

Kulak Chandra Das and ors. Vs. Kula Chandra Das and ors.

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Court : Kolkata

Decided On : Mar-23-1918

Reported in : 46Ind.Cas.269

Judge : Charles Chitty and ;Smither, JJ.

Appellant : Kulak Chandra Das and ors.

Respondent : Kula Chandra Das and ors.

Judgement :

1. The only question arising in this appeal is whether Sunaka, who sold the land in dispute by two sales in 1303 and 1306, had legal necessity for so doing. We are not prepared to accept the law as laid down by the learned District Judge. If his words be taken literally, they lead to the conclusion that a Hindu widow may sell where she has made no attempt; to arrange for the cultivation of the land in her possession; in other words, that she may squander away the property left to her. But on the findings of the learned District Judge, with regard to the circumstances of this woman, there can be no doubt that there was legal necessity for her selling. The only sala which is really now in dispute is the first sale in 1303 of one-fourth of a keyar out of about three and a quarter keyars. It is found that she was left a widow in 1299 with two young children. There were some cattle which had to be sold off for the performance of her husband's sradh. The girl appears to have been married in 1304 or 1305. The jote land had to be surrendered in consequence of the difficulty of getting Bargadars and she had no one to cultivate or assist her in

cultivating the land which was left. It was suggested by the learned Pleader for the appellant that she might have borrowed and not sold. But to borrow at even twelve per cent, interest on the whole property would be far more ruinous than to sell a very small portion, as she did in 1303. We are not prepared to say that a widow is bound to incur debts for her maintenance or that she cannot alienate land until she has incurred such debts. It may obviously be more to the benefit of the estate to sell a small portion to defray maintenance expenses, which will be subsequently incurred. We accordingly dismiss the appeal with costs.

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