

IN THE HIGH COURT OF JUDICATURE AT PATNA
SECOND APPEAL No.127 of 2023

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1. Vinod Sah S/O late Bishwanath Sah R/O village Sipah, PS Basantpur, district Siwan.
 2. Santosh Sah S/O late Bishwanath Sah R/O village Sipah, PS Basantpur, district Siwan.
 3. Om prakash Sah S/o Late Bishwanath Sah R/O village Sipah, PS Basantpur, district Siwan.
 4. Mostt. Gayanti Devi @ Most. Gayati Kuer W/O late Manju Sah R/O village Sipah, PS Basantpur, district Siwan.
 5. Munni Kumari D/o Late Manju Sah R/O village Sipah, PS Basantpur, district Siwan.
 6. Karishma Kumari Daughter of Late Manju Sah R/O village Sipah, PS Basantpur, district Siwan.
 7. Ragini Kumari Daughter of late Manju Sah R/O village Sipah, PS Basantpur, district Siwan.
 8. Baiju Prasad @ Baiju Kumar S/o of Late Manju Sah R/O village Sipah, PS Basantpur, district Siwan.

... .. Appellant/s

Versus

1. Shailesh Singh S/o Bhola Singh R/o village Sipah, PS Basantpur, District Siwan.
2. Hari Mohan Singh S/o Hira Singh R/O village Nagoda, PS Basantpur, district Siwan.
3. Kunti Devi W/o late Prahalad Singh R/O village Nagoda, PS Basantpur, district Siwan.
4. Sachitanand Singh S/o late Prahalad Singh R/O village Nagoda, PS Basantpur, district Siwan.
5. Anil Singh S/o late Prahalad Singh R/O village Nagada, PS Basantpur, district Siwan.
6. Vinod Singh s/o late Hira Singh R/o village Nauroli, PS Basantpur, district Siwan.
7. Sri Kant Singh s/o Late Nathuni Singh R/O village Badka gaon PS Bhagwanpur, Distt. Siwan
8. Vijay Singh s/o Late Nathuni Singh R/O village Badka gaon PS Bhagwanpur, Distt. Siwan

... .. Respondent/s

with

SECOND APPEAL No. 140 of 2023

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1. Om Prakash Sah S/o Late Bishwa Nath Sah R/o Village Sipah, P.S.



Basantpur, District- Siwan.

2. Binod Sah, S/o Late Bishwanath Sah R/o Village Sipah, P.S. Basantpur, District- Siwan.
3. Santosh Sah, S/o Late Bishwanath Sah R/o Village Sipah, P.S. Basantpur, District- Siwan.
4. Mostt. Gayanti Devi @ Most. Gayanti Kunwar W/o Late Manju Sah R/o Village Sipah, P.S. Basantpur, District- Siwan.
5. Minki Kumari, D/o Late Manju Sah R/o Village Sipah, P.S. Basantpur, District- Siwan.
6. Karishma Kumari, Daughter of Late Manju Sah R/o Village Sipah, P.S. Basantpur, District- Siwan.
7. Ragani Kumari, Daughter of Late Manju Sah R/o Village Sipah, P.S. Basantpur, District- Siwan.
8. Baiju Prasad @ Baiju Kumar, S/o of Late Manju Sah R/o Village Sipah, P.S. Basantpur, District- Siwan.

... .. Appellant/s

Versus

1. Shailesh Singh S/o Late Bhola Singh R/o Village Sipah, P.S. Basantpur, District- Siwan.
2. Hari Mohan Singh, S/o Hira Singh R/o Village Nagawan, P.S. Basantpur, District- Siwan.
3. Mostt. Kunti Kunwar, W/o Late Prahalad Singh R/o Village Nagawan, P.S. Basantpur, District- Siwan.
4. Sachitanand Singh, S/o Late Prahalad Singh R/o Village Nagawan, P.S. Basantpur, District- Siwan.
5. Anil Singh, S/o Late Prahalad Singh R/o Village Nagawan, P.S. Bhagwanpur, District- Siwan.
6. Binod Singh, S/o Late Hira Singh R/o Village Nagauli, P.S. Bhagwanpur, District- Siwan.
7. Sri Kant Singh, S/o Late Nathuni Singh R/o Village Badkagaon, P.S. Bhagwanpur, District- Siwan.
8. Vijay Singh, S/o Late Nathuni Singh R/o Village Badkagaon, P.S. Bhagwanpur, District- Siwan.
9. Ram Chandra Singh, S/o Late Hira Singh R/o Village Badkagaon, P.S. Bhagwanpur, District- Siwan.

