

IN THE HIGH COURT OF JHARKHAND AT RANCHI
S.A. No.4 of 2020

Ganesh Muchi @ Ganesh Chandra Das, aged about 56 years, son of Late Dukhu Muchi, Resident of Village –Gadhra, Post Office –Gadhra, Police Station –Persudih, Jamshedpur, District –Singhbhum East.

.... Plaintiff/ Appellant/ Appellant

Versus

1. Lakhi Rani Pal, D/o Late Nalin Chandra Rai and W/o Ravishankar Pal, Resident of Village –Gadhra, Post Office Gadhra, Police Station – Persudih, Jamshedpur, District –Singhbhum East.
2. Asha Rani Singh, D/o Late Nalin Chandra Rai and W/o Anil Singh, Resident of Birsanagar Zone No. 1B, Post Office and Police Station – Birsanagar, Jamshedpur, District –Singhbhum East.

.... Defendants/ Respondents/ Respondents

| | |
|---------------------|-------------------------------------|
| For the Appellant | : Mr. Ashok Kr. Sinha (4), Advocate |
| | : Mr. Lalan Kr. Singh, Advocate |
| For the Respondents | : Mr. Shankar Singh, Advocate |
| | : Mr. Manish Pd. Gupta, Advocate |

PRESENT
HON'BLE MR. JUSTICE ANIL KUMAR CHOUDHARY

By the Court:- Heard the parties.

2. This second appeal under Section 100 of Code of Civil Procedure has been preferred against the judgment and decree of affirmance dated 31.07.2019 passed by the learned District Judge-V, Jamshedpur in Title Appeal No.1 of 2014 whereby and where under, the learned first appellate court has dismissed the appeal.

3. The brief fact of the case is that the plaintiff filed Title Suit No. 119 of 2005 in the court of Civil Judge (Senior Division)-II, Jamshedpur with a prayer for decree of permanent injunction restraining the defendant from dispossessing the plaintiff from the suit property, cost of the suit and other reliefs.

4. The case of the plaintiff in brief is that the suit land belonged to Anand Muchi @ Anand Das. Anand Das gifted the property to Ganesh Chandra Muchi by a registered gift deed dated 01.05.1982 and delivered possession to Ganesh Chandra Muchi-the plaintiff. The original defendant Sukurmani Rai instituted Title Suit No. 24 of 1985 in the court of Munsif, Jamshedpur against the plaintiff of this suit. The suit was decreed in favour of the defendant of this suit for delivery of possession of the suit premises to the plaintiff of this suit. The defendant of this suit filed Execution Case No. 02 of 2001 and obtained a false delivery of possession of the premises in question and the plaintiff continued to be in possession of the suit land. As the defendant threatened the plaintiff to dispossess, the plaintiff filed the suit.
5. The defendant on the other hand challenged the maintainability of the suit on various technical grounds including that the suit is barred by law of *res-judicata* in view of the judgment passed in Title Suit No. 24 of 1985. Anand Muchi has gifted the suit property to Sukurmani, the defendant of this suit vide registered deed no. 4579 dated 26.05.1982. The documents basing upon which the plaintiff is claiming right, title and interest is forged. The plaintiff never possessed the suit land.
6. On the basis of rival pleadings of the parties, the learned trial court settled the following six issues: -
- (I) *Whether the suit of the plaintiff is maintainable in its present form?*
 - (II) *Whether the plaintiff has valid cause of action to bring this suit?*
 - (III) *Whether the suit of the plaintiff is barred by law of res-judicata?*

- (IV) *Whether the plaintiff has any right, title, interest and possession over the suit land?*
- (V) *Whether the suit is liable to be decreed?*
- (VI) *Whether the plaintiff is entitled for any other relief or reliefs?*

7. In support of his case, the plaintiff examined altogether five witnesses and proved the documents which have been marked Ext. 1 to Ext.5. On the other hand, from the side of the defendant, the defendant examined only one witness and also proved the documents which have been marked Ext. A to Ext. F.

