
(1916) 07 AHC CK 0048
In the Allahabad High Court

Mathura Kuer

APPELLANT

Vs

Dharam Samaj

RESPONDENT

Date of Decision : 15-07-1916

Acts Referred:

Citation : AIR 1917 All 94 : 38 Ind. Cas. 183

Hon'ble Judges : Henry Richards, C.J;Rafique, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. This appeal arises out of a suit for possession of certain Immovable property consisting of grove land and some houses. It appears that the brothers named Madho Ram and Kirpa Ram executed a deed in the year 1908, which purported to convey this property to the "Dharam Samaj." In the year 1909, Madho Ram having died Kirpa Ram, after reciting that he had been unduly influenced in executing the previous deed, assigned the property to the defendant who was a member of his family: Both the Courts below have granted the plaintiff, that is the "Dharam Samaj," a decree. The origin of the "Dharam Samaj" is that a gentleman of the name of Badri Prasad some years ago dedicated certain property for the purpose of spreading education in Sanskrit. He called the endowment the Dharam Samaj." The "Dharam Samaj" had no more definite existence until recently a number of persons got themselves registered under Act XXI of 1860. At the time of the deed of transfer in 1908 there was no such registered body. The question which we are called upon to decide in the present case is whether or not the deed of 1908 could operate to transfer the property, so that upon the incorporation by registration which has since taken place, it vests in the registered society called "Dharam Samaj." In our opinion, it clearly does not. There was no person or body who were capable of having the property transferred by the deed of 1908, the deed purported merely to transfer the property to the "Dharam Samaj". The result is that there was no valid transfer of the property prior to the transfer which was made in the year 1909 to the

defendant. It follows that this last mentioned deed operated to transfer to the defendant the property, and the plaintiff, the "Dharam Samaj," has no title to maintain the present suit for possession. We accordingly allow the appeal, set aside the decrees of both the Courts below and dismiss the plaintiff's suit with costs in all Courts.