

IN THE HIGH COURT OF JUDICATURE AT PATNA
SECOND APPEAL No.113 of 2016

1. The State Of Bihar Through The Collector, Kishanganj.
2. The Collector, Kishanganj.

... .. Appellant/s

Versus

1. Raj Karan Daftari, son of Bhikham Chand Daftari, resident of Bhagat Toli Road, Kishanganj, Police Station District - Kishanganj.
2. Sikandra Singh, son of Late Parmeshwar Singh, resident of Dharamganj, Post Police Station District - Kishanganj.
3. Kundan Mal Baidya
4. Fulchand Baidya
5. Hira Lal Baidya
6. Nirbhay Kumar Baidya
7. Prakash Chand Baidya
8. Suresh Kumar Baidya
9. Bimal Kumar Baidya All sons of Late Sohan Lal Baidya, resident of Medical College Road, Post Police Station District - Kishanganj.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Neeraj Kumar, Advocate
For the Respondent/s : Mr. Syed Qaisar Hasan, Advocate

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

8 27-06-2023 Heard learned counsel for the appellants on the point of admission.

2. Learned counsel for the appellants submits that prior to filing of the suit before the learned trial court there has not been compliance of Section 80 of the Code of Civil Procedure and this fact has not been considered by the learned appellate court though it has been specifically stated and finding mentioned in



paragraph no. 3 of the judgment of the learned appellate court. Learned counsel further submits that plaintiffs/respondents were having knowledge of Title Suit No. 87 of 1998 filed by one Sohan Lal Baidya, father of defendant 2nd party and thus they were having knowledge for quite long about entry made in the documents of the municipal survey in favour of Government of Bihar, wherein the disputed land was entered in the name of 'Anabad Bihar Sarkar' in Khata No. 328 of Municipal Khatiyan. Learned counsel further submits that on these two aspects the present appeal should be admitted.

3. Perused the records.

4. Having considered the submission of learned counsel for the appellants, I do not agree with this contention that there is any substantial question of law involved in the present matter. It is a case of concurrent finding by the learned courts below. So far as the plaintiff not making necessary compliance of notice to the State under Section 80 of the Code of Civil Procedure is concerned, the submission appears to be misconceived as the learned trial court in paragraph no.9 has specifically mentioned about Exhibit-4 series concerning notice under Section 80 of C.P.C., acknowledgment and postal receipts in this regard. Moreover, the purpose of issuance of notice under Section 80 of



C.P.C. is that the State is not caught unaware if any dispute is raised with regard to a property concerning the State. It is for the purpose of enabling the State to take remedial measures, if it comes to the conclusion that such steps were necessary. In the present suit the State appeared and has contested as defendant 1st party. Therefore, it could not be said that State was in any manner prejudiced, even if for argument's sake it is held that there is non-compliance of Section 80 of C.P.C.

5. So far as other contention of the learned counsel for the appellants is concerned, the same has been discussed by both the courts below and decided against defendant 1st party and there appears no infirmity on which the said finding could be challenged. This Court would not go against the concurrent finding of facts unless it is perverse

6. In the result, I do not find any merit in the present appeal and the same is dismissed at the stage of admission itself.

(Arun Kumar Jha, J)

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