

(1937) 07 CAL CK 0034
In the Calcutta High Court

Kumar Chandra Singh Dudharia and Another	APPELLANT
Vs	
Sarat Chandra Goswami and Others	RESPONDENT

Date of Decision : 07-07-1937

Acts Referred:

Transfer of Property Act, 1882 — Section 2(c)

Citation : AIR 1938 Cal 128

Judgement

1. The only point for determination in these appeals is whether the four tenures which were acquired by the heirs of Thakurdaa Goswami between the years 1903 and 1921 merged in the Patni and Zamindari right which they had before the acquisition of these tenures. The finding in these cases is that the four tenures in question were created before the Transfer of Property Act was passed. There was therefore no liability of these tenures to be merged in the superior right under the common law of this country before the Transfer of Property Act was passed. By Section 2. Clause (c) of the Act, the provisions contained there in the Act do not affect any right or liability arising out of the legal relation constituted before the Act came into force, or any relief in respect of any such right or liability. Section 111 Clause (d) of the Act therefore cannot apply to these tenures. Again the finding in these cases is that after the purchase of these four tenures the intention of the heirs of Thakurdas Goswami was to keep them alive.

2. Under these circumstances we are of opinion that our learned brother Mitter J. has rightly come to the conclusion that there had been no merger. The appeals are therefore dismissed with one set of costs which we assess at three gold mohurs.