

IN THE HIGH COURT OF JUDICATURE AT PATNA

Second Appeal No.381 of 2013

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1. Anandi Chaudhary Son Of Late Ra Roop Chaudhary Resident Of Village - Lakho, P.S.- Muffasil, District - Begusarai (Bihar)
 2. Md. Soyeb @ Md. Soaib Son Of Lat Abdur Rashid Resident Of Village - Sohpur, P.S.- Muffassil, District - Begusarai (Bihar)
 3. Kaushaliya Devi wife of late Raso Prasad Singh.
 4. Umesh Kumar Singh @ Umesh Singh son of late Raso Prasad Singh
 5. Binesh Kumar Singh @ Binesh Kumar son of late Raso Prasad Singh
 6. Subodh Kumar son of late Raso Prasad Singh
 7. Dinesh Singh son of late Raso Prasad Singh
 8. Aniket Kumar minor son of late Rajesh Kumar.
 9. Ritik Kumar Minor son of late Rajesh Kumar Sl. 8 and 9 are under the guardianship of their elder uncle Umesh Prasad Singh Umesh Singh, all resident Of Village - Lakho, P.S.- Muffasil, District - Begusarai (Bihar).

.... Appellant/s

Versus

1. Most. Janak Nandani Devi Wife Of Late Mahendra Prasad Singh
2. Mos. Sushila Devi Wife Of Late Mahendra Prasad Singh both Resident Of Village - Ratanpur, P .S.- Begusarai, District -Begusarari (Bihar)
3. Indu Devi Wife Of Ram Naresh Rai Resident Of Village - Harerampur, P.S.- Gashpura, District - Begusarari (Bihar)
4. Kian Devi Wife Of Late Ram Bhushan Rai
5. Rinki Devi Wife Of Nawal Kishore Rai Sl. No. 4 and 5 are Resident Of Village - Rampur, P.S.- Hassanpur, District - Samastipur (Bihar)
6. Neelam Devi Wife Of Arvind Singh Resident Of Village - Barauni Flat, P.S.- Teghra, District - Begusarai (Bihar)
7. Soni Kumari Wife Of Pawan Singh
8. Kumari Dimpal Wife Of Santosh Singh Sl. 7 and 8 are Resident Of Village - Kothia, P.S.- Matihani, District - Begusarari (Bihar)
9. Trihuwan Ath Singh Son Of Late Mahendra Prasad Singh
10. Harihar Nath Singh Minor Son Of Mahendra Prasad Singh under the guardianship his mother and Natural Guardian Mahendra Prasad Singh Resident Of Village - Ratanpur, P .S.- Begusarai, District -Begusarari (Bihar)



.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Prabhat Kumar Dipak, Adv.

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL JUDGMENT

Date: 21-07-2017

Heard learned counsel for the appellants.

The defendant 3rd set is the appellants in this appeal against the judgment and decree of affirmance granting the decree as prayed.

The plaintiffs have filed the suit for declaration that the sale deeds executed by the defendant 4th set in favour of defendant 1st set, 2nd set and 3rd set are void, illegal and have not conferred any title upon the plaintiffs. The written statement was filed on behalf of the defendants. However, it appears from the judgment of the appellate court below that the written statement filed on behalf of the defendant 4th set was not accepted and ultimately the civil revision no. 2079 of 2006 was also dismissed filed by the defendant 4th set against the order not accepting the written statement.

It transpires from the perusal of the judgments of both the courts below that the plaintiffs have based their claim upon the compromise decree passed in T.S. No. 44 of 1973 and have claimed that the suit property subject matter of the sale deeds in question has been allotted to the plaintiffs by the said compromise decree. In support of the said claim the plaintiffs adduced Ext. 4 (plaint of T.S.



No. 44 of 1973), Ext. 5 (compromise petition) and Ext. 8 (order sheet) of the said title suit. Both the courts below after scrutiny of the documents relating to the compromise decree and considering the other evidence as well have come to the concurrent finding of fact that the plaintiffs have established their title over the lands subject matter of the sale deeds in question by cogent evidence. It is also transparent that the said compromise decree was not challenged by the defendant 4th set or any of the defendants and no counter claim in that regard was filed. The courts below have also taken into notice that there was no specific allegation of fraud in the written statement nor there was any evidence aliunde in that regard. The findings by the courts below have been recorded on the basis of evidence which were acceptable and could have been relied upon. This Court, therefore, has not been persuaded to find perversity or unreasonableness in the conclusions by the courts below.

Ex consequenti, this Court comes to the conclusion that there is no substantial question of law arising for consideration in this appeal, which is accordingly, dismissed.

Devendra/-

(V. Nath, J)

AFR/NAFR	
CAV DATE	
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