

ITEM NO.58

COURT NO.4

SECTION XVI

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

PETITION(S) FOR SPECIAL LEAVE TO APPEAL (C) NO(S). 16761/2016
(ARISING OUT OF IMPUGNED FINAL JUDGMENT AND ORDER DATED 15/12/2015
IN MA NO. 172/2012 PASSED BY THE HIGH COURT OF PATNA)

SRI KRISHNA DEVI & ANR.

PETITIONER(S)

VERSUS

KEWALA DEVI & ANR.

RESPONDENT(S)

(WITH INTERIM RELIEF AND OFFICE REPORT)

Date : 13/01/2017 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE RANJAN GOGOI
HON'BLE MR. JUSTICE ASHOK BHUSHAN

For Petitioner(s)

Mr. Anukul Raj, Adv.
Mrs. Nikita Raj, Adv.
Mr. Kumar Dushyant Singh, Adv.

For Respondent(s)

Dr. J. P. Dhanda, Adv.
Ms. Raj Rani Dhanda, Adv.
Mr. Vineet Dhanda, Adv.
Mr. N.A. Usmani, Adv.
Mr. Mohd. Shahid Hussain, Adv.

UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

The appeal is allowed in terms of the signed order.

[VINOD LAKHINA]
COURT MASTER

[ASHA SONI]
COURT MASTER

[SIGNED ORDER IS PLACED ON THE FILE]

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.409 OF 2017

[Arising out of Special Leave Petition
(Civil) No.16761/2016]

SRI KRISHNA DEVI & ANR. . . . APPELLANTS

VERSUS

KEWALA DEVI & ANR. . . . RESPONDENTS

ORDER

1. Leave granted.
2. We have heard the learned counsels for the parties.
3. The Will executed and duly registered in favour of the appellant No.1 was probated by the learned trial Court. The said order has been reversed in appeal by the High Court. The learned trial Court while granting probate made it very clear that the question of title to the property is not being decided and the same is left

open for being agitated by any aggrieved party in a suit which may be filed. So far as the Will itself is concerned, the learned trial Court came to the finding that the execution of the Will was duly proved by trainee scribe Ram Shrinagar Singh (AW3), scribe Ramashis Mahto (AW4) and Gorkha Baitha (AW2), the attesting witness. The Will was a registered document. The testator had put his thumb impression on each page of the Will which has been proved by the expert. The mental condition of the testator was also found by the learned trial Court to be fit and proper enabling him to take a conscious decision with regard to disposition of the property. The High Court has reversed the aforesaid findings primarily on the ground that the testator was 100 years' old and there were suspicious circumstances surrounding the will.

4. Having considered the matter, we are of the view that the learned trial Court having given adequate reasons, the High Court, in appeal, ought not to have reversed the findings reached and recorded by the learned trial Court. There seems to be no adequate justification for doing so. We, therefore, allow the appeal and set aside the order of the High Court.

.....,J.
(RANJAN GOGOI)

.....,J.
(ASHOK BHUSHAN)

NEW DELHI
JANUARY 13, 2017