

Tile Devi and Others

Vs

State of Bihar and Others

Civil Appeals Nos. 374-75 of 1988

25.01.1988

(M.P. Thakkar, N.D. Ojha JJ)

ORDER

1. Special leave granted. Heard both the sides.

2. Having perused the relevant records we are satisfied that the Assistant Director, Consolidation, was perfectly justified in holding that each of the two petitioners along with respondent 5 had an equal (one-third share) share in the land which was purchased in the joint names of all the three of them. The registered sale deed under which the land was purchased revealed that the two petitioners and the fifth respondent had purchased this land in their joint names. Of course their respective shares are not specified in the sale deed. But then inasmuch as the purchase has been effected jointly by the three, the only reasonable inference is that each of them had an equal share. The Assistant Director holding that each of the petitioners and the fifth respondent had an equal one-third share in the land, and has substituted in its place the finding that the two petitioners jointly had half share whereas the fifth respondent (original plaintiff) had half share in the land. This view was taken in the light of the fact that before partition there were two branches of two brothers and petitioners were the descendants of one branch whereas respondent 5 was the descendant of the second branch. It appears that the Director has overlooked the basic fact that the purchase was made long after partition between the two branches and the fact that at one time in the past there were two branches was only a historical fact with no significance subsequent to the partition. The land in question was purchased subsequent to the partition and a sale deed was obtained in the joint names of all the three parties and at that point of time they were separate. Under the circumstances, the view taken by the Assistant Director was perfectly valid and the Director, Consolidation, was not justified in allowing the revision preferred by respondent 5 and in interfering with the order of the Assistant Director. The appeal is therefore allowed. The order passed by the Director, Consolidation, and the order passed by the High Court rejecting the revision application arising therefrom are set aside. The order passed by the Assistant Director, Consolidation, on February 16, 1985 holding that each of the two petitioners and the fifth respondent (original plaintiff) had an equal one-third share in the land in question is restored. The appeal is allowed accordingly. There will be no order as to costs.

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