

Kokla Vs. Piari Lal and anr.

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Court : Allahabad

Decided On : Jul-11-1913

Reported in : (1913)ILR35All502

Judge : Henry Richards, Kt. C.J. and ;Pramada Charan Banerji, J.

Appellant : Kokla

Respondent : Piari Lal and anr.

Judgement :

Henry Richards, Kt. C.J. and Pramada Charan Banerji, J.

1. The facts out of which this appeal arises are fully set forth in the judgment of the learned Judge of this Court which is reported in 11 A.L.J.R., 157. To put them very shortly, the dispute is about a moiety of the property which at one time belonged to Mohan Singh. Mohan Singh died in 1903, leaving a brother, Ram Prasad Singh, and a widow, Musammat Kokla, the plaintiff in the present suit. They were disputing about the estate of Mohan Singh. Ram Prasad Singh alleged that he was joint with Mohan Singh, whilst Musammat Kokla said that Mohan Singh was separate. The dispute ended by the parties agreeing that half the property should be recorded as belonging to Musammat Kokla, whilst the other half should be recorded as belonging to Ram Prasad Singh. Later on, Ram Prasad sold the half share that stood in his name, whilst Musammat Kokla sold the half that stood in her name. She then brought the present suit to recover the half that had stood in Ram Prasad's name and had been sold by him. The lower appellate court has found that Mohan Singh and Ram Prasad Singh were separate, but it has also found that it was not established that any fraud or misrepresentation had been practised on Musammat Kokla and accordingly decreed her suit.

2. The learned Judge of this Court held that under the circumstances the petition filed in mutation proceedings must be regarded as a family settlement and it did not require registration, and on these grounds dismissed the plaintiff's suit.

3. In our opinion, it must be presumed from the whole proceedings commencing with the petition for mutation, the order of the revenue authorities recording the names in accordance with the petition, and the subsequent sales upon the strength of this record, that the parties entered into a family arrangement. On these grounds we think the decree of the learned Judge of this Court ought to stand. We, therefore, dismiss the appeal with costs.