
(2007) 04 JH CK 0006
In the Jharkhand High Court

Rohan Mahto and Others

APPELLANT

Vs

State of Bihar and Others

RESPONDENT

Date of Decision : 25-04-2007

Acts Referred:

Bihar Private Forests Act, 1946 — Section 14, 21

Citation : (2007) 4 JCR 52

Hon'ble Judges : M.Y. Eqbal, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

M.Y. Eqbal, J.—This Second Appeal has been filed by one of the plaintiffs impleading other plaintiffs as respondents along with defendants.

2. Plaintiff filed Title Suit No. 68 of 1980 against the defendant-State of Bihar for declaration that they have acquired indefeasible right over the suit property and the defendants have no right to include it within the forest demarcation area. The suit was dismissed by trial Court. Plaintiff then preferred Title Appeal being T.A. No. 14/1985 against the judgment and decree passed by the trial Court. The said appeal was heard and dismissed by 1st Additional District Judge, Hazaribagh in terms of judgment and decree dated 22.1.1985. Aggrieved by the said concurrent finding of fact recorded by the two Courts, one of the plaintiffs filed this appeal.

3. By order dated 8.1.1991 this appeal was admitted for hearing on the following substantial question of law:

(i) Whether the finding of possession can be interpreted as a question of law in second appeal?

(ii) Whether misconstruction of a document can be gone into in a second appeal, as a question of law?

4. I have heard Mr. Debi Prasad, learned senior Counsel for the appellants and

Mr. L.K. Lal, learned Counsel for the respondents.

5. As stated above, the aforementioned suit was filed by the plaintiff claiming title and possession over the land on the ground inter alia that the ancestors of the plaintiffs got permission from the landlord in 1935 for reclamation of the land in the suit. The lands were gairmazarua land and they were able to convert the said land into agricultural land and came in possession of the same.

6. Defendants/State on the other hand pleaded that it was a forest-land duly notified under Sections 14 and 21 of the Bihar Protected Forest Act vide notification dated 19.8.1946 and 15.11.1948. Defendants have denied and disputed the claim of the plaintiffs over the suit property, which was all along in possession of the Forest Department of the State of Bihar.

7. Both the trial Court and the appellate Court have gone into detail of the facts of the case and after appreciation of documentary evidence adduced by the parties recorded a conclusive finding that the" land is a forest-land duly notified under the Bihar Protected Forest Act and these lands all along remained in possession of the Forest Department.

8. Having regard to the finding recorded by two Courts, I do not find any substantial question of law much less substantial question framed by this Court which arise for determination. I further do not find any reason to interfere with the finding of fact recorded by the two Courts below. This appeal is, accordingly dismissed.