

IN THE HIGH COURT OF JUDICATURE AT PATNA
Second Appeal No.395 of 2013

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1. Gaya Prasad
2. Ram Chandra Prasad, both sons of Late Raghuni Paneri Both Residents
Of Village Panchama, P.O. And P.S. Piro, Dist. Bhojpur
..... Plaintiffs Appellants
..... Appellants

Versus

1. The State Of Bihar Through Collector, Bhojpur At Arrah
2. Circle Officer, Piro Anchal, P.S. Piro, Distt. Bhojpur, Arrah
..... Defendants Respondents
..... Respondent

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Appearance :

For the Appellant/s : Mr. Manoj Kumar Sinha
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH
ORAL ORDER

4 30-03-2016 Heard 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.

3. The plaintiffs filed the suit for declaration that the disputed land, as mentioned in Schedule I of the plaint, was the ancestral land and purchased land of the plaintiffs and the land mentioned in Schedule II of the plaint, area 3 decimals out of 6 decimals had been wrongly recorded in the name of State of Bihar – defendant. The plaintiffs pleaded that the 3 decimals land out of 6 decimals as described in Schedule I had been inherited by the plaintiffs as their ancestral land and the remaining 3 decimals had been acquired by sale deed by the predecessor of the plaintiffs in the year 1952. The necessity for the suit for the aforesaid relief had been stated to have arisen when the 3 decimals of land out of 6 decimals has been recorded in the name of State of Bihar in the survey proceeding with

further remark column entry that there was a well over the said land. The State of Bihar – defendant contested the assertions of the plaintiffs and came out with the case that the 3 decimals of land containing a well was a public land belonging to the State of Bihar and the plaintiffs had got no right over the same. It is also relevant to mention here that besides claiming their title over the suit land on the basis of inheritance and purchase, the plaintiffs also claimed to have acquired the title over the suit land by remaining in possession over the same adversely and to the knowledge of the owner – State of Bihar.

4. Both the courts below have come to the concurrent finding on the issues against the plaintiffs and have held that the plaintiffs have failed to establish their case of title or possession over the 3 decimals of land which is a public land containing a well in use of the public at large. The suit was, accordingly, dismissed and thereafter the appeal has also been dismissed by the impugned judgment and decree.

5. Mr. Manoj Kumar Sinha, learned Counsel appearing for the appellants, has submitted that both the courts below have misconstrued the report of the Pleader Commissioner which also contained a comparative map of the plots and have wrongly refused to rely upon the same. By placing the findings of both the courts below in detail, the learned Counsel has made endeavour to persuade this Court to find illegality and perversity in the same. It has, however, been accepted on behalf of the appellants that in the plaint the statement has been made that the plaintiffs have acquired title by adverse possession over the suit land against the real owner – State

of Bihar. No other submission has been made on behalf of the appellants.

6. After perusal of the judgments of both the courts below and considering the submissions, it is manifest that both the courts below have scrutinized the evidence led by the parties to the suit in detail and thereafter have come to the conclusion that the title as claimed by the plaintiffs over the suit land has not been established. Both the courts below have also taken into notice the report of the Pleader Commissioner and have found the same to be not worthy of reliance. The appellate court below has also taken into notice the sale deed Ext. 4/a of the plaintiffs along with the pleadings and depositions of the plaintiffs in order to find out the veracity of the case as pleaded by the plaintiffs. During the course of submission, this Court has not been persuaded to find that in the conclusions by both the courts below there is perversity in any manner. To the contrary, it is transparent that the courts below have reached to the conclusions on the basis of evidence on record which is acceptable in law. In view of the principles laid down by their Lordships in AIR 2016 SC 262 (Damodar Lal vs. Sohan Devi & ors), possibility of another view or inadequacy of evidence cannot be a substantial question of law.

7. This Court thus does not find any substantial question of law arising for consideration in this appeal, which is accordingly dismissed.

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(V. Nath, J.)