

(1935) 07 PAT CK 0024
In the Patna High Court
Case No : Appeal No. 152 of 1934

Ras Bihari Ram and others

APPELLANT

Vs

Chota Nagpur, Banking Association, Ltd.

RESPONDENT

Date of Decision : 24-07-1935

Acts Referred:

Citation : (1935) 07 PAT CK 0024

Final Decision : Dismissed

Judgement

Courtney-Terrell, C.J.—This second appeal is from a decision of the Judicial Commissioner of Chota Nagpur, dismissing an appeal from an order of the Munsif of Hazaribagh rejecting an objection to the execution of a decree by attachment of the objector's house. The appellant based his objection on sub-S. (c) S. 60, Civil P.C., alleging that it was a house belonging to him as an agriculturist and occupied by him. The findings of fact show that the house in question is one in a town; that the occupant of the house, the appellant, is a bania; that he has at the present time ceased to do any shop-keeping business but that he has two parcels of land in two villages, one at a distance of eight miles and the other at a distance of two miles and aggregating on the whole some 50 acres and that he has no other house. It is also found that when he cultivates the land eight miles from his house, the bullocks used for cultivation are put up in the houses of labourers in the neighbourhood of the land and are not brought back to the house in question. Furthermore the trial Court with which the appellate Court agreed held that as regards the allegation that the appellant came back every night with his labourers and cattle to the house from the land which was only two miles away, his story was not to be believed. In the circumstances it cannot be contended that the house is the house of an agriculturist; and having regard to its situation it would never be selected by an agriculturist for the purpose of agriculture. The appeal fails and must be dismissed with costs.

Verma, J.

2. I entirely agree.