

IN THE HIGH COURT OF JUDICATURE AT PATNA
Second Appeal No.391 of 2013

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1. Ram Naresh Yadav Son Of Late Ram Bahadur Yadav
2. Ram Sevak Yadav Son Of Late Ram Bahadur Yadav Both Resident Of Village - Ramauli, Police Station - Hayaghat, District - Darbhanga
3. Gangia Devi Wife Of Ram Babu Yadav, D/O Ram Bahadur Yadav Resident Of Village - Balia, Police Station - Ashok Paper Mill, District - Darbhanga
4. Usha Devi Wife Of Bushi Yadav, D/O Ram Bahadur Yadav Resident Of Village - Shiliyahi, Police Station - Hayaghat, District - Darbhanga
5. Manoj Kumar Yadav Son Of Radhey Krishna Yadav
6. Arun Kumar Yadav Son Of Radhey Krishna Yadav Both Resident Of Village - Bijli, Police Station - Sadar, District - Darbhanga
7. Rajo Devi Wife Of Badri Prasad Yadav Resident Of Village - Chansi, Police Station - Bahadurpur And District - Darbhanga
8. Radhey Devi Wife Of Gultan Yadav Resident Of Village - Chansi, Police Station - Bahadurpur And District - Darbhanga.

.... Appellant/s

Versus

1. Devki Devi Wife Of Ram Chandra Yadav, Son Of Late Punchi Yadav Resident Of Village - Pach Gachhiya, Police Station - Biraul, District - Darbhanga.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Girish Chandra Jha

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH
ORAL JUDGMENT

7 17-03-2016 Heard Mr. Jha, learned counsel appearing on behalf of the appellants.

2. The plaintiffs are the appellants in this appeal against the judgment and decree of reversal whereby the appellate court below has allowed the appeal and dismissed the suit for specific performance of contract filed by the plaintiffs.

3. The plaintiffs filed a suit for specific performance of contract on the basis of the agreement for sale dated 18.10.1995 said to have been executed by Damodar Yadav. It is not in



dispute that Damodar Yadav died in the year 1998 leaving behind his heirs and legal representatives out of whom some of them were defendants in the suit. The defendants appeared and filed their contesting written statement denying the genuineness and validity of the agreement for sale which was propounded by the plaintiffs as the basis of their claim.

4. The trial court returned the findings in favour of the plaintiffs and decreed the suit. In appeal by the defendants the appellate court below on reappraisal of evidence has reversed the findings of the trial court, set aside the judgment and decree of the trial court and allowed the appeal by the impugned judgment and decree in this second appeal. Mr. Jha, learned counsel for the appellants has submitted that the appellate court below has not properly considered the material evidence on record and has wrongly reversed the findings of the trial court. It has also been submitted that the plaintiffs were entitled to the reliefs prayed in the suit and the claim of the plaintiffs is fully established by the oral and documentary evidence led by them. No other submission on behalf of the appellants has been made.

5. After the perusal of the judgments of both the courts below, it is manifest that the plaintiffs have prayed for the relief of specific performance of contract on the basis of the agreement for sale dated 18.10.1995 said to have been executed by

Damodar Yadav. However, it appears from the judgment of the appellate court below that the said deed of agreement for sale has not been brought on record and marked as exhibit in the suit. Thereafter, the court below, therefore, has rightly come to the finding that the recitals made in the said deed of agreement for sale cannot be legally looked into. It has also been found by the appellate court below that though the plaintiffs case is that Damodar Yadav entered into agreement for sale with regard to 19 kathas of land but the suit was filed for altogether 24 kathas. The appellate court below has elaborately scrutinized oral and documentary evidence adduced by the parties and has also taken into notice the reasoning given by the trial court. The findings recorded by the appellate court does not appear to be unreasonable or perverse in any manner. It is not the case of the appellants that any material evidence has been ignored. The findings have been recorded by the appellate court below on the basis of oral and documentary evidence adduced by the parties.

6. For the reasons aforesaid, this Court does find any substantial question of law arising for consideration in this appeal, which is, accordingly, dismissed.

(V. Nath, J)

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