

(2009) 04 JH CK 0017

In the Jharkhand High Court

Case No : Second Appeal No. 114 of 2005

Most. Rasida Khatoon and Others

APPELLANT

Vs

Smt. Salma Khatoon and Others

RESPONDENT

Date of Decision : 29-04-2009

Acts Referred:

Citation : (2011) 2 JCR 550

Hon'ble Judges : R.K. Merathia, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

R.K. Merathia, J.—The second appeal has been filed against the judgment and decree dated 18.1.2005 passed by the learned Additional Judicial Commissioner, F.T.C.-V, Ranchi in Title Appeal No. 21 of 1999 upholding the judgment and decree dated 1.12.1998 passed by the learned Sub-Judge-IX, Ranchi in Title Suit No. 41 of 1992 and dismissing the cross objection filed on behalf of the Appellant.

2. The Plaintiff-Respondent Nos. 1 to 2(b) filed this suit against the Defendant No. 1-Appellant and Defendant Nos. 2 to 9-Respondent Nos. 3 to 15 for declaration of their right, title and interest over the suit land.

3. Mr. Habib, learned Counsel for the Appellant assailed the findings recorded by the Courts below against the Appellants, on various grounds.

4. The case of the Plaintiff-Respondent Nos. 1 to 2(b) inter alia is that, the Defendant Nos. 2 to 9 are heirs of the recorded raiyats- "adhbataidars" under Ramjan Khan, ex-landlord and as they failed to pay "adhbatai produce, they surrendered the lands to Ramjan Khan. The Plaintiffs derived right, title and interest from the successors in interest of Ramjan Khan through soda hukumnama and oral gift coupled with possession; and that the Defendants Nos. 1 and 2 to 9 have no right, title and interest over the suit lands.

5. The case of the Defendant No. 1-Appellant in short, is that the Defendant Nos.

2 to 9 did not surrender lands to Ramjan Khan, rather they surrendered lands to Sultan Khan and his co-sharers, who succeeded Ramjan Khan; and that Defendant No. 1 has been coming in possession from 10.4.1946 by virtue of settlement from the then landlords, and has perfected title by adverse possession. The Defendant No. 1-Appellant denied and disputed the case of the Plaintiffs.

6. Defendant Nos. 2 to 9 got themselves impleaded as party and contested the suit. Their case, inter alia, was that they were in possession of the lands as raiyats and rent was paid in kind; and that they did not surrender land as alleged; and that they became tenants under the State Government after vesting of zamindari

7. Learned trial Court after considering the respective cases of the parties and the evidences brought on record by them, dismissed the suit. The Plaintiffs-Respondents filed appeal before the lower appellate Court. The Defendant No. 1-Appellant filed cross-objection against the findings of the trial Court recorded against him. The learned lower appellate Court, after considering the respective cases of the parties and the evidences on record in detail, dismissed the appeal and the cross-objection. Against dismissal of cross-objection, the Defendant No. 1-Appellant has filed this second appeal.

8. It has been concurrently found by both the Courts below that the Plaintiffs-Respondents and Defendant No. 1-Appellant could not prove their case that the Defendant Nos. 2 to 9-Respondents were "adhbataidars" of the ex-landlords and they surrendered the lands to the landlords as alleged; and that the Defendant Nos. 2 to 9-Respondents proved their case.

9. In my opinion, learned Courts below have rightly arrived at the findings of facts keeping in view the respective cases of the parties and the evidences brought on record. No substantial question of law is involved in this second appeal, which is accordingly dismissed. However, no costs.