

DL. July 5,
20. 2022

S.A. 124 of 2021

Dhananjoy Ghosh & anr.

Vs.

Kartik Chandra Dhara & ors.

None is appearing on behalf of the appellants, nor any accommodation is prayed for.

The present appeal has arisen out of a judgment and decree of affirmance passed by the learned Additional District Judge at Katwa, Burdwan, in Title Appeal No. 12 of 2002 arising out of judgment and decree dated July 31, 2002 passed by the learned Civil Judge (Senior Division) at Katwa, in Title Suit No. 23 of 1991.

The plaintiff/respondent filed the present suit for partition and recovery of khas possession. The plaintiff claims that she is the owner in respect of plot no. 978/1128 to the extent of 16 annas share as mentioned in schedule 'ka' to the plaint and that she has also 8 annas share in respect of plot no. 977, as described in schedule 'kha' to the plaint, in respect of which the defendant no. 3 is a co-sharer. The plaintiff alleged that on July 15, 1990, she was forcibly dispossessed from the 'ka' scheduled property by the defendants/appellants for which the plaintiff instituted a suit against the appellants for declaration of title and injunction. The said suit was contested by the defendants/appellants by filing written statement. From the written statement filed in the said suit, the plaintiff came to understand that there was an agreement for sale

executed by her. The plaintiff alleged that no such agreement was ever executed by her. The plaintiff further alleged that the defendant no. 1 was a bargadar under the plaintiff. For the purpose of irrigation, the defendant no. 1 obtained left thumb impression of the plaintiff on a blank paper for making an application for taking irrigation water. The plaintiff alleged that the said document was a forged one and that the left thumb impression was obtained in the blank paper for the purpose of preparation of the alleged agreement for sale.

The defendants no. 1 and 2, who are the appellants herein, contested the suit by filing written statement and counter claim as well as cross suit to the effect that they never dispossessed the plaintiff/respondent and prayed for a decree for specific performance of the said agreement for sale.

The trial court as well as the first appellate court arrived at a finding that the plaintiff was an illiterate lady and that left thumb impression of the plaintiff was obtained on a blank paper. The trial court shifted the onus upon the defendants to establish the purpose for which such left thumb impression was obtained. Once it is disputed that this document was fraudulently obtained, all benefits therefor must fail.

In view of such clear findings based on evidence on record by both the courts below, we are of the view that there is no reason to interfere with the judgments passed by either of the courts below. We do not find any substantial question of law involved in this appeal for which the same is required to be admitted.

The second appeal is, therefore, summarily dismissed

under Order XLI Rule 11 of the Code of Civil Procedure.

There will be no order as to costs.

(Soumen Sen, J.)

dns

(Siddhartha Roy Chowdhury, J.)