

Kokia and ors. Vs. Dindayal Munda

Kokia and ors. Vs. Dindayal Munda

SooperKanoon Citation : sooperkanoon.com/517721

Court : Jharkhand

Decided On : Mar-24-2009

Reported in : [2009(2)JCR423(Jhr)]

Judge : R.K. Merathia, J.

Appellant : Kokia and ors.

Respondent : Dindayal Munda

Advocate for Pet/Ap. : Mr. Alok Lal

Disposition : Appeal dismissed

Judgement :

ORDER

R.K. Merathia, J.

1. Heard.

2. This appeal has been filed against the judgment and decree dated 23.6.2004, passed by learned District Judge, Sahibganj in Title Appeal No. 9 of 2000, affirming the judgment and decree dated 28.4.2000, passed by learned Subordinate Judge-I. Sahibganj in Title Suit No. 26 of 1988.

3. Mr. Alok Lal, appearing for the appellants, challenged the impugned judgments on various grounds.
4. The plaintiffs-appellants filed this suit for declaration of their right, title and ownership over the suit lands of Girdhari and for a declaration that under the tribal law the issueless widow had only the right of maintenance.
5. The trial Court dismissed the suit, after considering the evidences on records.
6. The appellants filed by said appeal. After considering the respective cases of the parties and the evidences on record, the appellate Court affirmed the findings of the trial Court. It was held, inter alia by the Courts below that in the judgment passed in earlier suit being Title Suit No. 7/1971 between the same parties for cancellation of adoption of the defendant by Sukri, it was held that the parties to the suit i.e. ancestors of the plaintiffs and the defendant were governed by the Hindu Law and not by Customary Law of Santhal. The said findings became final between the parties. It was also contended on behalf of the appellants that even if the parties were Hindu, Kari being daughter of Girdhari inherited the property of Girdhari and Sukri. the widow of pre-deceased son of Girdhari had only right to lifetime maintenance. The learned Courts below inter alia held that Kari filed a suit for declaration of title and recovery of possession against Sukri, which was dismissed and that even from the year 1945, Kari was out of possession of the suit property. Kari filed Title suit No. 10 of 1997 against Sukri, again for declaration of title and recovery of possession. The said suit was also dismissed. It was found that the Court of competent jurisdiction finally decided that Kari did not acquire any title in suit property and was out of possession from 1945. In Title Suit No. 5 of 1995 also, the S.D.O., Rajmahal held that Kari did not acquire title and was not in the possession of the suit property. Thus, it was held on the basis of the oral and documentary evidences brought on the record that the Civil Court having competent jurisdiction repeatedly decided that Kari did not acquire any title in the suit property and she was out of possession from 1945.
7. No grounds have been made out for interfering with the said concurrent findings of facts correctly recorded by both the Courts below. In my opinion, no substantial question of law is involved in this second appeal, which is accordingly dismissed.

However, no costs.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com