02.04.2024
Court No. 3
S/L. No. 17
Sourav/
Suvayan

SAT 711 of 2003

Sri Madan Chandra Guchait & Anr.
Vs.
Sri Narayan Guchait & Ors.

Mr. Indranath Mukherjee
Mr. Sukumar Ghosh
Mrs. Moumita Ghosh
... for the appellants.

Mr. Ramdulal Manna
Ms. Manju Manna (Dey)
Mr. Sayan Mukherjee
...for the respondent nos. 1(a) to 1(d).

1. Heard learned Counsel for the appellants.

2. The defendants are the appellants here against an affirming judgment.

3. Learned Counsel for the appellants formulate the following substantial question of law for admission of appeal: (i) the plaintiff having entered into different transaction for sale and purchase of land, the execution of gift deed by her as a pardansin lady should not be accepted ignoring the evidence of D.W.s 2 and 3 examined by the defendants; (ii) without any prayer for cancellation of the deed by the plaintiff, she could not have filed the suit with a prayer to declare the deed as void.

4. Both the aforesaid substantial questions of law as framed by learned Counsel for the appellants

is not tenable according to our considered view inasmuch as both the courts below have taken into consideration the evidence of the witnesses to come to a finding that the plaintiff being a pardansin lady, the gift deed came to be executed by her without following the precautions which should have been followed in case of execution of a deed of gift conveying property for a pardansin lady.

5. There is also specific finding to the effect that the deed so prepared was not read over and explained to the plaintiff. So far as second point is concerned, if a declaration is given by a civil court to the effect that a particular conveyance is bad in law or void, it tantamounts to cancellation. Cancellation of a gift deed could have been opted by the maker of the same within the period of limitation in the office of the Sub-Register in accordance with the provisions contained in Transfer of Property Act. Any grounds beyond the relevant provisions of Transfer of Property Act, a suit is to be filed for declaration of the deed as void so this question is not a substantial question of law as envisaged in Section 100 of the CPC.

6. We are, therefore, not inclined to admit the appeal.

7. Accordingly, the appeal being SAT 711 of 2003 is dismissed.

(Chitta Ranjan Dash, J.)

(Partha Sarathi Sen, J.)