

IN THE HIGH COURT OF JUDICATURE AT PATNA

Second Appeal No.400 of 2013

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Dilip Chaudhary S/O Late Lakashman Chaudhary Resident Of Tarapur, Police
Station- Tarapur, District- Munger.

..... Defendant Appellant

.... Appellant

Versus

Muslim Committee Tarapur Thorough Its Secretary Md. Jabbar S/O Late S.K.
Mamunat Resident Of Mohalla- Tarapur, P.S- Tarapur, District- Munger.

..... Plaintiff Respondent

.... Respondent

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Appearance :

For the Appellant/s : Mr. Viveka Nand Vivek
Mr. KAMAL KISHORE JHA

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL JUDGMENT

Date: 20-05-2016

Heard Mr. Viveka Nand Vivek, learned Counsel appearing for
the appellant.

2. The tenant-defendant in the suit for eviction on the ground
of default in payment of rent is the appellant in this appeal against the
judgment granting the decree of eviction in favour of the plaintiff, as
prayed.

3. The learned Counsel for the appellant has not disputed the
fact that the appellant was inducted as tenant by Md. Zabbar, as the
Secretary of the Muslim Committee over the suit premises and a
Kirayanama was also executed. It has also not been disputed that the
appellant has been paying rent to Md. Zabbar as the Secretary of the
Muslim Committee. The suit has been filed by the Muslim Committee
through its Secretary Md. Zabbar, seeking eviction of the defendant on
the ground of default in payment of rent. The defendant in his written
statement however has come out with the case that he has been paying

rent to Md. Nakimuddin, who is the Secretary of Kabristan Committee as the ownership over the suit premises has been decided in favour of Kabristan Committee by a compromise decree passed in T.S. No. 85 of 1996.

4. Both the courts below have returned the finding on the issues in favour of the plaintiff and granted the decree for eviction as prayed.

5. Mr. Vivek, the learned Counsel for the appellant, has submitted that the crucial issue in the suit regarding existence of the relationship of land-lord and tenant in between the plaintiff and the defendant has been wrongly decided by both the courts below. It has been contended that after the compromise decree in T.S. No. 85 of 1996 the defendant-appellant has been paying rent to Md. Nakimuddin, who is the Secretary of the Kabristan Committee whose ownership over the suit property has been declared. It has, therefore, been canvassed that both the courts below have not properly appreciated the evidence on record and the impugned judgment and decree stand vitiated.

6. After perusal of the judgments of both the courts below and considering the submissions, it is manifest that admittedly the appellant was inducted as tenant in the suit premises by the plaintiff-respondent and a Kirayanama was also executed. The fact has also been found by both the courts below and also accepted by the defendant-appellant that he had paid rent of the suit premises to the plaintiff-respondent till the decision in T.S. No. 85 of 1996.

7. The appellate court below has taken into notice the compromise decree passed in T.S. No. 85 of 1996, which was adduced as additional evidence and marked as Ext. 1. After scrutiny of the said

document the court has come to the finding that it does not support the case of the appellant that the suit property was given to the Kabristan Committee by the said decree. Both the courts below have also taken into notice the deposition of Md. Nakimuddin, who has been examined as a witness on behalf of the defendant that he has no document to support the fact that he was the Secretary of Kabristan Committee.

8. After considering the findings by both the courts below and the submissions, it is evident that the findings have been recorded by both the courts below on the basis of evidence which is acceptable and could have been relied upon. The entire submission on behalf of the appellant has centered around reappraisal of evidence on the ground that there is possibility of another view on the same set of evidence. This Court, however, is conscious that the possibility of another view on the same set of evidence is not a substantial question of law. This Court has not been persuaded to find any perversity or unreasonableness in the findings of the courts below.

9. Ex consequenti, this Court does not find any substantial question of law arising in this appeal for consideration, which is, accordingly, dismissed.

(V. Nath, J.)

Snkumar/-

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CAV DATE	
Uploading Date	01.07.2016
Transmission Date	