

31 16.5.2023

Ct-08

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SAT 424 of 2015

**Chandana Manna & Ors.
Vs.
Sunil Kanti Mahata**

The minor defects reported by the stamp reporter are ignored.

The appellants are not represented.

The appeal appeared in the warning list on 6th March, 2023 with a clear indication that the same shall be transferred to the regular list on 21st March, 2023, since then the matter is appearing in the list. The appellants are having deemed notice of the matter.

The appellate judgment and decree dated 8th June, 2015 affirming the judgment and decree passed by the trial court on 31st July, 2014 in a suit for declaration and permanent injunction is the subject matter of challenge in this second appeal.

We have carefully read the judgment of both the courts below and the grounds of appeal in order to find whether this appeal involves any substantial question of law or not.

The claim for declaration of title by the plaintiffs was based on inheritance from their father. They have also alleged that their deed of gift was marked as Exhibit-1 on behalf of the plaintiffs and Exhibit-L on behalf of the defendant was void and voluntarily executed.

The plaintiffs alleged that the said deed of gift was obtained when their father was completely bed ridden and lost his vision. The plaintiffs, however, could not say that at the time of execution of the said deed of gift the father was bed ridden and did not have physical and mental

capacity to execute the deed of gift. The defendants on the other hand produced attesting witness, who was present at the time of execution of the said deed. The execution was of the deed of gift was proved by D.W2, attesting witness. In order to prove, the case of the plaintiffs was completely unreliable and dishonest evidence of the donor recorded in the deposition on 6th February, 1998 in the suit.

The first appellate court on reappreciation of the evidence concurred with the findings of the trial court. The concurrent finding of facts does not call for any interference.

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.)

