

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Second Appeal No.345 of 2013**

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1. Kulwanti Kuer @ Kulwati Kuar, wife of Jadu Nandan Thakur
  2. Birendra Prasad @ Birendra Thakur, son of Yadu Nandan Thakur
  3. Geeta Devi @ Gita Kumari, wife of Late Yogendra Thakur
  4. Dharmendra Kumar @ Dharmendra Thakur, son of Late Yogendra Thakur
  5. Nagendra Thakur, son of Yadu Nandan Thakur
  6. Sri Krishna Singh, son of Rajeshwari Singh
  7. Janki Devi, widow of Late Kedar Pandey
  8. Dashrath Pandey
  9. Manoj Pandey
  10. Shashikant Pandey, all sons of Late Kedar Pandey  
All resident of Village Mahuli, P.S. Ara Muffasil and District Bhojpur  
..... Defendants ..... Respondents

Versus

.... Appellant/s

1. Gauri Nandan Singh, son of Late Shyam Bihari Singh, resident of Village Mahuli, P.S. Ara Muffasil and District Bhojpur .... Plaintiff .... Appellant
2. Ram Jhari Kuar, widow of Late Sudarsan Singh
3. Binod Singh
4. Hari Krishan Singh
5. Ajay Singh, all sons of late Sudarsan Singh
6. Bikesh Thakur, son of Late Yogendra Thakur
7. Gayatri Devi, D/o Baleshwar Singh
8. Dhurup Singh
9. Arun Kumar Singh, both sons of Balmiki Singh
10. Sumitra Devi, wife of Daib Dayal Singh
11. Diwakar Singh
12. Umesh Singh
13. Parbhakar Singh
14. Sudhakar Singh, all sons of Daib Dayal Singh
15. Kanti Devi
16. Drapati Devi, both daughter of Daib Dayal Singh
17. Shanti Kunwar, wife of Anirudh Singh
18. Rinku Singh
19. Dharmendra Singh, both sons of Anirudh Singh
20. Bhairo Singh
21. Kumar Sunil Singh, both sons of Bheem Singh
22. Namrat Kumari, D/o Bhim Singh
23. Paduman Singh
24. Rajesh Singh, both sons of Late Rajendra Singh
25. Smt. Rato Kunwar, wife of Rajendra Singh
26. Viveka Nand Singh
27. Markendey Singh, both sons of Uma Nath Singh, and all above residents of Village Mahuli, P.S. Ara Muffasil, District Bhojpur
28. The State of Bihar, through the Collector, Bhojpur, Bihar

..... Defendants ..... Respondents

.... .... Respondents

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**Appearance :**

For the Appellant/s : Mr. Mohammed Abu Haidar

For the Respondent/s : Mr.

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**CORAM: HONOURABLE MR. JUSTICE V. NATH**  
**ORAL ORDER**

8 24-02-2016

Heard Mr. Abu Haidar, learned Counsel appearing for the appellants.

2. The defendants are the appellants in this appeal against the judgment and decree of reversal granting the decree to the plaintiff as prayed.

3. The plaintiff filed the suit for declaration of title over the suit land as mentioned in Schedule 'A' of the plaint and for declaration that the entry in the survey records with regard to the disputed land was wrong. The plaintiff claimed his title and possession over the suit land on the basis of settlement by the ex-landlord in his favour. The defendants resisted the relief prayed by the plaintiff on the ground that the plaintiff's claim of settlement was bogus and the land was in use of the general public.

4. The appellate court below has taken into notice the averments made in the written statement to find that the defendants have not disclosed the source or manner of acquisition of title and possession over the suit land. The appellate court below has further also taken into notice Ext. 7/D (rent receipt) and Ext. 9 (Register II) to find that the settlement of the suit land had been done in favour of the plaintiff by the ex-landlord by grant of rent receipt in Fasli year 1340 and thereafter the ex-landlord had also submitted return for the



suit land in the name of the plaintiff. The appellate court below has also taken into notice the deposition of the defendant No. 1 as well as other witnesses of the defendants to find that they have admitted the fact that the defendants are not in possession over the suit land. The findings of fact recorded by the appellate court below on the basis of scrutiny of pleading and evidence do not appear to be unreasonable or perverse in any manner.

5. Mr. Abu Haidar, learned Counsel appearing for the appellants, has submitted that the appellate court below has not properly considered the evidence adduced on behalf of the defendants. However, the fact has not been denied during course of submission, that the defendants have not claimed their own independent title over the suit land and their entire claim is based upon the entry in the survey khatian. It is well settled that an entry in the survey khatian does not create or extinguish title over the property. Moreover, it is not the case of the appellants that the findings by the appellate court below have stemmed out of non-consideration of the material evidence or are based upon only surmises and conjectures. The submissions on behalf of the appellants in fact centre around reappreciation of evidence on the ground that another view is also possible.

7. After considering the submissions and perusal of the impugned judgment, it is manifest that the findings of fact recorded by the appellate court below are based upon the consideration of evidence led by the parties. This Court, thus, comes to the conclusion that there is no substantial question of law arising for

consideration in this appeal. This appeal is accordingly dismissed.

(V. Nath, J.)

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