

(1929) 08 PAT CK 0013
In the Patna High Court

Naika Uraon

APPELLANT

Vs

Butna Uraon and Others

RESPONDENT

Date of Decision : 05-08-1929

Acts Referred:

Citation : AIR 1930 Patna 278

Hon'ble Judges : Rowland, J;Das, J

Bench : Full Bench

Judgement

Rowland, J.—The only question for decision in this appeal is whether there is an error of law in the finding of the lower appellate Court that Mahadeva, the father of the appellant, was not "ghardamad" of Mt. Nandia. The suit was brought to establish title to both bhinhari and rajahs lands, the plaintiff claiming that his father had got them as a "ghardamad". As regards the bhinhari land the findings of both the lower courts being adverse, no second appeal, has been filed in this Court. It was probably recognized that to do so was hope less, the law being clear that title in bhinhari land does not pass through at female line and is not acquired by a "ghardamad." The appeal therefore relates only to the rajahs land.

2. It is contended for the appellant that the lower appellate Court hag actually found all the elements of fact which are necessary to constitute the status of a "ghardamad". It has been found that Mt. Nandia had no son; it has been found that Mahadeva rasided at Nandia"s house and it has been found that he was the husband of Nandia"s daughter Mt. Champa. Those are not, in my opinion, all the elements required to constitute the status of "ghardamad".

3. There are two points which to my mind are the most important of any to which regard is to be had in determining whether the legal position of a "ghardamad "has been acquired; one, there must be the definite intention on the part of the parties that that status should be acquired, and another is that the person adopted as a "ghardamad" should in the same way as a Hindu, who is adopted as a son, definitely forego his title to succeed to any property of his natural father. The learned lower appellate Court has not found either of these

points in favour of the appellant. He has definitely held that there was no adoption of Mahadeva as "ghardamad" and it appears from the facts as stated in the judgments that Mahadeva did retain the raiyati land which came to him from his natural father.

4. In the result the appeal fails and is dismissed with costs.

Das, J.

I agree.