
(2001) 01 JH CK 0019

Jharkhand High Court

Case No: Appeal from Appellate Decree No. 109 of 1982 (R)

Gango Oraon @
Ganga Oraon and
Others

APPELLANT

Vs

Lal Bhanu Pratap Nath
Shahdeo and Another

RESPONDENT

Date of Decision: Jan. 19, 2001

Acts Referred:

- Criminal Procedure Code, 1973 (CrPC) - Section 145

Hon'ble Judges: Gurusharan Sharma, J

Bench: Single Bench

Advocate: Raj Nandan Sahay, for the Appellant; Debi Prasad and Suresh Prasad, for the Respondent

Final Decision: Dismissed

Judgement

Gurusharan Sharma, J.

Plaintiffs are appellants. Admittedly Plot No. 330 appertaining to Khata No. 18 of Village-Tapundana. P.S. Hatia, District Ranchi, having total area of 83 decimals, stood recorded as raiyati kaimi land of the plaintiffs. They filed suit for declaration of title and recovery of possession over the said land against the defendants.

2. According to contesting defendant No. 1, plaintiffs surrendered lands of Khata No. 18 to the then landlord, namely. Manager, Wards and Encumbered Estates, by a registered deed dated 19th November, 1941 (Ext. D), who came in possession thereof and settled the same with one Budhu Singh, through hukumnama dated 25.11.1341. Sub-sequently by registered sale deed dated 22.1.1960 said Budhu Singh transferred the suit land to the defendants.

3. There was an acquisition proceeding, under the provisions of Land Acquisition Act, 1894, wherein plot Nos. 956. 993 and 999 of Khata No. 18 were acquired. Plaintiffs filed

objection u/s 30 of the said Act.

It was registered as L.A. Reference Case No. 64 of 1960. They claimed their right to receive compensation. In the said proceeding, it was held that aforesaid surrender of kaimi raiyati land of the plaintiffs to the then landlord was illegal. On the ratio of said decision, plaintiffs in respect of suit land also claimed that Budhu Singh, on the basis of alleged settlement did not acquire any interest in the suit land.

4. On the basis of evidence on record, both the Courts below recorded concurrent findings of fact that on the basis of settlement of 25th November, 1941. Budhu Singh came in physical possession of the suit land and continued till it was transferred by him to defendant No. 1 on 22.1.1960 and thereafter defendant No. 1 came and continued in physical possession thereof. There was a proceeding u/s 145 of the Code of Criminal Procedure between plaintiffs on the one hand and defendant No. 1 on the other, which was decided in favour of defendant No. 1 and he was found in physical possession over the suit land.

5. Mr. Raj Nandan Sahay counsel for the plaintiffs-appellant submitted that in view of provisions of Scheduled Area Regulation Act. 1969, which came into force with effect from 9.2.1969, period of limitation for acquiring title by adverse possession in respect of tribal's land was extended from twelve to thirty years which was applicable in the present case, and the plaintiffs vendors therefore, did not acquire title by adverse possession.

6. In the present case, it was established on facts that settlee, Budhu Singh came and continued in possession from the date of settlement in 1941 and completed twelve years much before the year 1969, when the aforesaid Regulation came into force. It had no retrospective application. So, period of limitation for acquiring adverse possession in the present case would not have been extended to thirty years. In case, Budhu Singh had not completed 12 years possession on 8.2.1969, when the Regulation Act came into force, limitation period would have automatically been extended to thirty years.

7. Jamabandi return, which was filed by the then landlord at the time of vesting of Jamindari in the State of Bihar under the provisions of Bihar Land Reforms Act, 1950, was brought on record and was marked Ext. A, wherein name of Budhu Singh was shown as raiyat over the suit land.

8. I, therefore, find no substance in submission of Mr. Sahay, in view of 1969 Regulation Act, plaintiffs vendor did not acquire title by adverse possession.

9. In the aforesaid circumstance, I find no reason to interfere with the impugned judgments and decrees passed by two Courts below.

10. There is no merit in this Second Appeal. It is, accordingly, dismissed; but without costs.

11. Appeal dismissed.