

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Second Appeal No.430 of 2012**

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1. Smt. Chandrakala Devi, wife of Sri Krishna Prasad Singh
  2. Sri Krishna Prasad Singh, son of Late Deodhari Prasad Singh
  3. Sushil Kumar, son of Late Deodhari Prasad Singh,  
..... Plaintiffs ..... Appellants ..... Appellants 1st set
  4. Ramanuj Kumar
  5. Mukesh Kumar
  6. Rajeev Kumar, all sons of Sri Krishna Prasad Singh

All residents of Village Gadua, P.S. Chewara (Ariari) Munsafi  
Sheikhpura, District Sheikhpura  
..... Plaintiffs ..... Respondents 4 set

.... .... Appellants

Versus

1. Smt. Chanchala Devi, wife of Sri Pramod Prasad Singh, resident of Village Gopalpur, P.O. & P.S. Akbarpur, District Nawada
2. Ram Pravesh Singh
3. Sri Anil Kumar
4. Bipin Kumar
5. Sudhir Kumar, all sons of Late Narayan Singh, All residents of Village Gadua, P.S. Chewara (Ariari) Munsafi Sheikhpura, District Sheikhpura  
..... Defendants ..... Respondents ..... Respondents 1st set
6. Shivakant Singh, son of Late Brahamdeo Singh, resident of Village Gadua, P.S. Chewara, District Sheikhpura  
..... Defendant ..... Respondent 3<sup>rd</sup> set .... Respondent 2<sup>nd</sup> set  
.... .... Respondents

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**Appearance :**

For the Appellant/s : Mr. Waliur Rahman, Advocate  
Mr. Pankaj Kumar, Advocate  
For the Respondent/s : Mr.

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**CORAM: HONOURABLE MR. JUSTICE V. NATH**

**ORAL JUDGMENT**

**Date: 13-02-2017**

Heard Mr. Waliur Rajhman, learned Counsel appearing for the appellants.

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

3. The plaintiffs filed the suit for declaration of title and recovery



of possession. The matrix of facts gathered during the course of submission and after perusal of the judgments of both the courts below is that the suit property admittedly belonged to the three ex-landlords namely Beni Dutt Singh, Banarshi Singh and Aditya Narayan Singh. The plaintiffs claimed to have purchased the suit property from his vendor who based his title over the suit property through oral gift from the descendents of Beni Dutt Singh. On behalf of the plaintiffs it was also pleaded that the share of the remaining two brothers namely Aditya Narayan Singh and Banarshi Singh was transferred by sale deed Ext. 2 and only the share of Beni Dutt Singh remained which has come to the plaintiffs in the aforesaid manner described in the plaint.

4. Both the courts below have come to the concurrent findings of fact that the plaintiffs are not entitled to a decree for declaration of title and recovery of possession when the sole basis of their claim is oral gift by the descendents of Beni Dutt Singh in favour of the predecessor of the vendor of the plaintiffs. Determining other issues against the plaintiffs as well the suit was dismissed and thereafter the appeal by the plaintiffs has also been dismissed by the impugned judgment and decree.

5. Mr. Rahman, learned Counsel appearing for the appellants, in ardent manner has submitted that the view taken by both the courts below on the basis of pleadings and evidence on record was not a possible view and the another view that the plaintiffs have acquired valid title over the suit property was the only probable view. The learned Counsel has placed the parts of the judgment of both the courts below in order to persuade this Court that the conclusions by both the courts below are perverse.



6. After considering the submission, it is manifest that the basis of title as pleaded by the plaintiffs over the suit property is the oral gift by the admitted descendents of co-sharer landlord in favour of the predecessor of the vendor of the plaintiffs. Both the courts below have rightly concluded that such an oral gift cannot be recognized in law and cannot be made the foundation for granting the relief for declaration of title. On perusal of the judgments of both the courts below it is pellucid that the courts below have elaborately considered the evidence before recording the findings. This Court has not been persuaded to come to the conclusion that the findings as recorded by the courts below on the basis of evidence on record could not have been recorded. It is well settled that possibility of another view on the basis of same set of evidence cannot be substantial question of law in a second appeal.

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

(V. Nath, J.)

Snkumar/-

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