

01.09.2025
M/L No.19
Court No.16
(gc)

**SAT 144 of 2025
CAN 1 of 2025**

**Sharama Sundari Konai & Ors.
Vs.
Babulal Konai & Ors.**

Mr. Kishore Mukherjee,
Mr. Soumyajit Mukherjee
...for the Appellants.

1. The decree of affirmation is the subject matter of challenge in this appeal.
2. The learned Counsel for the appellants has submitted that both the Courts have ignored the 'Exhibit-C' being a deed of gift dated 2nd May, 1989 and the suit filed by the father of the plaintiffs admitting the ownership of Haru Konai. As rightly observed by the First Appellate Court that the title over an immoveable property cannot be established merely on the basis of an admission in a pleading when the title deed says otherwise. Both the Courts have relied upon 'Exhibit-A' which clearly established that the plaintiffs could not have acquired any title through Haru Konai in respect of the suit plot. The claim of the defendants to the properties is based on the basis of the ownership of Haru Konai in the property which they acquired through Nilambar Mal in the year 1965.

3. During trial, the defendants to establish their right have produced one deed that was marked as Exhibit-A executed in the year 1960 wherefrom it appears that one Nilambar Mal, son of Prithibi Mal transferred the suit lands to one Haru Konai in the year 1960.
4. However before both the Courts, the appellants have failed to establish that Nilam Mal is another name of Nilambar Mal and Ghuran Mal is another name of Prithibi Mal as Exhibit-A would show that the name of the father of Nilam Mal or Prithibi Mal. Moreover, it is admitted that C.S. tenant, Khudu Mal wife of Ghuran Mal was the original owner of the suit daga. It was on such findings, both the Courts held that by virtue of Exhibit-A, no valid title has been devolved upon the purchaser of the said deed from Nilambar Mal in respect of suit plot no.458.
5. In view of such concurrent findings of fact which does not appear to be perverse, we are not inclined to admit the second appeal.
6. Accordingly, the second appeal stands dismissed at the admission stage.
7. In view of dismissal of the second appeal, the stay application also stands dismissed.
8. However, there shall be no order as to costs.

9. Urgent Photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all necessary formalities.

(Soumen Sen, J.)

(Apurba Sinha Ray, J.)