

IN THE HIGH COURT OF JHARKHAND AT RANCHI

S.A. No.459 of 2016

1. Ram Chandra Sahu
2. Smt. Babi Devi
Appellants
Jageshwar Sahu

.....
Versus
..... Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH KUMAR

For the Appellants : Mr. Amar Kr. Sinha, Advocate
For the Respondent : Mr. Prabhash Kumar, Advocate

04/Dated: 14/08/2018

Heard learned counsel for the appellants.

The appellants are original plaintiffs.

The suit has been filed for declaration of right, title and interest over the suit land.

The case of the plaintiffs is that plaintiffs have purchased the suit land from one Matang Sahu by registered sale deed dated 06.04.1983. Subsequently, the sale deed was cancelled vide another registered deed of cancellation dated 29.05.1984 and after cancelling the earlier sale deed, another sale deed has been executed in favour of sole defendant vide registered sale deed dated 18.01.1985.

The case of the defendant was that, there was an agreement with Matang Sahu vide agreement dated 21.02.1983 and in pursuance of the said agreement Matang Sahu executed the sale deed for the suit land on 18.01.1985 and he came in the possession of the said land and as such he claims protection under Provision of Section 53 A of the Transfer of Property Act.

The trial court has decreed the suit in favour of plaintiffs but the appellate court has reversed the finding and judgment and decree passed by the trial court is set aside and appeal is allowed.

In view of the factual background, the present second appeal is **admitted** on following substantial questions of law:

- i. *Whether the findings of the learned court of appeal below are vitiated due to not considering the settled Principle of Law that unilateral cancellation of sale deed by the vendor by virtue of registered deed of cancellation would in any way affect the right, title and interest of the purchaser with respect to the property purchased by him on payment of consideration?*

- ii. *Whether the findings of the learned court of appeal below relating to possession of the defendant on the basis of mutation are at all sustainable?*
- iii. *Whether the learned court of appeal below has misconstrued the Provision contained in Order XLI Rule 31 of C.P.C. while reversing the judgment of the trial court on extraneous consideration?*

Mr. Prabhash Kumar waives notice on behalf of the respondents.

Call for Lower Court Records.

(Rajesh Kumar, J.)

Shahid/