
(1979) 05 GAU CK 0009
In the Gauhati High Court
Case No : Second Appeal No. 1 of 1973

Lourembam Heramot Singh	Vs	APPELLANT
Laisram Angahal Singh and others		RESPONDENT

Date of Decision : 09-05-1979

Acts Referred:

Evidence Act, 1872 — Section 67

Citation : AIR 1979 Guw 68

Hon'ble Judges : K.N. Saikia, J

Bench : Single Bench

Advocate : Ch. Nodiachand Singh, for the Appellant;

Final Decision : Dismissed

Judgement

K.N. Saikia, J.—This defendant's Second Appeal is directed against the judgment and decree of the District Judge, Manipur, passed in Civil Appeal No. 25 of 1972, reversing the judgment and decree of the learned Munsiff, Thoubal, passed in O. S. No. 30 of 1967.

2. The respondent No. 1 as plaintiff instituted the Original Suit No. 30 of 1967 alleging that the land under patta No. 33/1466 (old) 33/1862 (new) Th. at Khangabok measuring an area of 1 B. 2K, 12L. belonged to, and stood in the name of Shri Ningthoujam Tompok Singh son of late N. Amu Singh. The said Ningthoujam Tompok Singh sold the land to Shri Madan Mohan Sharma on 17-3-1953 and Shri Madan Mohan Sharma sold the same to Shri Kameshon Singh on 27-1-1955, who ultimately sold it to respondent No. 1 on 6-2-1960 by a registered sale deed; and the respondent No. 1 alleged that as the Revenue Courts allowed the name of his vendor Kameshon Singh to be entered as pattadar of the land on 8-1-1965, his title had been clouded and hence he sued for declaration of his title over the suit land and for permanent injunction restraining the defendants (appellants) from interfering with his possession.

3. The appellant (defendant) contested the suit on the ground that he purchased

the suit land from the original owner Shri Ningthoujam Tompok Singh by a registered deed of sale on 7-8-1950 and that since then he had been possessing the suit land as owner through Ningthoujam Tompok Singh, the vendor, as his tenant till 1967 and thereafter the appellant (defendant) allowed the respondent No. 1 (plaintiff) to cultivate the suit land as tenant of the appellant as agreed upon among the parties and as such there was no cause of action for the suit and the alleged registered deed dated 6-2-1960 was invalid and inoperative in law and the suit not maintainable.

4. The suit was originally tried by Shri L. Rabindra Singh, Munsiff (IV), Manipur, who passed the judgment and decree dated 26-11-1969, dismissing the suit. The respondent No. 1 having appealed, the Additional District Judge, passed the judgment dated 20-4-1971, and remanded the suit.

5. The learned Munsiff, Thoubal, on remand, after reformulating the issues and after giving the parties opportunity to adduce further evidence dismissed the suit by his judgment and decree dated 29-4-1972. The respondent No. 1 preferred an appeal to the District Judge, who by his judgment and decree dated 18-9-1972 and 29-9-1972, respectively allowed the appeal and decreed the suit, holding that the execution of the sale deed dated 7-8-1950 was not proved. Hence, this Second Appeal.

6. Mr. Ch. Nodiachand Singh, the learned counsel for the appellant, mainly urges two points before me; (1) that the finding of the lower appellate Court that the execution of the sale deed dated 7-8-1950 has not been proved is erroneous in law and it is liable to be set aside and the lower appellate Court's finding that the appellant has no title on the basis of that sale deed is similarly erroneous, and (2) that the finding of the learned lower appellate Court on the question of possession is perverse and contrary to law and liable to be set aside.

7. It is found in evidence that the sale deed date 7-8-1950 was not produced by the appellant in original but a certified copy was produced after the loss of the original was satisfactorily explained. But, so far as the execution was concerned, while the learned trial Court accepted the certified copy as admissible and genuine, the learned lower appellate Court held that the execution of the document had to be proved separately and as it was not separately proved, the learned Court held that the execution of the document was not proved according to law and no title could be derived there from, and no title could be declared on its basis.

8. The question that arises in this Second Appeal is, whether the above two findings are liable to be interfered with?

9. The execution or authorship of a document is a question of fact and may be proved like any other fact. Registration does not make a private document a public document. The Court is not bound to treat the registration endorsement as a conclusive proof of fact of execution. Though a certified copy is as good as the original and correctness of certified copies is presumed, mere registration is not

a proof of its execution. Execution and contents of a certified copy shall have to be proved according to law in the ordinary way. There must be some evidence to show that the execution and genuineness of a document were proved. Mere registration of a document is not, by itself, sufficient proof of its execution. Again, the mere proof of admission of execution before the Registrar does not satisfy the requirements of Section 67 of the Evidence Act, which requires that the signature of the executants must be proved to be in his handwriting. More than a mere admission of a signature is needed to amount to admission of execution of a document. Applying these principles to the evidence on record, it is found that it was not proved that the sale deed was signed by Tompok Singh. The lower appellate Court has not committed any error in holding that the execution of the document was not proved according to law. Besides, this finding is one of fact and is not amenable to interference in Second Appeal.

10. The next point is about possession. It was held by the lower appellate Court that the appellant has not been in possession for the requisite period for adverse possession. This being also a pure finding of fact, is not amenable to interference in Second Appeal. The finding is based on evidence on record and is not perverse.

11. In the result, this Second Appeal is found to be without merit and it is dismissed. The parties are left to bear their own costs. Appeal dismissed.