

IN THE HIGH COURT OF JUDICATURE AT PATNA

Second Appeal No.274 of 2013

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1. Ram Ekbal Singh S/O Late Ramjatan Singh Resident Of Village Charkawarn, P.O+ P.S- Rafiganj, District- Aurangbad.	
2. Ajay Singh S/O Late Ramjatan Singh Resident Of Village Charkawarn, P.O+ P.S- Rafiganj, District- Aurangbad.	 Appellants

Versus

Smt. Sumitra Devi W/O Lalan Sharma Resident Of Village Beri, P.O- Latta, P.S- Rafiganj, District- Aurangabad.	 Respondent
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Appearance :

For the Appellant/s :	Mr. SANJEET KUMAR SINGH
For the Respondent/s :	Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL JUDGMENT

Date: 22-12-2016

Heard Mr.P.N.Shahi, learned senior counsel

appearing for the appellants.

The defendants are the appellants in this appeal

against the judgment and decree of affirmance.

The plaintiff filed the suit for declaration of title

and confirmation of possession and in the alternative for recovery of

possession over the suit premises.

The matrix of facts discloses that admittedly the

suit property belonged to one Mundrika Pathak. The plaintiff has

claimed to have purchased the suit property from Vijay Kumar Mishra

by a sale deed of the year 1990 on the ground that his vendor Vijay

Kumar Mishra acquired the suit property by sale deed executed by

Kamleshwari Kuer widow of Mundrika Pathak in his favour in the

year 1981. The defendant-appellant, however contested the claim of



the plaintiff on the base that Mundrika Pathak by unregistered sale deed of the year 1977 had transferred the suit property in favour of the defendant. It was also asserted that the possession of the defendant had also been declared in a proceeding under Section 145 Cr.P.C. over the suit land.

Both the courts below have come to the concurrent findings of fact that the plaintiff has succeeded in establishing his title over the suit property. Accordingly, the suit was decreed and thereafter the appeal by the plaintiff has also been dismissed by the impugned judgment and decree.

Mr.Shahi, learned senior counsel appearing for the appellants has firstly submitted that the judgment passed by the learned court below cannot be sustained as the appellate court below has failed to consider the material evidence on record as led on behalf of the parties. It has been next submitted that the order passed in Section 145 Cr.P.C proceeding supports the possession of the defendant over the suit property and in any view of the matter the defendant would be deemed to have perfected his title over the suit property since remaining in possession for much more than 12 years. During the course of submission, however, learned senior counsel has accepted that no evidence was led on behalf of the defendant to support and substantiate his assertion that the sale deed of the year



1981 executed by Kamleshwari Kuer in favour of Vijay Kumar Mishra was forged and fabricated document. It has also not been denied that no scribe or witnesses of the unregistered sale deed said to have been executed by Mundrika Pathak in favour of the defendant was examined in the suit. No other submission has been made on behalf of the appellants.

After considering the submissions and perusal of the judgments of both the courts below, it is pellucid that in the suit was filed by the plaintiff for confirmation of possession/recovery of possession on the basis of title. It was therefore the rival claim of title of the parties over the suit property which was the material issue in the suit. The plaintiff claimed his title over the suit property on the basis of a registered sale deed whereas the defendant claimed his title over the suit property on the basis of an unregistered sale deed. The trial court has extensively examined the materials on record and has come to the conclusion that the plaintiff has succeeded in establishing his acquisition of title through the sale deed as propounded by him. The appellate court below has also taken into notice the submissions made on behalf of the parties to the appeal and thereafter has concluded that the findings recorded by the trial court does not require interference. The law has been well settled by the apex court in the case of *Girija Nandini Devi Vs. Bijendra Narain Choudhary*, 1967 SC 1124 that



the appellate court while delivering the judgment of affirmance is not required to restate the effect of evidence or reiterate the reasons. The submission on behalf of the appellants that the conclusion by the appellate court below is abrupt cannot alone be sufficient to overturn the said judgment unless it is further shown that the conclusions are wrong or perverse as it is well settled a judgment is not vulnerable only because it is not correct rather it must be established that it is wrong. After perusal of the judgments of both the courts below, this Court finds that the conclusions have been recorded on the basis of evidence which were acceptable and could have been relied upon. No perversity or unreasonableness in the findings could be shown or established 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)

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