... .. Respondent/s

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Appearance :

(In SECOND APPEAL No. 127 of 2023)

For the Appellant/s	:	Mr. Syed Firoz Reza, Sr. Advocate
		Mr. Chandra Kant, Advocate
For the Respondent/s	:	Mr. Ranjan Kumar Dubey, Advocate
(In SECOND APPEAL No. 140 of 2023)		
For the Appellant/s	:	Mr. Syed Firoz Reza, Sr. Advocate



For the Respondent/s : Mr. Chandra Kant, Advocate
Mr. Ranjan Kumar Dubey, Advocate

CORAM: HONOURABLE MR. JUSTICE KHATIM REZA
ORAL ORDER

9 27-08-2025 Heard Mr. Syed Firoz Raza, learned senior counsel assisted by Mr. Chandra Kant, learned counsel for the appellants and Mr. Ranjan Kumar Dubey, learned counsel for the respondents.

2. These two appeals arise out of Title Suit No. 12 of 2001 filed by the plaintiffs (Om Prakash Sah and others) against defendant no. 1 (defendant 1st set- Shailesh Singh) for declaration of title over the suit land detailed in Schedule of the plaint on the basis of registered sale deed dated 08.11.1939 which is said to have been executed by one Ayodhya Sah in favour of Mostt. Sahodari Devi, who is said to be grandmother of plaintiff nos. 2 to 5 and mother-in-law of plaintiff no. 1, Mostt. Sunderpati Devi. During trial intervenor-defendant nos. 2 to 5 were made party as defendant 2nd set. The defendant 1st set has filed counter claim for declaration of his title over 1 katha 10 dhurs land and defendant 2nd set have also filed counter claim for declaration of their title and confirmation of possession over 1 katha 7 ½ dhur land. The said suit of the plaintiffs and counter claim filed by defendant 1st set and 2nd set were dismissed by the learned Trial Court vide judgment dated 31.10.2013 passed in



Title Suit No. 12 of 2001. Against the said judgment and decree, three appeals were filed. Title Appeal No. 182 of 2013 was filed by the plaintiffs, Title Appeal No. 172 of 2013 was filed by defendant 2nd set and Title Appeal No. 176 of 2013 was filed by defendant 1st set. After hearing, the learned Appellate Court dismissed two appeals one filed by the plaintiffs and second by defendant 2nd set bearing Title Appeal No. 182 of 2013 and Title Appeal No. 172 of 2013 respectively whereas Title Appeal No. 176 of 2013 filed by defendant 1st set was allowed by common judgment dated 25.01.2023.

3. Second Appeal No. 127 of 2023 has been filed by the plaintiffs against judgment and decree dated 25.01.2023 passed in Title Appeal No. 176 of 2013 whereby, counter claim of defendant 1st set has been allowed, whereas, Second Appeal No. 140 of 2023 has been filed by the plaintiffs against the judgment and decree dated 25.01.2023 passed in Title Appeal No. 182 of 2013 whereby judgment and decree of learned Trial court has been affirmed. However, no Second Appeal has been filed against judgment and decree dated 25.01.2023 passed in Title Appeal No. 172 of 2013 passed by the learned Additional District Judge VI, Siwan whereby, the counter claim of defendant 2nd set- appellants of Title Appeal No. 172 of 2013



was rejected and the judgment and decree passed in Title Suit No. 12 of 2001 against the defendant 2nd set was affirmed.

4. All the three appeals i.e. Title Appeal No. 182 of 2013 filed by plaintiffs, Title Appeal No. 172 of 2013 filed by defendant 2nd set and Title Appeal No. 176 of 2013 filed by defendant 1st set were heard together by the learned lower Appellate Court and a common judgment was passed in the aforesaid appeals.

