

SAT 281 of 2015

Ct-08

**Hakima Mondal & Ors.
Vs.
Asira Bibi & Ors.**

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Ms. Deblina Lahiri
Mr. Mrinmoy Chatterjee
... For the Appellants

We have heard the learned counsel representing the appellants.

The decree of affirmation in a suit for declaration of title is under challenge in this second appeal.

We have carefully read the judgment of the trial court as well as the first appellate court. The requirement for a declaration was necessitated by reason of a challenge being thrown to the deed of gift, from which the appellants have derived their title.

Both the courts have arrived at a finding that the deed of gift was executed in the year 1949 subsequently to the deed of sale. It is elementary to note that the deed of sale was in the year 1958 and once a donor has acquired his right in the property by way of gift, he lost all his title and accordingly, any subsequent deed creating any right ever, as the already extinguished right, cannot have any relevance or binding effect.

Since the deed of gift was upheld and the deed of sale was rightly held to be non-operative, the plaintiff was entitled to such declaration.

In view of the above, we do not find any reason to admit the second appeal as it does not involve any substantial question of law.

The appeal accordingly fails.

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

There will be no order as to costs.

(Uday Kumar ,J.)

(Soumen Sen, J.)