

IN THE HIGH COURT OF JUDICATURE AT PATNA
SECOND APPEAL No.291 of 2023

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Smt Basmatiya Devi, Wife of Yogendra Sahani Resident of Village Rasulpur
Saiyad Bazeed At Present Rasulpur Saiyad Saleem, P.O.- Bhikanpur P.S.-
Ahiyapur District Muzaffarpur.

... .. Appellant/s

Versus

1. Smt. Anjoo Kumari wife of Dr. Ram Krishna Mishra Resident Village
Kachaur P.S.- Sonbarsa District Sitamarhi At Present Residing At Rasulpur
Saiyad Saleem, P.O.- Bhikanpur P.S.- Ahiyapur District Muzaffarpur.
2. Smt. Reshma Devi, Wife of Ramphal Sahani Resident of Village Rasulpur
Salyad Bazeed At Present Rasulpur Saiyad Saleem, P.O Bhikanpur P.S
Ahiyapur District Muzaffarpur.
3. Sri Arun Kumar Sahani, Son of Harinandan Sahani Resident of Village
Rasulpur Salyad Bazeed At Present Rasulpur Saiyad Saleem, P.O Bhikanpur
P.S Ahiyapur District Muzaffarpur.
4. Sri Nunu Sahani, Son of Bhagela Sahani Resident of Village Rasulpur
Salyad Bazeed At Present Rasulpur Saiyad Saleem, P.O Bhikanpur P.S
Ahiyapur District Muzaffarpur.
5. Tasaduk Ahmad, Son of Abdul Quadir Resident of Village Rasulpur Saiyad
Bazeed At Present Rasulpur Saiyad Saleem, P.O Bhikanpur P.S Ahiyapur
District Muzaffarpur presently residing at Late Abdul Quadir Mohalla
Moghalpur Nawal Bahadur Road Patna City, Patna.
6. Nissar Ahmad, Son of Abdul Quadir Resident of Village Rasulpur Saiyad
Bazeed At Present Rasulpur Saiyad Saleem, P.O Bhikanpur P.S Ahiyapur
District Muzaffarpur presently residing at Late Abdul Quadir Mohalla
Moghalpur Nawal Bahadur Road Patna City, Patna.
7. Bibi Hussain Bandi, Daughter of Abdul Quadir Resident of Village Rasulpur
Saiyad Bazeed At Present Rasulpur Saiyad Saleem, P.O Bhikanpur P.S
Ahiyapur District Muzaffarpur presently residing at Late Abdul Quadir
Mohalla Moghalpur Nawal Bahadur Road Patna City, Patna.

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Ganpati Trivedi, Sr. Advocate Mr. Madan Mohan, Advocate
For the Respondent/s	:	Mr. Syed Hussain Majeed, Advocate Mr. Rajesh Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE KHATIM REZA
ORAL ORDER

5 25-09-2025 Heard Mr. Ganpati Trivedi, learned senior counsel
for the appellants and Mr. Syed Hussain Majeed, learned



counsel for the respondents.

2. This Second Appeal has been filed against the judgment of affirmance dated 24.04.2023 passed in Title Appeal No. 52 of 2018 by the learned Additional District Judge-XVIII, Muzaffarpur, whereby, the judgment and decree dated 27.06.2018 passed in Title Suit No. 374 of 2011 by the learned Sub Judge XVIth, Muzaffarpur has been upheld. The aforesaid suit was filed for declaration of title and recovery of possession.

3. The case of the plaintiff is that the plaintiff purchased the suit land bearing Khata no. 12 'ka', Plot no. 102 P measuring an area of 6 decimal situated at village- Rasulpur Saiyad Salim, P.S.- Ahiyapur, Anchal- Mushahari, District- Muzaffarpur as detailed in Schedule I of the plaint. It is further case of the plaintiff that the land, in question, originally belonged to one Abdul Quadir, the ancestor of the defendant 2nd party. After the death of Abdul Quadir, the defendant 2nd party Tassaduk Ahmad, Nessar Ahmad and Bibi Hussain Bandi inherited the suit land as his heirs and legal representatives. The plaintiff purchased the suit land from them for valuable consideration through registered sale deed dated 03.06.2005 (Ext. 2) and she was put into possession over the suit land. The plaintiff also got mutated her name in the revenue records and



Jamabandi was created in her favour bearing Jamabandi No. 599 vide Mutation Case No. 592 of 2005 and since then, she has been paying rent and getting the receipts on payment of rent. It is also submitted that she also obtained land possession certificate on 25.01.2007 of the suit land for purpose of taking loan from the bank.

