

02 18.11.2022

Ct-08

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SA 376 of 2016
with
I.A No. CAN 1 of 2014(Old CAN No. 6634 of 2014)

Mayarani Sarkar & Anr.
Vs.
Sri Sri Radha Brindaban Jew
Thakur Shebait & Ors.

Mr. Pinaki Ranjan Mitra
Mr. Ashim Kumar Roy
... For the Appellants

We have heard the learned counsel appearing for the appellants.

This second appeal has come out for admission.

The first appellate court partly allowed the Title Appeal filed by Jiban Krishna Chakraborty and another. The first appellate court relied upon Exhibits- B and C, which appear to be the shit anchor of the claim of the present appellants. The appellants relied upon the said documents to show that the vendors are the Shebayet of the property in question and in such capacity has sold the property in favour of the appellants. The said property was alleged to have been transferred for legal necessity of the deity. The said two documents clearly establish that the property belonged to the deity. The question arose whether the vendors could alienate the said property without establishing legal necessity for such alienation. The first appellate court could not find any justification or evidence on record in this regard. The legal necessity for such alienation could not be established. The vendors have stayed away from the proceeding. The present appellants before us also could not produce any evidence in justification of the sale. The recitals in the deed

are not conclusive. Admittedly, it is a Debottar property.

On such consideration we do not find any reason to admit the second appeal as it does not involve any substantial question of law.

The second appeal is, therefore, summarily dismissed under Order XLI Rule 11 of the Code of Civil Procedure at the admission stage.

In view of dismissal of the appeal, nothing remains to be decided in the application for injunction and the application being CAN 6634 of 2014 is disposed of.

There will be no order as to costs.

(Uday Kumar,J.)

(Soumen Sen, J.)

