

IN THE HIGH COURT OF JUDICATURE AT PATNA

Second Appeal No.167 of 2014

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Md. Sahajahan Ansari Son of Late Taj Ali Ansari Resident of Village - Rahmandih,
P.S. Dhoraiya, P.O. Rahmandih, District - Banka

.... Appellant.

Versus

1. Alamgir Ansari Son of Kamaluddin Ansari
2. Md. Mahbul Ansari Son of Mohamad Ansari
3. Md. Islam Son of Md. Jafaradi Ansari
4. Hasrat Ali Ansari Son of Md. Islam Ansari
5. Israfil Ansari Son of Md. Islam Ansari
6. i. Most. Lazina Khatoon.

ii. Mazrat Ansari.

iii. Ejaz Ansari.

iv. Firoza Khatoon.

v. Zamia Khatoon.

vi. Rashida Khatoon.

vii. Ruksho Khatoon.

viii. Zahnara Khatoon.

No.6 (i) to 6(viii) all are resident of village and P.O. Rahmandih, P.S.-Dhoaiya,
District-Banka.

7. Md. Warish Ansari Son of Late Makbool Ansari

8. Md. Jahid Ansari Son of Nasruddin Ansari

9. Md. Afraj Ansari Son of Nasruddin Ansari

10. Md. Hadish Ansari Son of Majarali Ansari

11. Md. Ajeema Ansari Son of Majrali Ansari null

12. Md. Najeem Ansari Son of Majrali Ansari

13. Md. Rajak Ansari Son of Mobina Ansari

14. Most. Saraina Khatoon wife of Riyaz Ansari.

15. Mannan Ansari son of Riyaz Ansari

16. Hannan Ansari son of Riyaz Ansari

17. Aafai Ansari Son of Riyaz Ansari

18. Imran Ansari Son of Riyaz Ansari

19. Munna Ansari Son of Riyaz Ansari

20. Ambara Khatoon Daughter of Riyaz Ansari

21. Mrs. Samni Khatoon Daughter of Riyaz Ansari All 1 to 21 are Residents of
Village and P.O. Rahmandih, P.S. Dhoraiya, District - Banka

22. Jiwan Kumar Singh Son of Late Pratap Bahadur Singh

23. Anand Prasad Singh Son of Late Lal Bahadur Singh

24. Rabi Kant Singh Son of Late Lal Bahadur Singh All 22 to 24 are residents of
village and P.O. Sabalpur, P.S. Bharatpur, District - Banka

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Sanjay Kumar Tiwary

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL JUDGMENT

Date: 17-10-2016

Heard Mr.Sushanta Kumar Das, learned counsel for the appellant.

The plaintiff is the appellant in this appeal against the judgment and decree of affirmance dismissing the suit.

The plaintiff filed the suit to declare that eight sale deeds dated 28.06.1993 executed by defendant 2nd set in favour of defendant 1st set with respect to the suit land were illegal, null and void, and not binding upon the plaintiff. The defendants denied the assertions of the plaintiff and claimed that the original title holder Hussainee Mian and his heirs had executed registered sale deed dated 06.06.1934 in favour of the defendant 2nd set for the suit land and the defendant 1st set purchased lands out of the said purchased land of the defendant 2nd set.

Both the courts below have concurrently come to the finding that the case of acquisition of title on the basis of the gift deeds as pleaded by the plaintiff could not be established by cogent evidence. It has been further found that the defendant 2nd set acquired valid title over the suit land on the basis of the purchase made by the predecessor through registered sale deed dated 06.06.1934 from the admitted title holder Hussainee Mian and his heirs. Deciding all the issues against the plaintiff, the suit was dismissed and thereafter the

appeal filed by the plaintiff has also been dismissed by the impugned judgment and decree.

Mr.Sushanta Kumar Das, learned counsel for the appellant has submitted that both the courts below have not properly considered the evidence on record and therefore the impugned judgments are vulnerable. No other submission has been made on behalf of the appellant.

After perusal of the judgments of both the courts below and considering the submissions, it is evident that the discordant note between the parties is with regard to the acquisition of title over the suit land by the plaintiff on the basis of the chain of gift deeds as set up or the title of the defendants on the basis of purchase by registered sale deeds from the admitted title holder Hussainee Mian and his heirs. The findings on the crucial issues have been recorded by the courts below on the basis of scrutiny of evidence which are acceptable and could have been relied on. This Court has not been persuaded to find perversity in any manner or unreasonableness in the conclusions of both the courts below. The reappreciation of evidence, in such a circumstance, is not permissible in second appellate jurisdiction in order to upset the concurrent findings of fact.

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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