5. The present Second Appeal bearing Second Appeal No. 140 of 2013 has filed by the plaintiff-appellant against the judgment and decree dated 25.01.2023 passed in Title Appeal No. 182 of 2013 by the learned Additional District Judge VI, Siwan whereby, the judgment and decree dated 31.10.2013 passed in Title Suit No. 12 of 2001 has been affirmed.

6. The case of the plaintiffs-appellants, in brief, is that Khata No. 96, Survey No. 51, Area 6 katha 9 dhur was *kashtkari* land of one Kishun Rai along with other lands which was recorded in his name in revisional survey. After revisional survey, Kishun Rai sold the aforesaid 6 katha 9 dhur land orally to one Ayodhya Sah for consideration of Rs. 50/- and gave him possession over the same. It is further pleaded that on 08.11.1939, Ayodhya Sah executed a registered sale deed in



respect of 2 katha 15 dhur land from the Southern part of the aforesaid land adjacent north-west to eastward road in favour of Mostt. Sahodari Devi, who was wife of Damari Sah and also happened to be grandmother of plaintiff nos. 2 to 5 and mother-in-law of original plaintiff no. 1 for consideration money of Rs. 90/- and gave possession to her. After purchase of the said land, Mostt. Sahodri Devi constructed residential house and shop over the purchased land and remained in possession and after her death, plaintiffs came in possession. It is further contended that there are 5 Gumtis out of which plaintiffs run shop in three gumtis and rest two are on rent to one Nagina Sah and another to Guddu Sah. Several plants were planted by the said Mostt. Sahodari Devi. Further case of the plaintiffs is that father of defendant 1st set (Bhola Singh) without right and title got one forged anti-dated patta made from so-called Ex-landlord and gave an application in the office of Circle Officer for creation of Jamabandi, which was rejected by the Circle Officer against which he filed an appeal before Deputy Collector, Land Reforms, Maharajganj who arbitrarily gave an order to create Jamabandi in favour of defendant 1st set on 07.09.1994. On that basis, defendant interfered in the peaceful title and possession of the plaintiffs. It is further contended that after abolition of



Zamindari, Ex-landlord submitted return in the name of Mostt. Sahodari Devi in respect of 2 katha land instead of 2 katha 15 dhurs land over which Jamabandi no. 149 was recorded in the name of Mostt. Sahodari Devi and according to that plaintiffs have been paying rent. It is stated that such discrepancy of submission of Return in respect of merely 2 katha land could not come in the knowledge of plaintiffs and defendant wishes to take advantage of the said discrepancy. Due to passing of order of creation of Jamabandi in favour of father of defendant 1st set and submission of Return in respect to 2 katha land in favour of Mostt. Sahodari Devi by Ex-landlord, there emerged cloud on the title of the plaintiffs with regard to 15 dhurs land and hence, the necessity of filing the suit arises.

7. After appearance, defendant 1st set filed his written statement and counter claim. Apart from ornamental objection, he has alleged that Kishun Rai never orally sold 2 kathas 15 dhurs land of R.S. khata no. 96, plot no. 51 to Ayodhya Sah and also vehemently pleaded that Ayodhya Sah never executed any sale deed in favour of Mostt. Sahodari Devi and never put her in possession of the said land. The said sale deed is without consideration hence, the sale deed is forged and fabricated, Mostt. Sahodri Devi never constructed any house over any part



