

IN THE HIGH COURT OF JUDICATURE AT PATNA
Second Appeal No.327 of 2013

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1. Sant Lal Ram, son of Late Raghuni Chamar
2. Bhaglu Dusadh, son of Late Ram Jatan Dusadh
3. Balkaran Dusadh, son of Late Dukhi Dusadh
4. Nandu Dusadh, son of Muna Dusadh
5. Satyadeo Dusadh, son of Late Dukhit Dusadh
6. Lallan Dusadh @ Lallan Paswan, son of Late Faguni Dusadh
All residents of Village Mahawar, P.S. + Sub-Division Daudnagar,
District Aurangabad Plaintiffs Appellant
..... Appellants

Versus

1. Chandradeo Mahto, son of Permeshwar Mahato
2. Jamadar Mahato @ Jamadar Dusadh, son of Late Maheshwar Mahato
3. Ram Kaushal Mahato, son of Late Surajdeo Mahato, All resident of
Village Mahawar, P.S. & Sub-Division, Daudnagar, District
Aurangabad Defendants 1st Set Respondents 1st Set
..... Respondents 1st Set
4. Hareshwar Prasad, son of Late Ram Narayan Mahato, resident of
Village Mahawar, P.S. Daudnagar, District Aurangabad Defendant
2nd Set Respondent 2nd set Respondent 2nd set
5. Mahavir Sao, son of Not Known, resident of Village Daudnagar,
Muhalla Sarai, P.S. & Sub – Division Daudnagar, District Aurangabad
..... Defendant 3rd Set Respondent 3rd Set District 3rd Set.
..... Respondents

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Appearance :

For the Appellant/s : Mr. Abdul Wadood
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH
ORAL ORDER

3 01-02-2016 Heard Mr. Abdul Wadood, learned Counsel for the
appellants.

2. The plaintiffs are the appellants in this appeal against the
judgment and decree of affirmance dismissing the suit of the
plaintiffs. The plaintiffs filed the suit for declaration that they were the
*raiya*ts of the suit land and further relief was prayed for injunction
restraining the respondents from interfering with the title and
possession of the plaintiffs over the suit land. The plaintiffs claimed
their right, title and interest over the suit land on the basis of *Sada*

Parwana executed by one Janki Singh stating that Janki Singh was the ex-landlord of the suit land. The defendants, on the other hand, have come out with the case that they have taken the settlement of the suit land from the persons who were the ex-landlord.

3. Both the courts below on scrutiny of evidence including Exts. 3 and 4 have come to the finding that the name of Janki Singh, who had made the settlement in favour of the plaintiffs, had been struck off from the *Tauzi* after partition. The plaintiffs have not brought on record any return submitted by the said Janki Singh as Ex-landlord in the name of the plaintiffs at the time of vesting of *Zamindari*. It is also not the case of the plaintiffs that after the vesting, their names were recorded in the Register II with regard to the suit land. On the other hand, the defendants have adduced documentary evidence to show that the return was filed by the Ex-landlord for the suit land in their names and thereafter their names have been recorded in Register II and they have got title and possession over the suit land. The findings on the issues were returned against the plaintiffs by the trial court and the suit was dismissed. In appeal, the appellate court below, on reappraisal of evidence, has concurred with the findings of the trial court and dismissed the appeal.

4. Mr. Wadood, learned Counsel for the appellants has submitted that the courts below have not properly considered the evidence on record, particularly the evidence with regard to possession of the plaintiffs over the suit land. No other submission has been made on behalf of the appellants.

5. After considering the submissions and perusal of the

judgments of both the courts below it is pellucid that the courts below on scrutiny of evidence on record have come to the concurrent finding of fact that the plaintiffs have failed to establish the valid settlement of the suit land with them. The courts have taken into notice in particular Exts. 3 and 4 by which the name of Janki Singh, through whom the plaintiffs have claimed settlement, was already removed from the khewat of the Tauzi after partition. This Court has not been persuaded to find any unreasonableness or illegality in the findings by both the courts below on the issues arising in the suit.

6. 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.)

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