

In Re: Tilak Chand Koyal

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SooperKanoon Citation : sooperkanoon.com/872994

Court : Kolkata

Decided On : Aug-12-1941

Reported in : AIR1942Cal342a

Appellant : In Re: Tilak Chand Koyal

Judgement :

ORDER

Panckridge, J.

1. In my opinion, it cannot be said that there was any consideration for the transfer in the present case. Therefore, the deed of 13th July 1938, prima facie falls within the scope of Section 55, Presidency Towns Insolvency Act. At the same time, I think it follows from the decision of the Privy Council in Satyanarin v. Behari Lal that the section, does not apply to property over which an insolvent in his capacity as karta or trustee has a disposing power, at any rate with regard to the shares of other persons interested in it. In these circumstances I think that all that the Official Assignee is entitled to is a declaration that the deed is void in so far as it purports to affect the share of the insolvent in the property transferred by the deed. I do not think that he is entitled to an immediate order for possession, and he must, if he sees fit, assert his right against the trustees and the other beneficiaries under the deed in other proceedings. The Official Assignee will get his costs out of the estate, certified for counsel. No other order as to costs.

