

IN THE HIGH COURT OF JUDICATURE AT PATNA

Second Appeal No.197 of 2014

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Jarman Yadav @ Jarwan Yadav S/o Late Chano Yadav Resident of Village Mayurnachan, P.O. Fullidumar, Police Station Fullidumar, District Banka.

---Appellant

Versus

1. Shaligram Yadav S/o Late Kinnu Yadav
 2. Ramni Yadav S/o Late Kinnu Yadav
 3. Manju Devi W/o Late Jharu Yadav
 4. Sarita Kumari
 5. Sangita Kumari
 6. Biki Kumari
 7. Sakti Kumari All Minor D/o Late Jharu Yadav through Manju Devi, mother guardian and next friend of minors.
 8. English Yadav S/o Late Kinnu Yadav
 9. Pradeep Yadav S/o Late Mushan Yadav
 10. Tulsi Yadav S/o Late Mushan Yadav
 11. Uma Yadav S/o Late Mushan Yadav All R/o Village Mayurnachan, P.O. + P.S. Fullidumar, District Banka.
 12. Arjun Yadav S/o Karu Yadav
 13. Mahendra Yadav S/o Kishan Yadav Both R/o Village Mayurnachan, P.O. + P.S. Fullidumar, District Banka.
- Respondents

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Appearance :

For the Appellant/s : Mr. Ajay Mukherjee
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL JUDGMENT

Date: 26-10-2016

Heard Mr. Bishwanath Choudhary, learned
counsel appearing for the appellant.

The defendant is the appellant in this appeal
against the judgment and decree of affirmance granting the decree of



permanent injunction as prayed by the plaintiff.

The suit was filed by the plaintiff for grant of permanent injunction against the defendant in interfering with the possession of the plaintiff over the suit land. It was the case of the plaintiffs that they purchased the suit land from the admitted owners by registered sale deed in the year 1970 and thereafter they were put in possession by the vendors of the plaintiffs. The defendant, on the other hand, has claimed to have purchased the land from the descendants of the vendors of the plaintiffs.

Mr.Choudhary, learned counsel appearing for the appellant has submitted that the suit for permanent injunction was not maintainable in view of the provision of Section 34 of the Specific Relief Act, and also in view of the evidence on record that the defendant-appellant is in possession over the suit land no decree could have been granted. As no other submission has been made on behalf of the appellant, this Court has examined this submission and has found that both the courts below have taken into notice the stand on behalf of the defendant-appellant that his purchased land is 230 kari away from the land purchased by the plaintiffs.

During the course of submission before this Court, no error of record or omission from consideration of any evidence could be pointed out. The findings by both the courts below therefore that the plaintiffs have got the ingredients for grant of injunction in



their favour cannot be said to be perverse or unreasonable. The findings by both the courts below have been recorded on the basis of evidence which were acceptable and could have been relied upon. The submissions on behalf of the appellant have mainly centered around reappreciation of evidence but the same cannot be ventured in second appellate jurisdiction unless the findings are shown or established to be suffering from perversity in any manner.

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)

Nitesh/-

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