

SAT 21 of 2015

**Sri Sadananda Ghosh
Vs.
Sri Jagannath Mondal & Ors.**

Mr. Partha Pratim Roy
Mr. Sarbananda Sanyal
... For the Appellant

We have heard Mr. Partha Pratim Roy, learned counsel appearing in support of the appellant.

The decree of affirmation is the subject matter of challenge in this appeal.

The plaintiff is one of the daughters of the deceased. The issue before the trial court is whether her father died prior to coming into operation of the Hindu Succession Act, 1956. The plaintiff relied upon the record of rights prepared and finally published on 25th July, 1957. This document was marked as Exhibit-1 and 1A. RSROR i.e. Exhibits 1 and 1A have not been challenged and rebutted by any cogent evidence, save and except the mere denial in the written statement. The defendant no. 2 has relied upon the evidence of defendant no. 4 and did not lead any independent evidence with regard to the death of his father. The defendant no. 2 prepared the written statement in the name of the defendant no. 4. The defendant no. 4 filed written statement but did not adduce any evidence.

Both the courts below considered the RSROR. It, prima facie, establishes that at the time of preparation and publication of the RSROR on 25th July, 1957, which is beyond 17th June, 1956 when the Hindu Succession

Act came into operation, Satish Mondal was alive (the father of the defendant no. 4).

The appellate court relied upon Section 114 of the Evidence Act and illustration (e) of the said Act which says that court shall presume that judicial and official act have been regularly performed. Although RSROR is rebuttable but there is no cogent evidence which could destroy the evidentiary value of RSROR. The only person who could have thrown any light was the defendant no. 4 who did not participate in the trial.

Under such circumstances, we do not find any reason to interfere with the concurrent finding of facts

The second appeal is accordingly dismissed at the admission stage.

There shall be no order as to costs.

(Uday Kumar, J.)

(Soumen Sen, J.)

