

IN THE HIGH COURT OF JUDICATURE AT PATNA

Second Appeal No.316 of 2014

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1. The Bihar Hindu Religious Trust Board, Patna @ Bihar State Board Of Religious Trust, Patna.
2. Hindu Religious Board through the Chairman, Bihar at Patna @ Bihar State Board Of Religious Trust, Patna, through its President.
3. The President, Bihar Religious Trust Board, Patna @ Bihar State Board Of Religious Trust, Patna. Appellants

Versus

1. Rajeshwar Prasad Sah. Son of Late Vishwanath Prasad Sah. Resident of Village/Mohalla - Premganj, P.S.- Lalganj, District - Vaishali.
2. The State of Bihar through the Collector, Vaishali at Hajipur.
3. The Superintendent Bihar Hindu Religious Trust Board, Patna @ Bihar State Board of Religious Trust, Patna. Respondents

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Appearance :

For the Appellant/s : Mr. Ganpati Trivedi, Sr.Adv.

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL JUDGMENT

Date: 06-04-2017

Heard Mr.Ganpati Trivedi, learned senior counsel
appearing for the appellants.

The appellants in the appeal are the Bihar Hindu
Religious Trust Board, Patna and its Officials.

This appeal has been filed against the judgment
and decree of reversal granting the decree to the plaintiff as prayed.

There is no dispute to the fact that the suit property
originally belonged to one Goverdhan Sah who died leaving behind
his son Bansi Ram and a daughter Lakhkhi Kuer . It is also not in
dispute between the parties that Bansi Ram died issueless in the year
1922 and his second wife also died issueless on 14.01.1971. The
plaintiff in the suit is the descendant of Lakhkhi Kuer who was the



sister of Bansi Ram. The plaintiff filed the suit for declaration of title and confirmation of possession over the suit property and for further declaration that the formation of the Committee by the Bihar Hindu Religious Trust Board (hereinafter referred to as Board) in this regard was illegal. The defendants contested the case of the plaintiff and asserted that Bansi Ram, who died in the year 1922, had established a Dharamshala for the use of the public at large and after the death of his second wife, the said Dharmshala reached dilapidation stage and therefore on the basis of the letters of Sri Yogendra Prasad Sahu, after inquiry, a Committee was formed in the year 1971 for looking after the affairs of Dharamshala and therefore the plaintiff could not have claimed title and possession over the suit property. Besides raising further pleas in defence, it was the main case of the defendants that in the year 1971 the Committee was formed to look after the affairs of the said Dharamshala and thereafter in the year 1989 another Committee was formed after hearing the plaintiff and rejecting his objection.

The trial court returned the findings on the issues against the plaintiff and dismissed the suit. In appeal by the plaintiff, the appellate court below on reappraisal of evidence has reversed the findings of the trial court and granted the decree as prayed by the plaintiff by the impugned judgment and decree.

Mr. Trivedi, learned senior counsel appearing for



the appellants has submitted that the evidence on record has not been considered in proper perspective by the appellate court below and therefore the findings are vulnerable. It has also been submitted that the members of the Committee have not been made parties to the suit and therefore the suit suffers from non-joinder of necessary parties. To substantiate his submissions, learned senior counsel has extensively placed the findings by the appellate court as well as the trial court. It would, however, be apposite to mention here that learned senior counsel for the appellants, during the course of submission, has accepted that the Committee, which was formed by the appellants in the year 1971 for management of the suit property (Dharamshala) was non-functional. It has also been accepted that the objection raised by the appellants against the entries in the survey khatian of the suit property in the name of the plaintiff has also been dismissed. The learned senior counsel has also accepted that there is no material on record to show that the appellants had taken any concrete steps in between 1971 up till 1989 to take over the control and possession of the suit property (Dharamshala).

After considering the submissions and perusal of the judgments of both the courts below, it is manifest that the findings of facts have been recorded by the appellate court below on the basis of evidence which were acceptable and could have been relied upon. It is not the case on behalf of the appellants that the findings of the



appellate court below have stemmed out of non-consideration of evidence or are dehors the settled principles of law. The submission that the evidence on record have not been considered in proper perspective, cannot be raised in the second appellate jurisdiction unless it is shown or established that the findings are perverse or unreasonable in the sense that it could not have been recorded on the basis of the evidence which have been considered and relied upon by the court. The fact has also not been contested on behalf of the appellants that the plaintiff is successor to the property of Banshi Ram as one of his heirs. There is also no fact or even date disclosed in the written statement with regard to possession of the suit property by the appellants after dispossessing the plaintiff. During the course of submission, which has centered around reappreciation of evidence, this Court has not been persuaded to find perversity or unreasonableness in the findings of the appellate court below in any manner.

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

(V. Nath, J)

Nitesh/-

AFR/NAFR	NAFR
CAV DATE	NA
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