

IN THE HIGH COURT OF JUDICATURE AT PATNA

Second Appeal No.93 of 2014

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Shakuntala Devi @ Shakuntala Kumar W/O Late Lal Babu Singh R/O Village-
Bahiyara, P.S.- Koilwar at Present P.S. Chandi, District- Bhojpur.

..... Plaintiff Appellant

.... Appellant

Versus

Rajendra Prasad Singh S/O Late Hit Narayan Singh Resident of Village- Bahiyara,
P.S. Koilwar at present P.S.- Chandi, District- Bhojpur.

..... Defendant Respondent

.... Respondent

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Appearance :

For the Appellant : M/s. Ram Bilash Mahto, Manoj Kumar Singh,
Chandan Kumar Verma, & Brajesh Kumar
Pandey

For the Respondent/s :

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CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL JUDGMENT

Date: 23-08-2016

Heard learned Counsel for the appellant

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

3. The plaintiff filed the suit for declaration of her title and for recovery of possession after removing the encroachment said to have been made by the defendant. The plaintiff claimed to have purchased the suit land from the descendents of Bhawan Das in whose name the R.S. Khatian was prepared for the suit land. The defendant contested the claim of the plaintiff firstly on the ground of purchase by oral sale from the rightful title holder and secondly by continuing in adverse possession and perfecting his title thereby.

4. Both the courts below have recorded the concurrent finding of fact that the plaintiff has failed to establish the title of her vendor over the

suit land. The suit was dismissed and thereafter the appeal by the plaintiff has also been dismissed by the impugned judgment and decree.

5. Learned Counsel for the appellant has submitted that as the defendant has failed to prove his claim of title on the basis of oral sale and also his claim for acquiring title by remaining in adverse possession over the suit land, the plaintiff was entitled to a decree on that basis. It has been further submitted by the learned Counsel for the appellant that both the courts below have not properly considered the evidence on record and the finding are therefore perverse. No other submission has been made on behalf of the appellant.

6. After considering the submission and perusal of the judgment of both the courts below it is manifest that the plaintiff has filed the suit for recovery of possession of the suit land on the basis of title. Even if the defendant has failed to establish his claim over the suit land either on the basis of oral sale or on the basis of adverse possession, that will not enure to the benefit of the plaintiff entitling her to a decree as the settled principle is that the plaintiff has to stand on his own legs and no benefit can be allowed to the plaintiff by reason of weakness in the case of the defendants. The finding by both the courts below, which have been recorded on the basis of oral and documentary evidence, clearly shows that the plaintiff has failed to establish the relationship between the raiyats recorded in the cadastral survey of the suit land with the plaintiff. There has also been absolutely no pleading on behalf of the plaintiff to establish the acquisition of title by her vendor over the suit land. The findings by both the courts below are based on appreciation of evidence which are acceptable and could have been relied upon. This Court has

not been persuaded to find perversity or unreasonable in the same in any manner.

7. Ex consequenti, this Court finds that no substantial question of law is arising for consideration in this appeal, which is accordingly dismissed.

(V. Nath, J.)

Snkumar/-

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