

IN THE HIGH COURT OF JUDICATURE AT PATNA

Second Appeal No.379 of 2012

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1. Bhola Yadav, Son of Late Singheshwar Yadav.
 2. Sanjeev Kumar.
 3. Rajesh Kumar.
 4. Dinesh Yadav.
 5. Babita Kumari.
 6. Chandra Kala Devi.
All Nos.2 to 4 are sons of Late Ramadhin Yadav.
Both Nos.5 and 6 are widow of Late Ramadhin Yadav.
All Nos.1 to 4 are residents of Village-Itahari, Police Station-Singheshwar, District-Madhepura.
 7. Mala Devi, Wife of Sri Shiv Prasad Yadav and daughter of Late Ramadhin Yadav, Resident of Village-Dharhara, Police Station-Banmankhi, District-Purnea.
 8. Kanchan Devi, Wife of Manohar Kumar and daughter of Late Ramadhin Yadav, resident of Village-Girdharpati, Police Station-Chhatapur, District-Supaul.
 9. Shilpa Bharti, Wife of Deepak Kumar and daughter of Late Ramadhin Yadav, Resident of Village-Katholia, Police Station-Bihariganj, District-Madhepura.
 10. Bishundeo Yadav, Son of Late Singheshwari Yadav.
 11. Raghbendra Yadav, Son of Late Jeeban Yadav.
 12. Lal Bahadur Yadav.
 13. Rajesh Kumar Yadav.
Both are sons of Raghbendra Yadav.
All Nos. 10 to 13 are Sons of Village-Itahari, Police Station-Singheshwar, District-Madhepura.
- Appellants

Versus

1. Usha Devi , Wife of Bedanand Yadav.
 2. Beda Nand Yadav, Son of Yogendra Yadav.
Both are residents of Village-Itahari, Police Station-Singheshwar, District-Madhepura.
 3. Kinu Yadav, Son of Late Kalar Yadav, Resident of Village-Itahari, Police Station-Singheshwar District-Madhepura. At present residing at Village-Kumhait, Police Station-Supaul, District-Supaul.
 4. Budhani Devi Wife of Deep Narayan Yadav, Resident of Village-Gahumani, Police Station-Singheshwar, District-Supaul.
 5. Jinsi Devi, Wife of Mahendra Yadav, Resident of Village-Kanptola, Laxminiya, Police Station- Sour Bazar, District-Saharsa.
 6. Raghi Devi, Wife of Anmol Yadav, Resident of Village-Thangha, Police Station-Sour Bazar, District-Saharsa.
 7. Sita Devi Daughter of Kalar Yadav, Resident of Village-Kumhait, Police Station and District-Supaul.
- Respondents

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Appearance :

For the Appellant/s : Mr. Pramod Mishra, Adv.
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH
ORAL JUDGMENT



Date: 21-06-2017

Heard Mr.Pramod Mishra, learned counsel appearing for the appellants.

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

The matrix of facts discloses that the suit land recorded in C.S.Plot No.248 earlier belonged to three brothers, namely, Hit Lal Mandal, Bhutai Mandal and Santlal Mandal and it was the case of the plaintiffs that all the three brothers got 07 katha 13 dhur land in their shares respectively and were in separate possession of the same. It is also the case of the plaintiffs that Hitlal Mandal sold his share in C.S.Plot No.248 to Bhutai Mandal and accordingly Jamabandi was created in respect of 15 katha 6 dhur land in his name. The plaintiffs claimed their title over the suit land by purchase from Panak Lal Yadav who was son of Bhutai Mandal and filed the suit praying for declaration of title over the suit land and for avoiding the survey entry and the sale deed for the suit land in name of the defendants. The contesting defendants, however, came out with the case that the lands of C.S.Plot No.248 was exclusively allotted to the share of Hitlal Mandal who sold the entire land of C.S.Plot No.248 to Bhutai Mandal through registered sale deed dated 21.01.1919. Subsequently, Panak Lal Yadav Son of Bhutai Mandal sold the lands of C.S.Plot No.248



through registered sale deed dated 06.01.1954 to one Kalar Mandal but in the said sale deed Plot No.251 was mentioned by mistake of the scribe in place of C.S.Plot No.248 but the C.S. Khata number and boundaries of the sold land were correctly mentioned showing the sale of the lands of C.S.Plot No.248. On this base, it was the case of the contesting defendants that Panak Lal Yadav had been left with no land in C.S. Plot No.248 to transfer in favour of plaintiffs. The contesting defendants claimed the suit land by purchase from Kalar Mandal.

Both the courts below have come to the concurrent finding of fact that the C.S.Plot No.251 was wrongly mentioned in the registered sale deed dated 06.01.1954 by which Panak Lal Yadav had sold the suit land to Kalar Mandal. It has been further found that the boundaries and the khata number of the sold land mentioned in the sale deed dated 06.01.1954 were, in fact, the boundaries and khata number of C.S.Plot No.248. The suit was dismissed and thereafter the appeal preferred by the plaintiffs has also been dismissed by the impugned judgment and decree.

The learned counsel for the appellants has submitted that both the courts below have not properly considered the oral and documentary evidence adduced on behalf of the plaintiffs and the findings by both the courts below are thus vulnerable. It has been submitted by the learned counsel for the appellants that the defendant



no.1 did not acquire any right, title and interest over the suit land on the basis of the sale deed dated 24.04.1992 because the vendor had no title over the property subject matter of the sale deed. No other submission has been made on behalf of the appellants.

After considering the submissions and the perusal of the judgments of both the courts below, it is pellucid that the core issue arising between the parties in the suit was the identification of the land transferred by registered sale deed dated 06.01.1954 (Ext.A/2) executed by Panak Lal Yadav in favour of Kalar Mandal. The findings of fact have been recorded by both the courts below that the land subject matter of transfer by the said sale deed (Ext.A/2) was in fact the suit land of Plot No.248. This finding of fact has been arrived at on the basis of scrutiny of evidence which were acceptable and could have been relied upon. No perversity or unreasonableness has been shown or established in the said finding during the course of submission on behalf of the appellants. The entire submission on behalf of the appellants has in fact centered around reappreciation of evidence for interfering in the concurrent finding of fact which cannot be done at the second appellate stage as this Court has not been persuaded to hold the findings to be perverse or unreasonable in any manner.

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)

Nitesh/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	31.07.2017
Transmission Date	

