

12-12-2025
ct no. 13
Sl. 6
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FAT 423 of 2016
With
CAN 1 of 2016
Md. Moula Mallick & Ors.
-Versus-
Jale Bibi & Ors.

Mr. Partha Pratim Roy,
Mr. Sarbananda Sanyal,
Ms. Poulami Chakraborty,
Mr. Samrat Chakraborty.

...for the appellants.

Mr. Subhrajyoti Ghosh.

..for the respondent nos. 1 to 6.

1. The appeal is directed against judgment and order dated 15th June, 2016 passed by the learned Civil Judge (Sr. Division), 1st Court, Krishnanagar, Nadia.
2. The plaintiffs claiming to be the legal heirs of one Pateswari Bibi, sought partition of her property along with defendant nos. 1 to 9. the Trial Judge found that Pateswari Bibi died leaving behind her son Kalo and two daughters, namely, Fate Bibi and Kamala.
3. The Trial Court further found that Pateswari Bibi's father was one Panchul, son of late Monoruddin Sk. Panchu left behind one son and two daughters, namely, Ismail, Pateswari and Parichan. The legal heirs of Parichan

were not brought on record despite being named in the written statement filed by the defendants/respondents.

4. It is submitted that the legal heirs of Ismail were duly on record but it is not clear as to whether all the legal heirs of Ismail have been duly accounted for. The Trial Court found that the alleged inheritance and recording of name of Pateswari along with other co-sharers in the R.S.R.O.R. was doubtful. The C.S.R.O.R. was not brought on record to clarify doubt.
5. The Trial Court in essence found that the plaintiffs may not have made all necessary co-sharers of 1269 satak allegedly inherited by Pateswari may have several other claimants and co-sharers.
6. In the backdrop of the above, the dismissal of the suit by the Trial Judge cannot be questioned. In essence the Trial Judge found that the plaintiffs/appellants may have attempt to steal a march and deprive certain bona fide co-sharers of the assets of one Panchu if not also of his father late Monoruddin Sk., in the suit property.

7. In the backdrop of the above, the impugned judgment dated 15th June, 2016 calls for no interference.
8. However, this Court permits the appellants as well as the respondents being the plaintiffs and defendants in the suit to withdraw all the original documents filed in the Court below after filing copies thereof to be verified by the Registry of the Trial Court.
9. The plaintiffs/appellants shall be entitled to institute a fresh suit in respect of the properties of late Panchu and/or his father late Monoruddin Sk. Such liberty is also reserved to the defendants/respondents to institute such fresh suit if so advised.
10. With the aforesaid observations, FAT 423 of 2016 shall stand disposed of.
11. Consequently, all connected pending applications, if any, shall also stand disposed of.
12. There shall be no order as to costs.
13. 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.)