

IN THE HIGH COURT OF JUDICATURE AT PATNA

Second Appeal No.272 of 2014

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1. Rajendra Gupta Son of Chamru Gupta 2. Ram Swaroop Gupta Son of Chamru Gupta 3. Brahmdeo Gupta Son of Chamru Gupta 4. Ramdeo Gupta, Son of Chamru Gupta All resideents of Village - Pachrukhi, Post Office and Police Station - Dharhara, Dist.-Munger Plaintiffs	Respondents Appellants
Versus	
1. Mostt. Shanti Devi Wife of Late Lakhan Thakur 2. Sanjay Thakur Son of Late Lakhan Thakur 3. Maju Devi Daughter of Late Lakhan Thakur 4. Pradeep Thakur Son of Late Lakhan Thakur 5. Bharat Thakur Son of Late Lakhan thakur 6. Munna Thakur Son of Late Lakhan Thakur All residents of Village - Pachrukhi, Post Office and Polcie Station - Bharhara, Dist.-Munger Defendants	Appellants Respondents

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Appearance :

For the Appellant/s : Mr. Pravin Chandra Prasad
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL JUDGMENT

Date: 22-02-2017

Hearfd Mr. Pravin Chandra Prasad, learned Counsel for the appellants.

2. The plaintiffs are the appellants in this appeal against the judgment and decree of reversal dismissing the suit.

3. The plaintiffs filed the suit for declaration of title and confirmation of possession over the suit land and further for declaration that the plaintiffs were in possession as title holder over the suit land since 1932.

4. From the submissions as well as from perusal of the judgments of both the courts below, it is manifest that the suit property was recorded as *Gairmazarua malik* in the survey khatian, wherein in the



remark column the names of Mithu Hazzam and Garbhu Hazzam were recorded. The plaintiffs came out with the case of purchase of the suit land by way of unregistered sale deed dated 14.3.1932 from Mithu Hazzam. The defendants contested the claim and assertion of the plaintiffs and resisted grant of the relief as prayed. The defendants claimed themselves to be the descendents of Mithu Hazzam and Garbhu Hazzam.

5. The trial court returned the finding on the issues in favour of the plaintiffs and granted the decree as prayed. The appellate court below in appeal by the defendants has reversed the findings of the trial court on reappraisal of evidence and allowed the appeal by the impugned judgment and decree.

6. From perusal of the judgments of both the courts below it is transparent that though the plaintiffs have based their title on the unregistered sale deed of the year 1932, they have not produced any evidence that the *Zamindari* return at the time of vesting was submitted in their name for the suit land or *Jamabandi* was created in their names or even thereafter their names have been mutated or the rent has been fixed in their names for the suit land. The appellate court below has taken into notice the aforesaid absence of material evidence on behalf of the plaintiffs and thereafter has disbelieved their case of possession over the suit land. It is also apparent from the judgments of the trial court as well as appellate court that the plaintiffs have produced only the *Chaukidari* receipt in support of their claim of possession as title holder over the suit land, but the same has been rightly discarded for determining the issue of title and possession over the suit land by the appellate court below.



7. This Court has not been persuaded to hold that the findings by the appellate court below against the plaintiffs on the issues are perverse or unreasonable in any manner. This Court finds that the appellate court below has rightly come to the conclusion that the plaintiffs have failed to establish their title and possession over the suit land by leading cogent and convincing evidence. The findings of facts by the appellate court below are based on evidence which were acceptable and could have been relied upon.

8. 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.)

Snkumar/-

AFR/NAFR	
CAV DATE	N/A
Uploading Date	03.04.2017
Transmission Date	N/A