of the disputed land. There is no gumti on the disputed land and it is also stated that there are no Indira Awas standing over the disputed land. The alleged Jamabandi no. 149 is forged and fabricated. Father of the plaintiffs and Mostt. Sahodri Devi never remain in possession of the suit land. The disputed land of R.S Plot no. 51 was the property of the Kishun Rai whose name stands recorded in Khatiyan. Madhusudhan Prasad Narayan Singh was the Ex-landlord. When Kishun Rai defaulted in payment of rent, Ex-landlord filed a rent suit against Kishun Rai. The said Ex-landlord took delivery of possession through process of court. Thereafter, plot no. 51 was settled in favour of Bhola Singh by the Ex-landlord, who was the father of answering defendant on 29th Jeth, 1344 Fasli (1937) and put him in possession followed by Hukumnama issued in favour of Bhola Singh. On the basis of Hukumnama, name of Bhola Singh was entered in Jamabandi register of the Ex-landlord. On payment of rent he got receipt. However, it is pleaded that no Return was filed by the Ex-landlord in the name of Bhola Singh. After vesting, Bhola Singh filed a case for mutation before the Circle Officer, who rejected the petition but later on Deputy Collector, Land Reforms, Maharajganj, allowed the appeal and accordingly, Jamabandi was created in favour of Bhola Singh,



who died on 01.03.2000 leaving behind his wife and son (defendant). This defendant came in possession of the disputed land after the demise of his father. It is further pleaded that part portion of disputed land was acquired by the State of Bihar for expansion of road. In lieu of acquisition, compensation was paid to Bhola Singh (father of defendant). It is further pleaded that defendant was pursuing education in engineering and remained outside of village and taking advantage of his absence, the plaintiffs put Gumatis and Palanies over 1 katha 10 dhur out of disputed land and dispossessed him. Despite repeated request of this defendant, plaintiffs were not willing to give the possession to this defendant and therefore this defendant had made a counter claim for declaration of his title and recovery of possession of 1 katha 10 dhur land of R.S. plot no. 51.

8. During pendency of title suit, intervenor-defendant nos. 2 to 6 filed their intervention application for adding them as party-defendants which was allowed vide order dated 06.01.2005. Intervenor-defendant no. 5 died during pendency of the suit and his heirs were substituted in his place as defendant no. 5 & 5 ka. Intervenor-defendant 2nd set have filed their written statement and counter claim. It is further pleaded that Mostt. Sahodari Devi sold 1 katha 7 ½ dhurs land out of 2 katha



15 dhur land to the ancestor (Babu Hira Singh) of the defendant 2nd set, who remained in possession and filed mutation application which was allowed and Jamabandi no. 150 was created. Defendant 2nd set have also claimed title by adverse possession in their counterclaim and have sought declaration of their title over the same and confirmation of possession.

9. Against the counter claim of defendant 1st set as well as defendant 2nd set, the plaintiffs have filed separate written statement. The plaintiffs denied the claim of the defendant 1st set. The story of default in payment of rent by Kishun Rai to the Ex-landlord was in respect of Khata no. 96 for which Ex-landlord Madhusudan Prasad Narayan Singh and others brought case and obtained decree and in execution of the same, Ex-landlord got the possession of the land. It is further pleaded in their written statement that the Ex-landlord, Madhusudan Prasad Narayan Singh and others never had title and possession over the land, in question, nor they had right to settle the land to anyone. The said Ex-landlord never settled the disputed land to Bhola Singh, who was the father of defendant no. 1 nor executed any patta (Hukumnama) as alleged by defendant 1st set, that is why, no Return was submitted by the Ex-landlord in the name of Bhola Singh, which is admitted by



the defendant 1st set. Jamabandi was created in favour of defendant 1st set by the order of D.C.L.R. in collusion of defendant no. 1 without any basis or title. It is further pleaded that Bhola Singh in collusion of official of Land Acquisition Department got the records prepared in his name with a view to have the compensation and the compensation received by him is liable to be refunded to the Government of Bihar.

10. So far counter claim of defendant 2nd set is concerned, plaintiffs in their written statement vehemently stated that Mostt. Sahodari Devi never executed registered sale deed dated 29.10.1940 in respect of 1 katha 7 ½ dhur land out of disputed land in favour of Hira Singh and never gave possession of the same and the said sale deed is forged, fabricated and void. It is also emphatically pleaded that Jamabandi no. 150 is not related to disputed land.

11. Learned trial court after scrutinizing the evidence and materials on record dismissed the suit as well as counter claims of defendant 1st and 2nd set vide judgment and decree dated 31.10.2013 passed in Title Suit No. 12 of 2001.

