

18 08.06.23

Ct. No. 04

akd

S.A.T. 128 of 2010

Chaturbhuj Das & Ors.

Vs.

Sri Haripada Jana & Ors.

Mr. Milan Kumar Maity.

... for the appellants.

The concurrent findings of both the Courts below is sought to be assailed in the instant appeal on the grounds that Gobinda Jana was never the son of Darp Narayan Jana and, therefore, his successors never inherited the property belonging to Darpa Narayan Jana.

The suit for declaration of title was instituted by the plaintiffs/respondents, which was decreed in part declaring the right, title and interest of the plaintiffs/respondents in respect of 'Ka', 'Kha' and 'Ga' schedule of land. Admittedly Darp Narayan Jana was the owner of several landed property and died intestate. It is alleged by the plaintiffs that the said Darpa Narayan Jana left behind him surviving three sons, namely Ananda, Bolai and Kanai; and Gobinda Jana was never the son of Darp Narayan Jana, but he was the son of Khitish Narayan Jana.

The moot question involved in the suit was whether Gobinda Jana was the son of Darp Narayan Jana and inherited the property upon his death by way of interstate succession. Both the Courts found that after the death of Darp Narayan Jana the said Gobinda Jana and Kanai Jana purchased some landed properties from Shiv Prasad Das on 30th April, 1904, wherein the said Gobinda Jana was shown as the son of Darp Narayan Jana. It further appears that other sons through whom the plaintiffs are claiming right, title and interest, namely Kanai and Balai were shown

as the son of Darp Narayan and sold their share to Madhusudan Bhattacharya with clear stipulation in the Deed that the share of his elder brother namely Gobinda Jana is not affected by the said sale Deed nor will be construed as divestation of his share. On the basis of both the Deeds, which was accepted before the Trial Court, the assertion of the plaintiff/respondents that Gobinda was never the son of Darp Narayan Jana was ruled out and it was held that the said Darp Narayan Jana was also known as Khitish and both the names belong to one person.

Both the Courts have concurrently found that the Gobinda was the son of Darp Narayan Jana and, therefore, his heirs and successors have inherited the share which Gobinda inherited from Darp Narayan Jana to which we do not find any infirmity or illegality or perversity therein.

We do not find any substantial question of law involved in the instant appeal.

The appeal and the connected application, if there be any, are dismissed.

(Harish Tandon, J.)

(Prasenjit Biswas, J.)

