(1868) 07 CAL CK 0028

Calcutta High Court

Case No: None

Abdul Jabel	APPELLANT
Vs	
Khelatchandra Ghose	RESPONDENT

Date of Decision: July 15, 1868

Final Decision: Dismissed

Judgement

Loch, J.
We think that Section 14 of Act XXIII of 1861 and Act I of 1841 are not applicable to permanently settled estates in Sylhet, and that unless those Acts have been extended, they are not applicable to the estates in any district of Bengal. We think that the Judge was right in rejecting the plea of the special appellant, that he had a right of pre-emption under Act I of 1841, and u/s 14 of Act XXIII of 1861, as contended for in the first ground. On the second ground taken by the special appellant, that he is entitled, as a co-sharer, under the general law of pre-emption, to have the property sold to him, we think that when property is sold by public auction, at a sale in execution of decree, and the neighbour or partner has an opportunity to bid for the property as other parties present in Court, the law of pre-emption cannot apply to such sales. We dismiss the appeal with costs.

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[1]Co-sharer of a share of a Puttidari Estate sold in the execution of decree may claim to take the share at (sic) price.

[Sec. 14:ï¿½When the land sold in execution of a decree is a share of a Puttidari Estate paying Revenue to Government as defined in Section II, Act I of 1841 (for facilitating the collection of the Revenue of Government and defining the interest intended to be conveyed by public sales for the realization of arrears of the Public Revenue in Puttidari Estates), if the lot shall have been knocked down to a stranger, any co-sharer, other than the judgment-debtor or any other member of the coparcenary, may claim to take the share sold at the sum at which the lot was knocked down. Provided that the claim he made on the day of sale, and that the claimant fulfil all the conditions of the sale.]