12. Being aggrieved by the judgment and decree of the trial court dated 31.10.2013, three appeals were preferred; Title Appeal No. 182 of 2013 was preferred on behalf of



plaintiffs, Title Appeal No. 172 of 2013 was preferred by defendant 2nd set whereas Title Appeal No. 176 of 2013 was preferred by defendant 1st set. All the three appeals were heard together and decided by a common judgment dated 25.01.2023 whereby the Title Appeal No. 182 of 2013 filed by plaintiffs and Title Appeal No. 172 of 2013 filed by defendant 2nd set were dismissed. The learned Appellate Court held that the appellants of both the appeals failed to prove their right, title and interest over the disputed lands whereas appellant (defendant 1st set) of Title Appeal No. 176 of 2013 succeeded in proving his right, title and interest over the disputed land and further held that Kishun Rai has not orally sold the disputed land to Ayodhya Sah and the sale deed dated 08.11.1939 said to be executed by Ayodhya Sah in favour of Mostt. Sahodari Devi is illegal, invalid and inoperative and have no force of law. Further, sale deed dated 29.10.1940 alleged to be executed by Mostt. Sahodari Devi in favour of Hira Singh (ancestor of defendant 2nd set) in respect of 1 katha 7 ½ dhurs land out of suit land is illegal, invalid and inoperative, the appellants of Title Appeal No. 172 of 2013 are not entitled for right, title and interest and confirmation of possession over the land as claimed by them. It is further held that Bhola Singh came in possession of suit land



by virtue of settlement by Ex-landlord Madhusudan Prasad Narayan Singh on 29th Jeth 1344 Fasli and he has got right, title and interest over the disputed land. Therefore, appellants of Title Appeal No. 176 of 2013 is entitled for recovery of possession. Accordingly, Title Appeal No. 176 of 2013 has been allowed. The judgment and decree passed in Title Suit No. 12 of 2001 was accordingly modified. Further learned lower Appellate Court directed the respondents of Title Appeal No. 176 of 2013 to vacate the disputed land within 60 days failing which, the appellants of Title Appeal No. 176 of 2013 will be entitled for recovery of possession through the process of court.

13. While deciding all the three appeals, the learned lower Appellate Court considered the submission made by the parties and materials on record and held that trial court has rightly held that plaintiffs have to establish their case by virtue of lawful evidence that suit land belonged to Ayodhya Sah (vendor of ext. 1) which is basis of the case of the plaintiffs by way of purchase from Kishun Rai. The person claiming property through some person must show that it belonged to that person. No documentary evidence has been adduced by the plaintiffs (appellants in S.A. No. 140 of 2013) to establish that land, in question, was sold by Kishun Rai to Ayodhya Sah. The plaintiffs



has failed to establish that Kishun Rai sold the disputed plot to Ayodhya Sah, while at the stage of appeal, defendant no. 1 (appellant in Title Appeal No. 176 of 2013) has filed a petition under Order XLI Rule 27 CPC for bringing certain documents on record i.e. (a) the register 41 of records of the estate of Kishunpur Pargana Baraj Case no. 46/8 of 1932-33 (b) Sale certificate of Case no. 46/8 of 1932-33 and (c) Delivery of possession in Case No. 46/8 of 1932-33. The application for producing additional evidence filed by the defendant 1st set at appellate stage was allowed vide order dated 14.12.2021 with a liberty to rebut the claim of appellant in Title Appeal No. 176 of 2003. The Appellate Court called for a report from the Collectorate, Chapra for verification of certified copy of aforesaid three documents.

14. The verification report was sent by the officials of the Chapra Collectorate stating therein that the documents produced by the respondents by way of additional evidence are genuine. These three documents were marked as Ext. F, G and H which shows that Madhusudan Prasad Narayan Singh was Ex-landlord and Kishun Rai had defaulted in payment of rent and the Ex-landlord had filed rent suit which was decreed and took delivery of possession of disputed land through process of court.



