

Supreme Court of India

Tile Devi And Ors. vs State Of Bihar And Ors. on 25 January, 1988

Equivalent citations: JT 1988 (1) SC 347, 1988 Supp (1) SCC 574

Author: M Thakkar

Bench: M Thakkar, N Ojha

ORDER M.P. Thakkar, J.

1. Special leave granted. Heard both the sides.

2. Having perused the relevant records we are satisfied that the Assistant Director, Consolidation, was perfectly justified in holding that each of the two petitioners along with respondent No. 5 had an equal (one-third share) share in the land which was purchased in the joint names of all the three of them. The registered sale deed under which the land was purchased revealed that the two petitioners and the fifth respondent had purchased this land in their joint names. Of course their respective shares are not specified in the sale deed. But then i(sic)h as the purchase has been effected jointly by the three, the only reasonable inference is that each of them had an equal share. The Assistant Director was, therefore, absolutely right in taking this view and in concluding according by his order dated 16-2-1985. The Director, Consolidation, has set aside the order of the Assistant Director holding that each of the petitioners and the fifth respondent had an equal 1/3 share in the land, and has substituted in its place the finding that the two petitioners jointly had share whereas the fifth respondent (original plaintiff) had share in the land. This view as taken in the light of the fact that before partition there were two branches of two brothers and petitioners were the descendent of the second branch. It appears that the Director has overlooked the basic fact that the purchase and the fact that at one time in the past there were two branches was only a historical fact with no significance subsequent to the partition. The land in question was purchased subsequent to the partition and a sale deed was obtained in the joint names of all the three parties and at that point of time they were separate. Under the circumstances, the view taken by the Assistant Director was perfectly valid and the Director, Consolidation, was not justified in allowing the revision preferred by respondent No. 5 and in interfering with the order of the Assistant Director. The appeal is therefore allowed. The order passed by the Director, Consolidation, and the order passed by the High Court rejecting the revision application arising there from are set aside. The order passed by the Assistant Director, Consolidation, on February 16, 1985 holding that each of the two petitioners and the fifth respondent (original plaintiff) had an equal 1/3 share in the land in question is restored. The appeal is allowed accordingly. There will be no order as to costs.