIGH COURT OF JUDICATURE AT PATNA
Second Appeal No.230 of 2008

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Rahmatullah Mian son of Farjan Mian resident of village Haripur Tola
Bardahi P.O. + P. S. Sikta District West Champaran.

.... Appellant/s

Versus

1(i) Amnullah Ansari son of Khalil Mian.

(ii) Amruddin Ansari son of Khalil Mian.

Both are resident of village Haripur Tola, Bardahi, P.O+ P.S. Sikta District
West Champaran.

(iii) Amila Khatoon daughter of Khalil Mian wife of Islam Mian, village
Raniganj Rahariya P.S. Pokharia, District Parasa, Neptal, at present residing
at Harpur Tola Bardahi P.O. + P.S. Sikta, District West Champaran.

(iv) Saqira Khatoon daughter of Khalil Mian wife of Motor Mian resident of
village Chankigarh P.o. Saidpur P.S. Narkatiyaganj Distt.

(v) Samima Khatoon daughter of Khalil Mian wife of Sakir Mian, village
Khirlicuiya P.o. Jokiyari P.S. Raxaul District East Champaran.

....Defendants 1st Party Respondents 1st Party

2. Sarfuddin Mian son of Molazim Mian resident of village Pokharia, P.O.
and P.S. Pokharia, Nepat at present village Haripur Tola Baradahi, P.o.
Sikta P.S. Balchar District West Champaran.

3.Shamsun Nissa wife of Ghoed Mian resident of village Pokharia, P.O. and
P.S. Pokharia, Nepat at present village Haripur Tola Baradahi, P.o. Sikta
P.S. Balchar District West Champaran.

4.Narjahan, daughter of Molazim Mian wife of Taimulah Mian resident of
village Murli P.O. and P.S. Birganj (Nepal).

5.Jaibun Nessa wife of Ghoud Mian daughter of Molazim Mian resident of
Khazuria Barwa P.O. Narkatiyaganj P.S. Shikarpur, District West
Champaran.

....Defendants 2nd Party Respondents 2nd Party.

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Appearance :

For the Appellant/s : Mr. K.K. Tiwary, Adv
Mr. Lokesh, Adv

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH
ORAL JUDGMENT

5 07-04-2016

Heard Mr. K.K. Tiwary, learned counsel for the appellant.

The plaintiff is the appellant in this appeal against the judgment and decree of affirmance. The plaintiff has filed the suit for permanent injunction against the defendants praying for restraining them from interfering in the possession of the plaintiff over the suit land.

The facts are not in dispute that earlier there had been a reference under Section 30 of the Land Acquisition Act in view of the dispute between the plaintiff and the defendant 1st set as well as defendant 2nd set with regard to the entitlement over the compensation amount for the acquisition of the suit land. In the land acquisition appeal it was held that the defendant 2nd set was entitled to the compensation amount and the claim of the plaintiff for entitlement to compensation amount was turned down in the said appeal. The plaintiff has omitted to seek any relief against the said award passed in the land acquisition appeal and has filed the suit simplicitor for the grant of relief of permanent injunction.

Both the courts below after considering the oral and documentary evidence adduced on behalf of the parties have come to the concurrent finding that the plaintiff is not entitled to



the relief, as prayed. The courts have also taken into notice that the claim of the plaintiff with regard to the suit land against the defendant 2nd set has been turned down by the appellate court in land acquisition appeal. The courts have also taken into notice that the plaintiff has failed to describe the suit land by giving boundary of the same making it difficult to identify the suit land. The suit was dismissed and thereafter the appeal by the plaintiff has also been dismissed by the impugned judgment and decree.

Mr. Tiwary, learned counsel for the appellant has submitted that there has been consistent evidence on record that the suit land was recorded in the name of the predecessor of the plaintiff and further the plaintiff has been in possession over the suit land. However, the learned counsel has accepted that no relief with regard to the earlier award/decreed in the proceeding under the Land Acquisition Act has been sought by the plaintiff and that decree/award is still subsisting.

After considering the submissions and perusal of the judgments of both the courts below, this court has not been persuaded to find any unreasonableness or perversity in any manner in the findings recorded by both the courts 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)

