

IN THE HIGH COURT OF JUDICATURE AT PATNA

Second Appeal No.250 of 2014

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1. Lakhendra Sah S/o - Late Shiv Sah Resident of Village - Amwara Tej Singh,
Post Office - Rewa Basantpur, P.S. - Saraiya, Distt. - Muzaffarpur (Bihar)

.... Appellant/s

Versus

1. Sarvesh Pathka S/o - Late Ram Ishwar Pathak
2. Umesh Pathak S/o - Late Ram Ishwar Pathak
3. Dinesh Pathak S/o - Late Ram Ishwar Pathak
4. Mahesh Pathak S/o - Late Ram Ishwar Pathak
5. Rajpati Devi D/o - Late Ram Ishwar Pathak
6. Manju Devi D/o - Late Ram Ishwar Pathak
7. Gayatri Devi D/o - Late Ram Ishwar Pathak Resident of Village - Amwara Tej
Singh, Post Office - Rewa Basantpur, Police Station - Saraiya, Distt. - Muzaffarpur
(Bihar)
8. Most. Dipiya Devi W/o - Late Shiv Sah Resident of Village - Amwara Tej Singh,
Post Office - Rewa Basantpur, Police Station - Saraiya, Distt. - Muzaffarpur
(Bihar).

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Prasoon Sinha, Adv

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL JUDGMENT

Date: 19-12-2016

Heard Mr. Prasoon Sinha, 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 filed by the



plaintiff for declaration of title and recovery of possession.

The matrix of fact discloses that the plaintiffs and the defendants were the purchasers of half share each from two co-sharers in the same plot and on the same date. However, the plaintiff's claim was that a portion of his land (suit land) has been encroached and possessed by the defendants. Both the parties were claiming their title and possession on the basis of their own purchase. The survey knowing Pleader Commissioner during the pendency of the suit were appointed by the parties respectively and it has not been disputed on behalf of the appellant at present that the reports submitted by the survey knowing Pleader Commissioners have pointed out that the area claimed by the plaintiffs has been recorded in some other survey plot and is not included in the land of the defendants.

Both the courts below have come to the concurrent finding of fact that the plaintiffs have failed to substantiate their claim on the basis of cogent evidence. The suit was dismissed and thereafter the appeal has also been dismissed.

After considering the submissions and perusal of the judgment of both the courts below, this Court comes to the conclusion that the findings of fact by both the courts below have been recorded on the basis of evidence which were acceptable and



could have been relied.

This Court has not been persuaded to find any unreasonableness or perversity in any manner or illegality in the findings recorded by the appellate court.

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)

Ranjan/-

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