4. It is further case of the plaintiff that defendant 1st party mainly defendant no. 1/ appellant started interfering in the peaceful possession of the plaintiff, therefore, a case was initiated under Section 144 Cr.P.C. in which after hearing the parties, the learned SDM, East Muzaffarpur restrained the defendant 1st party from interfering in peaceful possession of the plaintiff over the suit land vide order dated 27.02.2006. In course of proceeding under Section 144 Cr.P.C., the plaintiff came to know from show-cause filed by the defendant 1st set that sale deed no. 3054 dated 29.02.1992 (Ext. A) was executed in her favour (defendant no. 1), on the basis of which, defendant 1st set had put their claim over the suit land and two Jamabandi were running for the same land, one in favour of the plaintiff and another in the name of defendant 1st party. Thereafter, the plaintiff obtained certified copy of the sale deed dated 29.02.1992 and the order of mutation passed in Mutation Case



No. 1857/1992-93 and then she (plaintiff) came to know that the defendant nos. 1 to 4 got a sale deed executed with respect to the land bearing R.S. Khata No. 16, R.S. Plot No. 897 corresponding Chak No. 12, Plot No. 39 measuring an area of 6 katha situated at Village- Bhikhanpur from Bibi Hussain Bandi and Samiur Rab S/o Safiur Rab. The plaintiff-respondent challenged the mutation order which was passed in favour of defendant 1st set before D.C.L.R. which was allowed in Mutation Appeal No. 24 of 2006-07 on 13.04.2007. It is also submitted that the learned D.C.L.R. while allowing the appeal cancelled the mutation order as well as Jamabandi created in favour of defendant 1st set. Subsequently by the composite order of the D.C.L.R., East, Muzaffarpur vide letter No. 1336 dated 01.11.2008 and learned S.D.M., East, Muzaffarpur vide letter no. 1604 dated 27.12.2008, the Circle Officer, Mushahari lodged an FIR which was registered as Ahiyapur P.S. Case No. 51 of 2009 against the defendant nos. 1 to 4 under Section 420, 467 and 468 of the I.P.C.

5. After the order of the D.C.L.R., East, Muzaffarpur, the plaintiff requested the defendant 1st party mainly defendant no. 1 namely, Basmatia Devi to execute ladavi in favour of the plaintiff but the defendant 1st party put the matter in abeyance



and she (defendant no. 1) with the help of some anti-social elements, dispossessed the plaintiff from the suit land on 25.05.2007 by erecting a 'hut' over the same. The plaintiff also filed a case before the D.C.L.R., East, Muzaffarpur with a prayer to get the property vacated from illegal possession of the defendant 1st party but the learned D.C.L.R., East, Muzaffarpur rejected her prayer observing that the claim of the plaintiff was baseless then the plaintiff filed the present suit for declaration of title and recovery of possession.

6. On summon, defendant no. 1 namely, Basmatia Devi appeared and filed her written statement. Apart from ornamental objection, the defendant specifically stated that the father-in-law of the defendant namely, Sukhdeo Sahni, who was landless, was one of the domestic servant of the said landlord and in the year, 1965-66, Abdul Quadir being pleased by his services gave 2 kathas of land to him detailed in Schedule I of the plaint on which he first constructed a thatched house and began to live with his family since 1965-66 within the knowledge of local people as well as the plaintiff. It is further pleaded that the landlord Abdul Quadir died leaving behind his two sons and a daughter and after sometime Bibi Hussain Bandi D/o late Abdul Quadir, Samiur Rab son of Safiur Rab self and