The patta (Hukumnama) executed by Madhusudan Prasad Narayan Singh (Ext. E) in favour of Bhola Singh reveals that Ex-landlord settled the land to Bhola Singh who was father of Shailesh Singh (appellant of Title Appeal No. 176 of 2013) Ext. C, certified copy of order dated 30.11.1996 passed by D.C.L.R., Maharajganj in case no. 66/1992-93 i.e. Bhola Singh vs. Binod Singh and others. On the basis of order of D.C.L.R., Jamabandi was created in favour of Bhola Singh. Ext. D, certified copy of Award dated 08.09.1961 passed in Land Acquisition Case No. 61(a)/1959-60 in the name of Bhola Singh shows that part of the settled land was acquired by State of Bihar for expansion of road and accordingly compensation was paid to Bhola Singh. However, plaintiffs (appellants of S.A. No. 140 of 2023) have filed two information obtained under Right to Information Act, 2005 which was marked as Ext. 7 and 8. Ext. 7 is in respect of L.A. Case No. 61 (a)/1959-60 appertaining to Khata No. 96, Survey Plot no. 51; the information given by the office is that document of the respective districts have been sent to district concerned in the year 1972 and is not available on search. Ext. 8 is RTI information from Land Acquisition Officer, Siwan, in which, it is mentioned that record relating to Land Acquisition Case No. 61(a) of 1959-60 is not available in his office and this



record has not been transferred from Saran district to Siwan District. Both the RTI informations are contrary to each other and plaintiffs also in support of their case filed documents to show that financial assistance to the plaintiffs under the scheme of Indira Awas was given by the State Government. These documents are not the documents of title.

15. The learned Appellate Court further held that Ext. 6, R.S. Khatiyani is an admitted documents which speaks that Kishun Rai was the recorded Raiyat of the disputed plot. The said Plot No. 51, was having Area 6 kathas 9 dhurs with its boundary North- Mukhlal Rai, South- Road, East- Road, West- Mahadeo Kanoo. Ext. 1, sale deed dated 08.11.1939 executed by Ayodhya Sah in favour of Mostt. Sahodari Devi with respect to 2 katha 15 dhurs land with boundary of the whole plot. The learned trial court on comparison of both the boundaries mentioned in Ext. 6 and Ext. 1 found that only 2 kathas 15 dhurs lands has been sold by Ayodhya Sah to Mostt. Sahodari Devi but the sale deed (Ext. 1) contains the boundary of the whole plot i.e. boundary of 6 kathas 9 dhurs of Plot No. 51, Khata no. 96 and further held that Ext. 1 is not specific and vague. Hence, Ext. 1 is inoperative and void document and the same has no legal value at all. It is further held that the plaintiff and



defendant 2nd set has not produced any documentary evidence in respect of the sale made by Kishun Rai in favour of Ayodhya Sah, who claimed to be Raiyat of the disputed land. Therefore, the title of Kishun Rai and Ayodhya Sah has not been proved in presence of Ext. F, G and H by any cogent evidence. However, the Ex-landlord took delivery of possession through process of court in Rent Suit No. 46/8 of 1932-33. Since the vendor of Mostt. Sahodari Devi had no title over the suit land, the sale deed executed by Ayodhya Sah in favour of Mostt. Sahodari Devi, who happened to be grandmother of plaintiff nos. 2 to 5 and mother-in-law of original plaintiff no. 1, has no right to claim any title as the plaintiffs and defendant 2nd set are not entitled to relief as sought by them. The rent receipts and certificate of Indira Awas are not the documents of title. The claim of the intervenor-defendant (appellants of S.A. No. 127 of 2023) who are successor-in-interest of Mostt. Sahodari Devi was accordingly dismissed. Title Appeal No. 182 of 2013 filed by the plaintiffs and Title Appeal No. 172 of 2013 filed by intervenor-defendant, successor-in-interest of Mostt. Sahodari Devi was also dismissed by learned Appellate Court and Title Appeal No. 176 of 2013 filed by Shailesh Singh was allowed and further it was declared that Kishun Rai had no right to orally



sell the disputed land to Ayodhya Sah and the sale deed dated 08.11.1939 (Ext. 1) executed by Ayodhya Sah in favour of Mostt. Sahodari Devi is illegal, invalid and inoperative having no force of law. The sale deed dated 29.10.2014 executed by Mostt. Sahodari Devi in favour of Hira Singh in respect of 1 katha 7 ½ dhurs land out of suit land is illegal, invalid and inoperative. It is also declared that Bhola Singh came in possession through settlement by Ex-landlord, Madhusudan Prasad Narayan Singh on 29th Jeth 1344 Fasli (1937). He has got right, title and interest over the suit land and accordingly Title Appeal No. 176 of 2013 was allowed.

