

IN THE HIGH COURT OF JHARKHAND, RANCHI

S. A. No. 104 of 2011

Nil Kamal Tiwary & Ors. Appellants(s)

Versus

BRajesh Kumar Dubey & Ors. Respondent(s)

CORAM: HON'BLE MR. JUSTICE ANANT BIJAY SINGH

For the Appellants(s) : Mr. Manjul Prasad, Sr. Advocate.
Arbind Kr. Sinha, Jitesh Kumar,
Baban Prasad, Advocates

For the Respondent(s) : Mr. Kundan Kr. Ambastha, Advocate

Order No.06/ Dated 29.11.2017.

Heard the learned counsel for the appellants and counsel for the respondent(s).

Admit.

This appeal will be heard on the following substantial question of law :-

(a) Whether while reversing the findings of trial court, the learned court of appeal below properly exercised its jurisdiction vested in it under Section 96 of the Code of Civil Procedure?

(b) Whether while reversing findings of learned trial court, the learned appellate court correctly appraised evidence of P.W.10 (expert and Ext.5) (report) and met the reasonings assigned by the learned trial court which had correctly held that both the deeds were executed by Defendant no.6 and since deed of gift was executed prior to execution of sale deed in favour of the plaintiffs as such, the defendant no.6 had no right to transfer the area which were already gifted and plaintiffs' sale deed is only valid for rest of the land? (According to Section 27 of the Specific Relief Act)?

(c) Whether the findings of the learned lower appellate court is sustainable in view of the admitted case of parties in their pleadings?

Further liberty is given to the counsel for the appellants to frame other substantial questions of law, if any at the time of hearing of this appeal.

Call for the lower court records.

Counsel for the appellant(s) is directed to take steps for service of notice upon the respondent no.3 through ordinary process as well as Registered AD, for which, requisites etc., must be filed within two weeks.

(Anant Bijay Singh, J.)