

**IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble Justice Jyotirmay Bhattacharya

AND

The Hon'ble Justice Ishan Chandra Das

**S.A.T. 195 of 2016
(CAN 6710 of 2016)**

**Sri Bijoy Krishna Mishra & Anr.
-Versus-
Chittaranjan Das Bera & Ors.**

For the Plaintiffs/ : **Mr. Ashis Sanyal,**
Appellants **Mr. Hemanta Coomer Mitter.**

Heard on: 22nd August, 2016.

Judgement on: 22nd August, 2016.

Jyotirmay Bhattacharya, J. :-

This is a defective appeal. Adequate court fees has not been paid. The learned advocate of the appellants however, undertakes to pay the deficit court fees in course of this day.

This second appeal is directed against the judgement and decree dated 18th February, 2016 passed by the Learned Additional District Judge, First Court, Paschim Medinipore in Title Appeal No. 02 of 2013 affirming the judgement and decree dated 11th October, 2012 passed by the Learned Civil

Judge (Senior Division), 2nd Court, Paschim Medinipore in Title Suit No. 374 of 2009 renumbered as Title Suit No. 31 of 2011, at the instance of the plaintiffs/appellants.

Let us now consider as to whether any substantial question of law is involved in this appeal for which the appeal is required to be admitted under the provision of Order 41 Rule 11 of the Code of Civil Procedure, or not.

Admittedly, Jatindra Nath Chakraborty and others were the recorded owners of the suit property. They dedicated the suit property in favour of the deity Sri Sri Sitalamata Thakurani for Debseba out of the usufruct of the suit property. It is also an admitted position that Sarbani Debbya became the shebait who sold and transferred the suit property in favour of the plaintiffs' father. The plaintiffs prayed for declaration of title on the basis of the inheritance from their father who purchased the suit property from the said shebait.

In this context, a question came up for consideration before the courts below as to whether the plaintiffs' father could acquire any title in the suit property by virtue of such purchase of the Debottar property from the shebait.

The suit property was dedicated to the deity. Deity is the perpetual minor. Sale of any debottar property without obtaining permission from the District Judge concerned, is void. No permission was taken from the learned District Judge for selling and transferring of the debottar property. Even the legal necessity for which the property was sold, has also not been proved.

In these set of facts, both the courts below held that the plaintiffs did not acquire any title in the suit property. We, sitting in this jurisdiction, do not find any apparent illegality in the judgements and/or decrees of the courts below.

We do not find involvement of any substantial question of law in this appeal. We decline to admit this appeal for hearing under the provision of Order 41 Rule 11 of the Code of Civil Procedure.

The appeal is, thus, dismissed.

Since the appeal is disposed of in the manner as aforesaid, no further order need be passed on the injunction application.

The application for injunction being CAN 6710 of 2016 is thus, deemed to be disposed of.

Urgent Photostat certified copy of this order, if applied for, be supplied to the Learned advocates for the parties immediately.

(Jyotirmay Bhattacharya, J.)

(Ishan Chandra Das, J.)