

(1868) 08 CAL CK 0017

Calcutta High Court

Case No: Special Appeal No. 750 of 1868

Lala Chatranarayan

APPELLANT

Vs

Uba Kunwari

RESPONDENT

Date of Decision: Aug. 26, 1868

Final Decision: Dismissed

Judgement

Loch, J.

It has been urged that even if there was a legal necessity for the sale of this property for payment of the ancestral debt, yet as there were other heirs who held portions of the ancestral property, the defendant should have only sold so much as covered her portion of the debt, and should not have sold the whole which was in her possession. The debt was one for which the whole of the ancestral property was liable to be sold, and if there was any necessity to sell, we do not see that she has done wrong in selling her share, in order to pay off that debt. It has been pointed out to us, that the defendant sold the property for the sum of Rupees 995, and that the ancestral debt amounted to Rupees 670, consequently it is contended there was no necessity for selling the whole, and the sale is consequently invalid.

2. We do not think that there is any force in the argument. The mere fact of the property being sold for a higher price than the amount of the debt to liquidate which it was sold, is not a reason for considering the sale invalid, when the purpose for which the sale is made, namely, the payment of the ancestral debt, is quite legal. Under this view of the case, we see no reason for interfering with the order of the lower Court, and we dismiss the special appeal with costs.