

IN THE HIGH COURT OF JUDICATURE AT PATNA

Second Appeal No.385 of 2013

- =====
1. Munna Singh S/O Late Bigan Singh Resident Of Village Subudhiya Bishunpur Ram, P.S. Maniyari, District Muzaffarpur.
 2. Lal Babu Singh S/O Late Bigan Singh Resident Of Village Subudhiya Bishunpur Ram, P.S. Maniyari, District Muzaffarpur.
 3. Ajai Kumar Singh @ Ajay Singh S/O Late Bigan Singh Resident Of Village Subudhiya Bishunpur Ram, P.S. Maniyari, District Muzaffarpur.
 4. Renu Singh W/O Chandan Singh Resident Of Village Balra Ismail, P.O. Baghi, P.S. Maniyari, District Muzaffarpur.
 5. Rekha Kumari W/O Shailendra Singh Resident Of Village Narar, P.S. Jaihagpur, District Madhubani.
 6. Rajendra Rai S/O Late Rameshwar Rai Resident Of Village Chapaki, P.S. Maniyari, District Muzaffarpur.

..... Plaintiffs Appellants

.... Appellants

Versus

1. Diljan S/O Late Ismail Mian
2. Md. Farzan S/o Late Ismail Mian
3. Md. Kayum S/o Late Ismail Mian
4. Aatin Khatoon D/o Late Ismail Mian
5. Zubaida Khatoon D/o Late Ismail Mian All Resident Of Village Subdhiya Bishunpur Ram, P.S. Maniyari, District Muzaffarpur.
6. Kasim Mian S/O Late Hassan Jan Mian Resident Of Village Subudhiya Bishunpur Ram, P.S. Maniyari, District Muzaffarpur.
7. Ibrahim Mian S/O Late Hassan Jan Mian Resident Of Village Subudhiya Bishunpur Ram, P.S. Maniyari, District Muzaffarpur.
8. Shamshul Mian S/O Late Sahebjan Mian Resident Of Village Subudhiya Bishunpur Ram, P.S. Maniyari, District Muzaffarpur.

..... Defendants Respondents

.... Respondents

=====

Appearance :

For the Appellant/s : Mr. ABINASH KUMAR

For the Respondent/s : Mr.

=====

CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL JUDGMENT

Date: 16-03-2016

Heard Mr. Sukumar Sinha, learned Senior Counsel appearing for the appellants.

2. The plaintiffs are the appellants in this appeal against the judgment and decree of affirmance dismissing the suit.

3. The plaintiffs filed the suit for declaration of title over the suit land described in Schedule I of the plaint. It was the case of the plaintiffs



that the suit land belonged to Harak Rai and after his death his son Ram Govind Singh inherited the property. It was the further case of the plaintiffs that Ram Govind Singh sold the suit land firstly to Rameshwar Singh (Plaintiff No. 2) by registered sale deed dated 15.4.1957 and on the same date he further sold the another part of the land to his minor son Bigan Singh (plaintiff No. 1). The plaintiffs 1 and 2 filed the suit for declaration of their title over the suit property as the suit property had been wrongly recorded in the recent revisional survey in the name of the defendants.

4. The defendants filed a contesting written statement denying the assertions of the plaintiffs. It was the case of the defendants that Harakh Rai subsequently surrendered the suit land to the ex-landlord as he was not in a position to pay the land revenue and thereafter the ex-landlord settled the suit land to the predecessors of the defendants by grant of rent receipt. It was also the case of the defendants that since thereafter they had been paying rent for the suit land and were in exclusive possession of the same.

5. Both the courts below have recorded the concurrent findings of fact that the plaintiffs have not been able to establish their claim of title over the suit land by cogent evidence.

6. Mr. Sinha, learned Senior Counsel for the appellants, has submitted that both the courts below have erred in law in not considering the material evidence on record and have also come to the wrong conclusion that the settlement done by the ex-landlord in favour of the defendants was legally valid as no settlement could have been done by the ex-landlord by grant of rent receipt. It has also been submitted by the

learned Senior Counsel that the trial court has decided that the suit is not barred by Section 34 of the Specific Relief Act which finding was not challenged by the defendants and therefore the judgments of both the courts below are vitiated. No other submission has been made on behalf of the appellants.

7. After perusal of the judgments of both the courts below and considering the submissions, it is manifest that the plaintiffs have filed the suit for declaration of their title over the suit land on the basis of two sale deeds executed by Ram Govind Singh in their favour respectively. The courts below have also come to the finding that Harak Rai, the admitted owner-raiyat of the suit land, had surrendered the suit land to the ex-landlord and had executed the deed of surrender (Ext. E). After scrutinizing the evidence led on behalf of both the parties the courts below have come to the finding that the plaintiffs have failed to substantiate their claim of acquisition of title by the two sale deeds executed by Ram Govind Singh in their favour. On the other hand, the defendants have established their title and possession over the suit land on the basis of the settlement made by the ex-landlord in their favour as corroborated by the evidence on record.

8. It is well settled by now that the civil disputes are decided on the basis of preponderance of probability. In the present case both the oral and documentary evidence have been weighed and scrutinized by the courts below and thereafter the findings have been recorded. During the course of submission on behalf of the appellants no unreasonableness or perversity could be shown or established in those findings. It is not the case of the appellants that the findings have stemmed

out of non consideration of material evidence.

9. In view of the aforesaid reasons and discussions this Court does not find any substantial question of law arising for consideration in this appeal which is accordingly dismissed.

(V. Nath, J.)

Snkumar/-

AFR/NAFR	
CAV DATE	
Uploading Date	06.05.2016
Transmission Date	