

IN THE HIGH COURT OF JUDICATURE AT PATNA

Second Appeal No.100 of 2014

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Krishna Kumar Choudhary Son of Late Harihar Choudhary Resident of Village -
Loma, P.S. - Jandaha, District - Vaishali.

.... Appellant

Versus

Rajendra Rai Son of Ramdhari Rai Resident of Village - Loma, P.S. - Jandaha,
District - Vaishali.

.... Respondent

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Appearance :

For the Appellant/s : Mr. Smt. Sudha Ambastha

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL JUDGMENT

Date: 01-09-2016

Heard Mr. Shrinandan Singh, the learned counsel
appearing on behalf of the appellant.

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

The suit was filed by the plaintiff for specific
performance of contract against the defendant praying for a decree for
specific performance of contract directing the defendant to execute the
sale deed with regard to the suit plot.

The defendant denied the execution of the
agreement for sale as claimed by the plaintiff and has also denied that
he had ever agreed to sell the suit plot to the plaintiff. Both the courts
below have come to the concurrent finding of fact that the agreement

for sale as propounded by the plaintiff could not be established by cogent evidence and the plaintiff also failed to prove his readiness and willingness to perform his part of the contract. The suit was dismissed and the appeal thereafter has also been dismissed by the impugned judgment and decree.

Mr.Singh, learned counsel for the appellant has submitted that both the courts below have committed error in law in not properly considering the evidence adduced on behalf of the parties. It has been contended that there has been cogent evidence on record to establish the validity of the agreement for sale as propounded by the plaintiff and further the readiness and willingness of the plaintiff to perform his part of the contract. No other submission has been made on behalf of the appellant.

Considering the submissions and perusal of the impugned judgments of both the courts below, it is manifest that the finding of fact has been recorded by both the courts below that the agreement for sale as propounded by the plaintiff has not been proved by the plaintiff by cogent evidence. It has also been found that the plaintiff has failed to establish the readiness and willingness to perform his part of the contract even according to his own assertions. The findings of facts have been recorded by both the courts below on the basis of scrutiny of evidence which are acceptable and could have

been relied upon. This Court, therefore, does not find perversity or unreasonableness in the findings recorded by both the courts below. Even otherwise also the relief of specific performance of contract is a discretionary relief as envisaged under Section 20 of the Specific Relief Act.

For the aforesaid reasons and discussions, this Court does not find any substantial question of law arising for consideration in this appeal.

Ex consequenti, this appeal is dismissed.

(V. Nath, J)

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