

IN THE HIGH COURT OF JUDICATURE AT PATNA

Second Appeal No.166 of 2014

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Rajkumar Das, son of Late Pitambar Das, resident of Village Sagi Tola, Gosaimath,
P.S. Khodawandpur, District Begusarai

..... Plaintiff Appellant

.... Appellant

Versus

1. Ramakant Das
2. Rambalak Das, both sons of late Pitambar Das, both resident of Village Sagi Tola, Gosaimath, P.S. Khodawandpur, District Begusarai
3. Rajo Devi, wife of Basudeo Das and D/o of Late Pitambar Das, resident of Village Patepur, P.S. Hasanpur, District Samastipur
4. Jero Devi, wife of Bindeshwari Das and D/o late Pitambar Das, resident of Village Ataruamalhipur, P.S. Teghra, District Begusarai Defendant 1st party
..... Respondent 1st party
5. Ajay Kumar Das, son of Basudeo Das and D/o of Late Pitambar Das, resident of Village Patepur, P.S. Hasanpur, District Samastipur Defendant 2nd party
.... Respondent 2nd party
6. Khainu Mahton, son of late Jageshwar Mahton, resident of Village Shahpur, P.S. Manjhaul, District Begusarai Defendant 3rd party Respondent 3rd party

.... Respondents

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Appearance :

For the Appellant/s : Mr. Pramod Kumar Sinha

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL JUDGMENT

Date: 09-08-2016

Heard Mr. Pramod Kumar Sinha, learned Counsel
appearing for the appellant.

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

3. The plaintiff filed the suit for declaration that the sale deed
dated 12.1.2006 was illegal, void, without consideration and executed
without any right. The further relief was for partition of the share of the
plaintiff in the suit property. The plaintiff accepted the fact that his father
Pitambar Das sold 9 Katha of land in favour of defendant No. 5 Ajay



Kumar Das, who was his maternal grand son by registered sale deed dated 13.5.1975. The sale deed in question dated 12.1.2006 has been executed by defendant No. 5 as well as defendant No. 2 Ram Balak Das for a total area of 12 Katha, which according to the learned Counsel for the appellant is including the 9 Katha of land, the subject matter of earlier sale deed dated 13.5.1975. Though the plaintiff has stated that the sale deed dated 13.5.1975, executed by his father in favour of defendant No. 5 Ajay Kumar Das, was a farzi transaction but no relief in that regard has been sought. It is further also the case of the plaintiff that defendant No. 2 Ram Balak Das was entitled to sell the land which could have been adjusted in his share. The defendants contested the relief prayed by the plaintiff after denying the assertion made in the plaint.

4. Both the courts below have recorded the concurrent findings of fact that the sale deed dated 13.5.1975 was a legal and valid transaction and has been fully acted upon. Consequently the suit was dismissed and thereafter the appeal by the plaintiff has also been dismissed.

5. After considering the submissions on behalf of the appellant and perusal of the judgments of both the courts below, it is manifest that both the courts below after elaborate scrutiny of the oral and documentary evidence have reached to the finding of fact that the sale deed dated 13.5.1975 and the sale deed challenged in the suit executed on 12.1.2006 are valid transaction and the purchasers came in possession over the sold property. No perversity or unreasonableness in the findings recorded by both the courts below could be shown or established on behalf of the appellant. This Court also finds that both the

courts below have recorded the findings on the basis of evidence which are acceptable and could have been relied upon.

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.)

Snkumar/-

AFR/NAFR	
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