

IN THE HIGH COURT OF JUDICATURE AT PATNA
SECOND APPEAL No.211 of 2015

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Gopal Jee Singh S/o Ram Sakal Singh Resident of village - Manjhaul, P.S. -
Cheriya Bariyarpur, District - Begusarai.

... .. Appellant

Versus

1. Ram Udgar Bharti @ Ram Udgar Bhartiya S/o Krishna Nandan Singh,
resident of village - Manjhaul, P.S. - Cheriya Bariyar, District - Begusarai.
2. Kapil Jee Singh S/o Ram Sakal Singh
3. Sanjay Kumar Singh S/o Ram Sakal Singh
Both resident of village-Manjhaul, P.S. - Cheriya Bariyar, District -
Begusarai.

... .. Respondent/s

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Appearance :

For the Appellant : Mr. Arbind Kumar Singh, Advocate
For the Respondent :

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CORAM: HONOURABLE MR. JUSTICE SUNIL DUTTA MISHRA

CAV JUDGMENT

Date : 10-10-2022

This Second Appeal is directed against the judgment dated 07.07.2015 and decree dated 29.07.2015 passed in Title Appeal No. 29 of 2010 by Additional District Judge-4, Begusarai affirming the judgment dated 29.06.2010 and decree dated 12.07.2010 passed in Title Suit No. 137 of 2005 by Sub-Judge - 3, Begusarai.

The appellant is Defendant No. 1 in the suit and the plaintiff is respondent No. 1 herein. The plaintiff has filed the aforesaid title suit for declaration of title and recovery of



possession over Schedule I land of the plaint i.e. Tauzi No. 1133, 8853, Khata No. 1391 and 1400, Khesra No. 4587, 4584, area – 3 Kathas, Mauza Manjhaul, Pargana – Bhusari, P.S. Cheria Bariarpur, Distt.-Begusarai (hereinafter to be referred as “Suit Property”).

The case of the plaintiff in brief is that the suit property has been purchased by the plaintiff Ram Udgar Bharti from Most. Chinta Devi wife of Nageshwar Singh vide sale deed dated 19.08.2003. Most. Chinta Devi died in October 2003 and on her death her Nati (defendants) dispossessed the plaintiff from the suit property. It is stated by the plaintiff that first wife of Nageshwar Singh was Maina Devi and after her death in 1939 Nageshwar Singh solemnized his second marriage with Chinta Devi and he died in 1950 leaving behind his wife Chinta Devi and minor son Shivlochan, who also died in 1950 and thus Chinta Devi inherited total property of Nageshwar Singh. In 1950 there was no right of women in property of his father, accordingly, daughter of Nageshwar Singh, namely, Baban Devi has not got any right and possession of the property of Nageshwar Singh. Chinta Devi died in the month of October 2003 and thereafter the defendant-appellant and respondent No. 2nd party inherited the properties and dispossessed the plaintiff,



hence the suit.

On the other hand the defendant's case is that from first marriage with Maina Devi one daughter Baban Devi and one son Janardan Singh were born. It is further case of the defendant that Chinta Devi had a son Shiv Lochan Singh who died in March, 1950 during the life time of Nageshwar Singh and at that time Maina Devi, Janardan Singh and Baban Devi were alive. Nageshwar Singh in October, 1950 died leaving behind his wife Maina Devi @ Mainiya Devi and Chinta Devi and a son Janardan Singh and a daughter Baban Devi. Maina Devi died in October, 1951. Janardan Singh died in 1952 leaving behind his sister Baban Devi and step mother Chinta Devi. Accordingly, Baban Devi wife of Ram Sakal Singh inherited all the properties of Nageshwar Singh. Defendants are son of Baban Devi.

On considering the pleading and evidence the trial court held that Mainiya Devi during the life time of her husband Nageshwar Singh died in 1939 and Chinta Devi was legally married wife of Nageshwar Singh, who inherited all the properties of Nageshwar Singh and the plaintiff has derived right on the basis of sale deed dated 19.08.2003 executed by Chinta Devi over Schedule I land of the plaint. Accordingly, the



trial court decreed the suit in favour of the plaintiff.

In appeal the Appellate Court dismissed the appeal and confirmed the judgment and decree passed by the Courts below vide judgment dated 07.07.2015.

The appellate court after analyzing the pleading, evidence and the relevant legal provisions applicable in this case held that the plaintiff has proved his title on the suit land as the suit land devolved from Nageshwar Singh who admittedly died in 1950 leaving behind his widow Chinta Devi alone inherited the property of Nageshwar Singh who admittedly executed the sale deed dated 19.08.2003 in favour of plaintiff and thus plaintiff has acquired title over the suit land and the mother of defendant did not acquire title since in 1950 daughter was not the legal heir of Nageshwar Singh.

Learned counsel for the appellant submits that the Courts below have misread and misconstrued the evidence adduced by the appellant and have given more weight to materials in support of respondents 1st party. The judgments of Courts below erred in holding that stranger has got no right to challenge the sale deed executed by Chinta Devi.

Having heard learned counsel for the appellant and on perusal of the judgments of both courts it appears that both



the Courts below have given concurrent finding on the basis of evidence. The Courts below have applied their judicial mind and the finding of facts based on evidence cannot be treated as perverse.

There is no perversity or unreasonableness in the concurrent findings of both the courts below. No substantial question of law arises in this Second Appeal which is required to be determined by this Court.

Accordingly, the Second Appeal is dismissed at the admission stage itself.

(Sunil Dutta Mishra, J)

shweta/-

AFR/NAFR	NAFR
CAV DATE	21.07.2022
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