16. Having considered the submissions made on behalf of the parties and on perusal of impugned judgment of the courts below and materials on record, it is apparent that both the courts concurrently held that plaintiffs have failed to prove that Kishun Rai who was vendor of Ayodhya Sah, as claimed by the plaintiffs that he had purchased 2 katha 15 dhur land after judgment and decree passed in Rent Suit No. 46/8 of 1932-33 and as such, plaintiffs have no right, title and interest on the basis of sale deed dated 08.11.1939 which was purchased immediately after publication of revisional survey khatian for consideration of Rs. 50/- from the said Ayodhya Sah, who orally



purchased the land in question from Kishun Rai.

17. Hence, the plaintiffs/appellants of Title Appeal No. 182 of 2013 (Appellants of Second Appeal No. 140 of 2013) and plaintiffs/respondents of Title Appeal No. 176 of 2013 (Appellants of Second Appeal No. 127 of 2023) have failed to prove their right, title and interest over the disputed land, whereas, defendant 1st set/appellants of Title Appeal No. 176 of 2013, namely, Shailesh Singh succeeded in proving his right, title and interest over the disputed land. Therefore, the sale deed dated 08.11.1939 executed by Ayodhya Sah in favour of Mostt. Sahodri Devi (grandmother of appellants of Second Appeal Nos. 127 of 2023 and 140 of 2013) has no legal force. Consequently, the sale deed dated 29.10.1940 executed by Mostt. Sahodri Devi in favour of Hira Singh (ancestor of defendant 2nd set) is void and illegal. These findings are based on the basis of counter claim of defendant 1st set and on the basis of settlement through patta/hukumnama (Ext.-E) by the Ex-landlord in favour of father of defendant no. 1, namely, Bhola Singh on 29 Jeth 1344 Fasli (1937) with regard to 6 katha 9 dhurs of Plot No. 51, Khata No. 96. The said land was originally in possession of Kishun Rai as a raiyat of Ex-landlord Madusudan Pd. Narayan Singh. The said Kishun Rai defaulted



in payment of rent. The Ex-landlord filed Rent Suit bearing No. 46/8 of 1932-33 which was decreed and sale certificate was prepared in the said rent suit and delivery of possession to the Ex-landlord was given through process of court. These documents were not filed before the Trial Court by the defendant 1st set but at the appellate stage defendant no. 1, Sailesh Singh (appellants of Title Appeal No. 176 of 2013) had filed a petition under Order XLI Rule 27 C.P.C. which was allowed by the learned Appellate Court in Title Appeal No. 176 of 2013 filed by the defendant 1st set Sailesh Singh. All the three documents have been marked at the appellate stage as Exhibits F, G and H. The documents related to Rent Case No. 46/8 of 1932-33. It is apparent from the record that part of the land of Khata No. 96, Survey Plot No. 51 was acquired by the State of Bihar for extension of Siwan-Masrakh NH Road in Land Acquisition Case No. 61(A) of 1959-60 and the compensation relating thereto was paid to Bhola Singh (father of defendant no. 1) and Award was prepared on 08.09.1961 (Ext.-D). The plaintiffs or their ancestors never challenged the said Award or land acquisition proceeding before any authority. Hence, defendant/respondent 1st set has got right, title and interest over the disputed land and he is also entitled for recovery of



possession. Accordingly, judgment and decree passed by the learned appellate court below in Title Appeal No. 176 of 2013 is affirmed.

18. In view of the discussions made, hereinabove, this Court doesn't find any merit in both the appeals nor does it find any substantial questions of law involved in the said appeals.

19. Accordingly, both these appeals stand dismissed at the stage of admission under Order XLI Rule 11 C.P.C.

(Khatim Reza, J)

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