

IN THE HIGH COURT OF JUDICATURE AT PATNA
SECOND APPEAL No.426 of 2017

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Suresh Thakur S/o Late Naurangi Thakur, Resident of Village- Kharainch,
P.O.- Kharainch, P.S.- Khaira, District- Jamui.

... .. Plaintiff-Appellant- Appellant
Versus

1. Baudhu Rawat S/o Late Jahuri Rawat, Resident of Village- Kharainch, P.O.- Kharainch, P.S.- Khaira, District- Jamui.
2. Bhuneshwar Thakur, S/o Baiju Thakur, Resident of Village- Kharainch, P.O.- Kharainch, P.S.- Khaira, District- Jamui.
3. Kamli Devi @ Manju Devi, W/o Makeswar Thakur @ Lalan Thakur, Resident of Village- Geruapur Sanda, P.O.- Geruapur Sanda, P.S.- Halsi, District- Lakhisarai, D/o Banwari Thakur, Resident of Village- Bhalui, P.O.- Bhalui, District- Lakhisarai.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr.Kartik Kumar Sinha, Advocate
For the Respondent/s : Mr.Sanjay Kumar Mishra, Advocate

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CORAM: HONOURABLE MR. JUSTICE KHATIM REZA
ORAL ORDER

13 22-01-2026 Heard Mr. Kartik Kumar Sinha, learned counsel
appearing on behalf of the appellant.

2. This Second Appeal has been preferred against the judgment and decree of affirmance dated 27.05.2017 passed by the learned Additional District and Sessions Judge-I, Jamui, in Title Appeal No. 49 of 2011 whereby, the learned First Appellate Court Affirmed the judgment and decree dated 15.10.2011 passed by the learned Sub-Judge-II, Jamui, in Title



Suit No. 25 of 2008.

3. The plaintiff is the appellant in the present Second Appeal.

4. The plaintiff filed the Title Suit for declaration of title and confirmation of possession over suit land and also for declaring the sale deeds dated 16.12.2005 and 12.05.2004 executed by Kamli Devi @ Manju Devi (defendant no. 3) in favour of Budhu Rawat (defendant no. 1) and Bhuneshwar Thakur (defendant no. 2) are not binding upon him and are liable to be cancelled. The plaintiff further prayed for permanent injunction restraining the defendants from interfering with his possession.

5. The specific case of the plaintiff is that Kamli Devi @ Manju Devi is not the daughter of Anandi Thakur. It is further pleaded that Naurangi Thakur had two sons, namely Anandi Thakur and Suresh Thakur (the plaintiff). Anandi Thakur died issueless. The further case of the plaintiff is that defendant no. 3 sold the suit land in favour of defendant nos. 1 and 2 without any legal right or authority. After the death of Anandi Thakur, his widow left the matrimonial home and remarried. The suit property is claimed to be ancestral property of Naurangi Thakur and after the death of Anandi Thakur, the



entire property is stated to have devolved upon the plaintiff.

6. On summons, defendant nos. 1 and 2, who are purchasers from defendant no. 3 along with defendant no. 3, filed their written statements contesting the suit. They asserted that Kamli Devi is the daughter of Anandi Thakur. It was pleaded that after the death of her mother, Kamli Devi left her parental home at the age of 5-6 years and was brought up by her maternal grandfather and grandmother. It was further contended that she being the heir executed the sale deeds in favour of defendant nos. 1 and 2 in accordance with her share.

7. The learned Trial Court, after analyzing the pleadings, evidence adduced by the parties and materials on record has held that Kamli Devi (defendant no.3) is the daughter of Anandi Thakur and Anandi Thakur had not died issueless and Kamli Devi had full right and title to sell the land of Anandi Thakur and both sale deeds are valid and genuine documents.

8. Being aggrieved, the plaintiff preferred Title Appeal No. 49 of 2011, which was also dismissed by the learned First Appellate Court. While deciding the appeal, the learned Appellate Court framed points for determination and after appreciation of the evidence on record held that the plaintiff failed to establish that Anandi Thakur had died issueless and



Kamli Devi was not the daughter of Anandi Thakur. The Appellate Court further observed that no evidence was adduced by the plaintiff to prove that who is the father of Kamli Devi and as such the sale deeds dated 16.12.2005 and 12.05.2004 executed by her are valid and legal documents. Navrangi Thakur had a total of 93.5 decimals of land, out of which approximately 46.5 decimals each would devolve upon Anandi Thakur and Suresh Thakur. Kamli Devi transferred 55.5 decimals of land to defendants no. 1 and 2, which is about 8 decimals more than her legitimate share. However, the plaintiff failed to clearly state in the plaint how Kamli Devi transferred land of Khata Nos. 2053 and 2056. There is no evidence on record on this point. Such an issue can be challenged only by the person whose rights are adversely affected. The plaintiff has nowhere stated that land of Khata Nos. 2053 and 2056 are not the family property. Therefore, Kamli Devi had full right to sell Anandi Thakur's share and both the sale deeds are valid documents in accordance with Anandi Thakur's share.

9. Having regard to the discussions made hereinabove, I am not inclined to interfere with the concurrent findings of the learned Courts below and there is no question of law much less substantial question of law involved in this case.



10. Thus, the instant Second Appeal is dismissed at the stage of hearing under Order XLI Rule 11 C.P.C.

11. Pending interlocutory applications, if any, shall stand disposed of.

12. The parties shall bear their own costs.

(Khatim Reza, J)

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