

IN THE HIGH COURT OF JUDICATURE AT PATNA

Second Appeal No.186 of 2011

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Ram Ekbal Kohar son of late Yasu Kohar, resident of village-Semara Bujurg, P.O. Sahpur, P.S. Nawtan, Prag-Chaubar, District-Siwan.

.... Appellant/s

Versus

1. Bhagi Kohar.
2. Gulab Kohar, both son of late Basawan Kohar.
3. Jai Nath Prasad.
4. Musafir Prasad.
5. Jawahar Prasad.
6. Kanhaiya Prasad, sons of Gulab Kohar, Minor through their father Gulab Kohar, all resident of village-Semara Bujurg P.O. Sahpur, P.S. Nawtan, District-Siwan.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Ranjan Kumar Dubey, Adv.
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL JUDGMENT

Date: 21-07-2017

Heard Mr. Ranjan Kumar Dubey, learned counsel for the appellant.

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

It transpires from the records and has not been disputed that the two suits i.e. T.S. No. 152 of 1989 and T.S. No. 159 of 1989 were filed in the court below for the same relief against the gift deed in favour of the defendants. By the common judgment, the trial court disposed of the two suits granting part decree to the plaintiff and



partly dismissing the suits. It further transpires that the two appeals were filed i.e. T.A. No. 69 of 1996 and 70 of 1996 in the court below against the judgment and decree of the trial court. By common judgment, the two appeals have been disposed of by the appellate court below whereby both the appeals have been dismissed.

The learned counsel for the appellant has not been able to point out before this Court that the decree passed in another appeal has been assailed by filing appeal against the same. In this fact situation and in view of the dictum laid down by the Apex Court in the case of **Badri Narayan Singh Vs. Kamdeo Prasad Singh, A.I.R. 1962 S.C. 338** and in the case of **Sheodan Singh Vs. Daryao Kunwar, A.I.R. 1966 S.C. 1332**, the present appeal would be clearly barred by res judicata.

This Court, therefore, comes to the conclusion that this appeal is barred by res judicata and is dismissed, accordingly.

(V. Nath, J)

Devendra/-

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