

Vijay Kumar Vs. Kishore Kumar

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Court : Madhya Pradesh

Decided On : Apr-17-2013

Appellant : Vijay Kumar

Respondent : Kishore Kumar

Judgement :

Second Appeal No.256/2010 (Vijay Kumar versus Kishore Kumar) 17-04-2013
Heard Shri N.S.Ruprah, learned counsel appearing for the appellant on the question of admission.

This appeal has been filed by the appellant being aggrieved by the judgment and decree dated 10.12.2009 passed in Civil FiRs.Appeal No.5-A/2009 by the FiRs.Additional District Judge, Waraseoni, whereby the judgment and decree passed by the Civil Judge Class-I Waraseoni, in Civil Appeal No.149-A/2006 has been affirmed and confirmed and the suit filed by the appellant for eviction of the respondent from plot nos.16 and 17 has been dismissed.

Though several issues have been raised by the learned counsel for the appellant, it is observed that previously appellant had filed a suit for declaration of title and permanent injunction in respect of the same property i.e.plot Nos.16 and 17 which was registered as Civil Suit No.264-A/1991 and was dismissed by the Second Civil Judge Class-II Waraseoni on 21.4.1994 by recording a finding to the effect that lease of aforesaid plots has been subsequently given to the respondent by the Municipal Council Katangi, District Balaghat, which was binding upon the

appellant.

The appeal filed by the appellant against the aforesaid judgment and decree was also dismissed.

In view of the aforesaid undisputed facts, it is clear that a Court of competent jurisdiction has already held that the lease of plot Nos.16 and 17 has been given to the respondent by the Municipal Council Katangi which is binding on the appellant and that the appellant's claim for declaration in respect of the same plots has been dismissed.

From a perusal of the impugned judgment, it is clear that Courts below relying upon the decision given in the previous Civil Suit No.264-A/1991 by the Second Civil Judge Class-II Waraseoni on 21.4.1994, has dismissed the claim for eviction filed by the appellant.

In view of the aforesaid as the finding recorded in the previous suit is binding upon the appellant wherein his claim for declaration as owner has been dismissed and the courts below have affirmed and confirmed the lease granted by the Municipal council Katangi, in favour of the respondent, I find no illegality or perversity in the impugned judgment dismissing the claim of the appellant for eviction of the respondent from plot Nos.16 and 17.

No substantial question of law arises for adjudication in the present appeal.

The appeal filed by the appellant therefore, being meritless, is accordingly dismissed.

(R.S.Jha) a Judge

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