

Hari Mohan Pal and anr. Vs. Kailash Chndra Dhur and

Hari Mohan Pal and anr. Vs. Kailash Chndra Dhur and

SooperKanoon Citation : sooperkanoon.com/880456

Court : Kolkata

Decided On : Jan-04-1917

Reported in : 37Ind.Cas.983

Judge : N.R. Chatterjea and ;Newbould, JJ.

Appellant : Hari Mohan Pal and anr.

Respondent : Kailash Chndra Dhur and ;sheikh ImamuddIn and ors.

Judgement :

1. The plaintiff-respondent appears to have purchased the lands in dispute, which form part of a revenue-paying estate, from the proprietors of the estate. The estate was sold for arrears of revenue. The right, therefore, that the plaintiff had in the lands under his purchase was extinguished by the sale. The learned Subordinate Judge was in error in holding that the plaintiff had some right even after the sale. It is true that the defendant, who represents the purchaser at the revenue sale, in certain cess-return admitted that the plaintiff had a howla tenure. But a mere admission cannot create a title. The admission would have been binding upon the defendant had the plaintiff really any howla tenure. But it is not alleged, nor is there any evidence to show, that the plaintiff had any right in the lands, apart from the right which was purchased by him from the proprietors under the kobala of 9th Assin 1275. That right, as we have said, passed by the revenue sale, and that being so we think that the plaintiff's suit must fail.

2. The judgment and decree of the lower Appellate Court are accordingly set aside and those of the Court of first instance restored with costs in this Court and in the Court of first appeal.

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