

05.08.2024
Court No.13
Item No.35
pk

SAT 56 of 2014

Joydeb Chakraborty
Vs.
Smt. Santi Chatterjee and others

Mr. Gopal Chandra Ghosh,
Mr. Rajkrishna Mondal
... for the appellant.

In Re: CAN 3 of 2021 (Restoration)

1. Sufficient grounds are available to explain the absence of the appellant and/or his Counsel on 10.12.2020.
2. The said order is recalled and the appeal is restored to its original file and number.
3. Accordingly, CAN 3 of 2021 is disposed of.
4. There will be, however, no order as to costs.

In Re: SAT 56 of 2014

1. SAT 56 of 2014 has been filed challenging the appellate decree dated 17.12.2013 passed by the Additional District Judge, First Court at Suri, Birbhum in Title Appeal No. 9 of 2010. By the appellate decree the lower appellate court confirmed the judgment and decree of the Civil Judge (Junior Division), Suri Sadar, Birbhum in T. S. No. 50 of 2003 dated 17.11.2009 and 21.11.2009.

2. The brief facts of the case are that the appellant is the son of one late Achalabala Chakraborty and filed the suit against his sister Santi Chakraborty.
3. The plaintiff/appellant sought declaration that the deed of gift dated 8th September, 1999 executed by his mother, Achalabala Chakraborty in favour of his sister Santi Chakraborty to be null & void and obtained by fraud. It is also alleged that Achalabala Chakraborty was mentally and physically incapable of executing a document.
4. The First Court framed issues on the basis of the plaint and the written statement. The appellant/plaintiff examined six witnesses. Special reliance was placed on the evidence of Dr. Prakashranjan Das, PW 4 and his medical prescription for the treatment of Achalabala Chakraborty. Her discharge certificate from the Burdwan Medical College and bed head tickets of Burdwan Medical College were marked as exhibit 4 series.
5. The defendant/respondent Santi Chakraborty examined herself Bhudda Deb Das/the deed writer, Ramprasad Rajak, attesting witness as DW3 and Prabab Sarkar, another attesting witness of the deed and two further witnesses Ramkumar Das and Bholanath Bhattacharjee.
6. The defendants exhibited LR Parcha, Rent Receipts, LTI of Achalabala Chakraborty in the deed of gift, signature

of Ramprasad Rajak, the deed of gift dated 8th September, 1999 and certified copies of order of Bhagchas Case No. 58 of 1999.

7. The two Courts below have concurrently found that Santi Chakraborty was deserted by her husband and was living alone with her son. She was poor and without any income. It has further come on record that Achalabala was tortured by the appellant and his wife and was dissatisfied with him. She moved away from the residence constructed by her husband where the plaintiff resided, to live with her daughter.
8. The evidence also indicates that the appellant was gainfully employed. He refused to part with the share in the cultivation on the schedule property being "A" and "B" to the plaintiff. As a consequence whereof, Achalabala Chakraborty had to file two bhagchas cases before the concerned authorities under the WBLR Act.
9. It was further found by the two courts below that Achalabala Chakraborty might have suffered from high blood pressure and heart disease but was capable of travelling to the Registry Office to execute and register the gift deed dated 8th September, 1999. The gift deed was proved by the attesting witnesses and the deed writer. The signature of Achalabala Chakraborty was duly identified and proved.
10. Both the courts below found that the appellant could not demonstrate fraud, coercion, undue influence on

Achalabala Chakraborty in executing the gift deed dated 8th September, 1999.

11. Having carefully considered the judgments of the two courts below and the evidence on record, this Court is of the view that the concurrent findings of the two courts below call for absolutely no interference whatsoever. There is no substantial question of law that arises for admitting the instant appeal.
12. Accordingly, SAT 56 of 2014 is dismissed. Interim order, if any, shall stand vacated.
13. In view of dismissal of appeal, connected applications, if any, are also dismissed.
14. Let the L.C.R., if any, be returned to the court below.
15. The Registry shall communicate this order to the court below.
16. There shall be no order as to costs.
17. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)

(Ajay Kumar Gupta, J.)