guardian of Tassaduk Ahmad and Nasir Ahmad both sons of Abdul Quadir executed a sale deed dated 29.02.1992 in favour of defendant no. 1 along with defendant nos. 2 to 4 with respect to 6 kathas land appertaining to Khata no. 16, Plot No. 897, Village- Bhikhanpur with definite boundaries. Since the date of sale in favour of defendant 1st set, she got absolute right, title, interest and possession over the land mentioned in Schedule I of the plaint. The defendants applied for mutation which was allowed in favour of defendant 1st set. It is further submitted that the heirs of Abdul Quadir had no right to execute the sale deed in favour of the plaintiff. Plaintiff never got possession over the suit land. The mutation proceeding and land possession certificate issued in favour of plaintiff is all obtained “bala-bala.”

7. Defendant no. 4 namely, Nunu Sahni also appeared and filed separate written statement and supported the claim of the plaintiff and stated that the plaintiff purchased the suit land from the descendants of the landlord namely, Abdul Quadir through registered sale deed dated 03.06.2005 and she came in possession over the said suit land and got her name mutated in the revenue records. It is further pleaded that she (defendant no. 1) has not purchased an inch of land of khata no. 12 ‘ka’ R.S.P.



No. 102 P at village- Rasulpur Saiyad Saleem, P.O.- Bhikhanpur, P.S.- Ahiyapur, Anchal- Mushahari, District- Muzaffarpur detailed in Schedule I of the plaint. It is further stated that vide Sale Deed No. 3054 dated 29.02.1992 she (defendant no. 1) along with defendant nos. 1 to 3 purchased the land situated at village- Bhikhanpur, Khata No.- 16 R.S. Plot No. 897 corresponding Chak No. 12, Chak Plot No. 39 measuring an area of 6 katha and came in continued possession of the said land. It is further submitted that the husband of defendant no. 1 manipulated the Sale Deed No. 3054 dated 29.02.1992 and mutated the lands of the plaintiff in the name of his wife. She (defendant no. 1) has nothing to do with the land as contained in Schedule I of the plaint. It is further submitted that defendant no. 1 erected the *Jhopri* over the suit land on 25.05.2007 and dispossessed the plaintiff from the suit land.

8. Having gone through the materials on record as well as judgments of the learned Courts below, it is apparently clear from the judgment of the learned Appellate Court which is the final Court of facts, after considering the pleadings of the parties and the evidence adduced by them, came to a clear finding on comparison of the description of the lands mentioned in two sale deeds i.e. Ext. 2 (sale deed dated 03.06.2005) and



Ext. A (sale deed dated 29.02.1992) that they are completely different. The description of land mentioned in Ext. A is entirely different Village, Thana no., Khata number, plot number and boundaries from the suit land (Ext. 2). It is further held that defendant no. 1 claimed her right not only on the basis of sale deed dated 29.02.1992 but on the basis of possession which was given by the ex-landlord namely, Abdul Quadir in the year 1965-66 and after his death, heirs of Abdul Quadir executed sale deed on 29.02.1992 with regard to 6 katha land situated at Village- Bhikhanpur. The defendant no. 1 has not claimed her right on the basis of adverse possession. She claimed her title on the basis of sale deed (Ext. A) having different khata no., plot no. and boundaries from the suit land. Moreover, except defendant no. 1/appellant, who is one of the purchasers of the sale deed dated 29.02.1992, other purchasers (defendant nos. 2 to 4) accept the claim of the plaintiff.

9. In view of the facts and circumstances of the case, as discussed above, it is quite apparent that the judgments and decree of the courts below are covered by the finding of facts and no question of law much less substantial question of law arises for consideration in the instant Second Appeal.

10. Thus, I am not inclined to interfere with the



concurrent finding of the courts below.

11. Accordingly, this Second Appeal is dismissed at the stage of admission itself under Order XLI Rule 11 of the Civil Procedure Code.

12. Pending interlocutory application(s), if any, shall stand disposed of.

(Khatim Reza, J)

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