

IN THE HIGH COURT OF JUDICATURE AT PATNA

Second Appeal No.161 of 2014

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1. Brahmdeo Mahton, son of - Late Karmani Mahton
2. Nutan Devi
3. Rita Devi Daughters of Brahmdeo Mahton
4. Pradeep Kumar
5. Jitendra Kumar
6. Amardeep Kumar
7. Sanjay Kumar Sons of Brahmdeo Mahton All resident of village- Urain, P.O.- Urain, P.S.- Surajgarha, District- Lakhisarai

.... Appellants

Versus

1. Mahesh Mahton, son of - Tilo Mahton,
2. Sohani Kumari, Daughter of - Mahesh Mahton,
3. Nawal Kumar, Son of- Mahesh Mahton
4. Kartik Mahton, son of- Tilo Mahton All resident of village- Urain, P.S.- Surajgarha, District- Lakhisarai
5. Bimla Devi wife of- Sahdeo Mahton, daughter of- Tilo Mahton, Resident of village- Karauti, P.S. and District- Lakhisarai
6. Nira Devi, daughter of- Tilo Mahton and wife of Ram Ratan, Resident of village- Sam Sagar, P.S.- Sikandra, District- Jamui
7. Nilam Devi, wife of- Panchu Mahton, Daughter of- Tilo Mahton, Resident of Village- Nagardar, P.S. and District- Lakhisarai
8. Gono Mahton, S/o- Late Sukho Mahton
9. Radha Devi, D/o- Gono Mahton,
10. Manoj Kumar, S/o- Gono Mahton,
11. Mahangi Kumari, D/o- Gono Mahton, All resident of village- Urain, P.S.- Surajgarha, District- Lakhisarai

.... Respondents

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Appearance :

For the Appellant/s : Mr. Sanjeev Kumar
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL JUDGMENT

Date: 20-10-2016

Heard Mr.Binod Kumar Singh, learned counsel
appearing for the appellants.

The plaintiffs are the appellants in this appeal
against the judgment and decree of affirmance.



The plaintiffs filed the suit for partition of the suit property. The defendant came out with the case of previous partition and self-acquisition of the suit property.

Both the courts below have come to the concurrent finding that there had been earlier partition of the family property between the parties and there was no unity of title and jointness of possession between the plaintiff and the defendant. The suit was dismissed and the appeal has also been dismissed.

Mr. Singh, learned counsel for the appellants has submitted that both the courts below have wrongly relied on the inter se transaction between the parties as well as the ekrarnama (Ext.8) which has not been signed by the plaintiffs. It has been argued that the findings by both the courts below are vulnerable. No other submission has been made on behalf of the appellants.

After considering the submissions and the judgments of both the courts below, it is evident that both the courts below have scrutinized the oral and documentary evidence adduced on behalf of the parties and has come to the finding that there was no unity of title and jointness of possession between the plaintiff and the defendant with regard to the suit properties. It further appears from the judgments of both the courts below that the admission by the mother of the plaintiffs regarding the partition has also been taken into notice



by both the courts below. The findings have been recorded after elaborate scrutiny of evidence which were acceptable and could have been relied upon. The submission on behalf of the appellants has centered around reappreciation of evidence which cannot be done at the second appellate stage in the facts and circumstances of this case.

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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