8. The learned trial court first took up issue nos. III, IV & V together and after considering the evidence in the record came to the conclusion that as the same issues involved in this suit have been decided in Title Suit No. 24 of 1985 and that the subject matter and parties are same in both the suits, the Title Suit No. 24 of 1985 was decided by a competent court of law, hence the present suit is barred by law of *res-judicata* and as the plaintiff has no right, title and interest over the suit property, so the plaintiff is not entitled to the decree and decided the issue nos. III, IV & V against the plaintiff and in favour of the defendant. The learned trial court next took up issue nos. I & II together and on the basis the findings on other issues, held that the suit is not maintainable in its present form and there is no valid cause of action for the present suit. Lastly, the learned trial court took up issue no. VI and held that the plaintiff is not entitled to any relief and dismissed the suit.

9. Being aggrieved by the judgment and decree passed by the learned trial court, the plaintiff preferred Title Appeal No.01 of 2014 in the court of Principal District Judge, Jamshedpur which

was ultimately heard and disposed of by the learned first appellate court by the impugned judgment and decree.

10. The learned first appellate court formulated the following point for determination:-

“Whether the appellant/plaintiff is in possession of suit land and the suit of appellant/plaintiff is barred by law of res-judicata?”

11. The learned first appellate court made independent appreciation of the evidence in the record and considering the evidence in the record observed that in Title Suit No. 24 of 1985, the learned Sub-Judge-II, Jamshedpur held that the gift deed of the defendant is not a genuine paper and held that the plaintiff of Title Suit No. 24 of 1985 got the suit land from his father by way of gift and on the basis of Ext. D came to the conclusion that in Execution Case No. 2 of 2001, the defendant has got possession through the process of the court and went on to hold that the present suit is barred by principle of *res-judicata*.

12. It is submitted by the learned counsel for the appellant that the learned courts below have failed to consider Section 50 of the Evidence Act regarding relationship of parties to get a decree of eviction from ancestral property. It is next submitted that the learned courts below have erroneously framed the issue of *res-judicata* on the basis of finding of the earlier suit that gift deed dated 01.05.182 is not a genuine paper without any declaration sought by the plaintiff. Hence, it is submitted that the judgment and decree passed by both the courts below being not sustainable in law be quashed and set aside and the suit of the plaintiff be

decreed.

13. Having heard the submissions made at the Bar and after carefully going through the materials in the record, it is pertinent to mention here that the undisputed fact remains that there was a suit between the same parties albeit the defendant of this suit was the plaintiff of that suit being Title Suit No. 24 of 1985 in which the issues between the parties are the same and in that suit, the learned trial court held that the gift deed dated 01.05.1982 claimed to have been made in his favour by Anand Muchi @ Anand Das is not a genuine document. The said judgement in Title Suit No. 24 of 1985, has attained finality; the same having not been challenged in any superior forum.

14. Now coming to the facts of the case, the undisputed fact remains that the judgment and decree passed in the said Title Suit No. 24 of 1985 has not been challenged and the same attained finality as between the same parties the genuineness of the deed of gift executed by Anand Muchi in favour of the plaintiff was held to be not a genuine document and such finding has attained finality. So, the claim of title by the plaintiff in the suit on the basis of the selfsame document which was held to be not genuine by a competent court of law is certainly hit by principles of *res-judicata* and in the considered opinion of this Court neither of the courts below have committed any illegality in holding as such. Therefore, this Court is of the considered view that there is no substantial question of law involved in this appeal.

15. Accordingly, this appeal being without any merit is

dismissed.

16. Let the copy of the Judgment be sent to the learned court below forthwith.

(Anil Kumar Choudhary, J.)

High Court of Jharkhand, Ranchi
Dated the 18th December, 2024
AFR/ Sonu-Gunjan/-