

IN THE HIGH COURT OF JUDICATURE AT PATNA

Second Appeal No.169 of 2014

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1. Sachindra Yadav @ Sochindra Yadav, son of Daso Yadav,
2. Biplav Kumar Sah, son of Late Seo Kumar Sah
3. Kapildeo Yadav, son of Parmeshwar Yadav
4. Seo Kumar Yadav
5. Jitendra Kumar Yadav, both sons of Sachindra Yadav, All are resident of village- Rohiyar, Pargana- Farkiya, P.S.- Chaoutham, District- Khagaria

.... Appellants

Versus

1. Smt. Ram Pyari Devi, wife of Banarsi Bhagat & D/o Late Bidan Sah
2. Sri Banarsi Bhagat Son of Late Bhuneshwar Bhagat, Both are resident of village- Rohiyar, Pargana- Farkiya, P.S.- Chaoutham, District- Khagaria
3. Mostt. Sabo Devi, wife of Late Dukhi Bhagat and daughter of Late Bidan Sah, resident of village- Maheshpur, P.S.- Saur Bazar, District- Saharsa
4. Ranjan Devi, d/o Dinesh Bhagat, wife of Kirandeo Choudhary, resident of village- Kinaria, P.S.- Rajanpur, District- Saharsa
5. Reeka Devi, D/o Late Dinesh Bhagat, wife of Dinesh Kumar Bhagat, resident of village- Shaugar Tola, Bahagwanpur, P.S. & District- Madhepura
6. Dharendra Kumar son of Late Dinesh Bhagat
7. Bideshi Kumar Bhagat son of Dinesh Bhagat, Both are resident of village- Rohiyar, Pargana- Farkiya, P.S.- Chaoutham, District- Khagaria
8. Naveen Bhagat son of Banarsi Bhagat, resident of village- Rohiyar, Pargana- Farkiya, P.S.- Chaoutham, District- Khagaria at present residing at Village- Kathdumar, P.S.- Kanariya, District- Saharsa

.... 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

Date: 20-10-2016

Heard Mr. Dronacharya, the learned counsel for
the appellants.

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

The plaintiffs filed the suit praying for declaring



three sale deeds dated 04.09.1993, 01.10.1993 and 06.10.1993 executed by defendant 2nd set in favour of the defendant 1st set as illegal, null and void and further for declaration of title over the suit land and recovery of possession.

It is not in dispute between the parties that the defendant 2nd set who was the vendor of the defendant 1st set for the suit property by three sale deeds in question was the son of the plaintiff nos.1 and 2. The plaintiffs' case was that the property subject matter of three sale deeds originally belonged to the father of plaintiff no.1 who sold a part of the same to the plaintiff no.1 and plaintiff no.2 who is husband of plaintiff no.1 by registered sale deed of 1961 and the remaining part of the suit property was by way of allotment in partition among four sisters of the plaintiff no.1 who inherited the remaining property of their father. It has been the case of the plaintiffs that the defendant 2nd set had no right, title or interest in the suit land acquired by the plaintiffs by way of purchase and inheritance and the defendant 1st set did not acquire title over the suit land by means of three sale deeds in question executed by defendant 2nd set in their favour. The defendants, however, came out with the case that there had been partition in between the plaintiff nos. 1 and 2 and defendant 2nd set and in that partition the suit property was allotted in the share of the defendant 2nd set. It was also the case of the contesting



defendants that the part of the suit property was acquired by purchase in the name of the plaintiff nos. 1 and 2 out of the joint family fund.

Both the courts below have come to the concurrent finding of fact that the defendants have failed to establish their case of partition of the family property and allotment of the suit property in the share of the defendant 2nd set and have further failed to establish their case of acquisition of the suit property through joint family fund. The suit was accordingly dismissed. Thereafter the appeal by the defendant has also been dismissed.

After considering the submissions made by Mr.Dronacharya, learned counsel for the appellants and perusal of judgments of both the courts below, it is evident that the findings on material issues have been recorded by the courts below after elaborate consideration of the evidence which were acceptable and could have been relied upon. During the course of submission on behalf of the appellants, it could not be pointed out that any material and cogent evidence adduced on behalf of the contesting defendants for establishing their case of partition and allotment of the suit property to the defendant 2nd set in that partition or the acquisition of the part of the suit property out of joint family fund has been ignored. This Court thus has not been persuaded to find any perversity or unreasonableness in any manner to



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)

Nitesh/-

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