

IN THE HIGH COURT OF JUDICATURE AT PATNA

Second Appeal No.302 of 2013

- =====
1. Ghiya Paswan Son of Bhola Paswan.
 2. Ranjeet Paswan Son of Bhola Paswan Both residents of village - Bhansi, P.O. - Kumar Soh, P.S. - Garhpura, District - Begusarai.

.... Appellant/s

Versus

Ram Udagar Singh Son of Late Uchit Thakur Resident of Village - Bhansi, Pergana - Barde Bhansi, P.O. - Kumar Soh, P.S. - Bhakhri, At present village - Garhpura, P.S. - Garhpura, District - Begusarai.

.... Respondent/s

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with

Second Appeal No.303 of 2013

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1. Ghiya Paswan Son of Bhola Paswan
 2. Ranjeet Paswan son of Bhola Paswan Both residents of village - Bhansi, P.O. - Kumar Soh, P.S. - Garhpura, District - Begusarai.

.... Appellant/s

Versus

Ram Udgar Singh Son of Late Uchit Thakur Resident of Village - Bhansi, Pergana - Barde Bhansi, P.O. - Kumar Soh, P.S. - Bhakhri, At present village - Garhpura, P.S. - Garhpura, District - Begusarai.

.... Respondent/s

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Appearance :

(In SA No.302 of 2013 and S.A. No. 303 of 2013)

For the Appellant/s : Mr. Pramod Kumar Sinha, Adv.
Mr. Arvind Kumar Sharma, Adv.
Mr. Chetan Kumar, Adv.
Mr. Bijay Kumar Sinha, Adv.

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL ORDER

9 06-01-2016

Heard the learned counsel for the appellants.

At the out set, the learned counsel for the appellants has submitted that another Second Appeal No. 303 of 2013 has been filed by these appellants against the same judgment and

decree and has prayed that the same may also be heard along with this appeal as identical issues of law and facts arise in both the appeals. Accordingly both the appeals have been heard together and are being disposed of by this order.

The defendants in the suit are the appellants in both the appeals against the judgment and decree of affirmance.

It has been elaborated by the learned counsel for the appellants that the plaintiff filed the suit for declaration of title and recovery of possession over the suit land and the defendants thereafter filed the counter claim for grant of decree for specific performance of contract for sale of the suit land against the plaintiff. It has been further pointed out that the suit and the counter claim were dismissed by the trial court and the defendant-appellants thereafter filed two appeals i.e. Title Appeal Nos. 51 of 2010 and 52 of 2010 against the judgment and decree of the trial court. Both these appeals have been dismissed by the appellate court below by the judgment and decree impugned respectively in these two second appeals.

It has been submitted by the learned counsel for the appellants that both the courts below have not properly appreciated the evidence adduced on behalf of the defendants. It has been canvassed that the oral evidence on behalf of the defendants clearly establish the fact of oral agreement for sale of

the suit land by the plaintiff. No other submission has been made on behalf of the appellants.

From the submissions on behalf of the appellants as well as from the perusal of the impugned judgment and decree in both the appeals, it is manifest that the title of the plaintiff over the suit land has been admitted by the defendants who have however come out with the case that the plaintiff has entered into an oral agreement for sale of the suit land with the defendants for a sum of Rs. 61,000/- out of which Rs. 31,000/- has been paid by the defendants by way of advance but the plaintiff later on refused to abide by the terms of the agreement for sale and filed the suit for declaration of title and possession over the suit land. The defendants field the counter claim in the suit praying for grant of a decree for specific performance of contract for sale of the suit land against the plaintiff. Both the courts below after elaborate scrutiny of the evidence led by the parties have come to the concurrent finding that the defendants have failed to establish the oral agreement for sale on the basis of which the relief for specific performance of contract was sought and in view of the admitted fact that the plaintiff is the title holder of the suit land, the decree for declaration of title and recovery of possession has been granted to the plaintiff as prayed.

This Court finds that the findings have been recorded

by both the courts below on the basis of appreciation of evidence on record and there is no unreasonableness or perversity in any manner in the same. The issues arising between the parties have now been concluded by the concurrent findings of fact which cannot be interdicted at the second appellate stage by re-appreciation of evidence around which the entire submission on behalf of the appellants have centered.

This Court, therefore, finds that there is no substantial question of law arising for consideration in both the appeals i.e. S.A. No. 302 of 2013 and S.A. No. 303 of 2013 which are, accordingly, dismissed.

Devendra/-

(V. Nath, J)

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