

IN THE HIGH COURT OF JUDICATURE AT PATNA

Second Appeal No.417 of 2011

=====

Shri Laliteshwar Jha, son of Pandit Shri Nagendra Jha, resident of Purab Bazar,
Saharsa, P.S. Saharsa, District Saharsa, At present Madhubani, Jai Prakash Nagar,
P.S. K.Hat, District Purnea

..... Plaintiff Appellant

.... Appellant

Versus

The State of Bihar, through Collector Purnea

..... Defendant Respondent

.... Respondent

=====

Appearance :

For the Appellant/s : Mr. ARUN PRASAD AMBASTHA

For the Respondent/s : Mr.

=====

CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL JUDGMENT

Date: 16-05-2017

Heard learned Counsel for the appellant.

2. The plaintiff in the suit is the appellant in this appeal against the judgment and decree of affirmance dismissing the suit.

3. The plaintiff filed the suit for declaration of title and confirmation of possession over the suit land. The plaintiff has claimed title over the suit land on the basis of purchase by registered sale deed dated 22.9.1986 from Smt. Bindu Rani. It is the case of the plaintiff that the suit land is part of 6 Katha 4 Dhurs of land purchased by Priya Nath Sumanto by registered sale deed dated 16.11.1925 and the power of attorney holder of the said purchaser Priya Nath Sumanto transferred it in favour of Arun Bala Devi and Bindu Rani by sale deed dated 9.8.1967. Subsequently, Arun Bala Devi transferred her interest in favour of Smt. Bindu Rani. The cause of action for the suit, as stated by the plaintiff, has arisen when the suit land has been recorded in the municipal survey khatiyan in the name of State of Bihar. The defendant



denied the assertion of the plaintiff and claimed that the suit land is the land belonging to the State of Bihar and has been rightly recorded in the municipal survey khatiyan.

4. The courts below have concurrently found that the plaintiff has failed to establish the title of his vendors over the suit land. It has also been found that the sale deed dated 16.11.1925 and the subsequent sale deeds are not above suspicion. The suit has been dismissed and thereafter the appeal filed by the plaintiff has also been dismissed by the impugned judgment and decree.

5. Learned Counsel for the appellant has submitted that the courts below have failed to consider the validity of the sale deed dated 16.11.1925 and subsequent sale deeds in favour of the plaintiff's vendor and thereafter the plaintiff, with regard to which Jamabandi has been created in the name of the plaintiff and rent receipts have also been granted. It has been canvassed that in view of the law laid down by the apex court in the case of **Sk. Bhikan vs. Mehamoodabee & ors 2017(2) PLJR 164 (SC)** substantial question of law arises in this case as the matter relates to interpretation of the sale deeds of the vendors of the plaintiff and thereafter of the plaintiff. It has been further also contended that the rent receipt (Ext. 7) has been wrongly discarded by the courts below even though the same clearly demonstrates the existence of title over the suit land in favour of the plaintiff. The learned Counsel has also pointed out that there was no evidence adduced on behalf of the defendant State of Bihar and the pleadings made in the written statement denying the claim of the plaintiff has not been substantiated. No other submission has been made on behalf of the



appellant.

6. After considering the submission and perusal of the judgments of the courts below it is pellucid that the suit has been filed by the plaintiff for declaration of title and confirmation of possession over the suit land. The plaintiff has based his title over the suit land upon the sale deed dated 16.11.1925 in favour of Priya Nath Sumanto. Perusal of the judgment of the appellate court below shows that the said sale deed has been elaborately considered by the courts below along with recitals therein and thereafter the conclusion has been recorded that there was no evidence on behalf of the plaintiff that the name of the purchaser i.e. Priya Nath Sumanto was recorded in the shrasta of the ex-landlord and the return was filed in his name. The learned courts below on that basis have further concluded that the said sale deed is itself a suspicious document and cannot be made the basis of grant of decree of title to the plaintiff over the suit land. The trial court has also considered the evidence led on behalf of the plaintiff and has come to the finding that even grant of Ext. 7 (rent receipts) jointly in the name of Arun Bala Devi and Smt. Bindu Rani could not be explained on behalf of the plaintiff in view of the case of the plaintiff itself that Smt. Arun Bala Devi in the year 1976 transferred her interest in the suit land in favour of Smt. Bindu Rani (vendor of the plaintiff).

7. It is well settled that in a suit for declaration of title and confirmation of possession it is the plaintiff who has to establish his title and the weakness in the case of the defendant could not enure to the benefit of the plaintiff. In the present case the evidence adduced on behalf of the plaintiff in support of his title over the suit land has been



scrutinised by both the courts below and thereafter conclusion has been arrived that those evidences are not cogent and convincing for grant of decree to the plaintiff as claimed. The inference drawn on the basis of those documentary evidence clearly demonstrates that the same are not perverse or unreasonable. It is not the case on behalf of the appellant that the findings have stemmed out of non consideration of evidence or are dehors settled principles of law. This Court further also finds that there is no question of interpretation of a document of title rather it is the case where the plaintiff's title has to be determined on the basis of sale deeds where there is no ambiguity. Therefore the reliance upon the decision of the apex court in the case of **Sk. Bhikan** (supra) is clearly misconceived. The findings have been recorded by the courts below on the basis of 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	19.06.2017
Transmission Date	N/A

