

IN THE HIGH COURT OF ORISSA AT CUTTACK

R.S.A. NO. 247 OF 2023

Sk. Safiruddin Ahemad & Others ***Appellants***
Mr.B. Bhuyan, Advocate

-versus-

Rasulan Bibi & Others ***Respondents***

CORAM:
MR. JUSTICE D.DASH

ORDER
11.10.2023

Order No.
03.

1. This matter is taken up through hybrid arrangement (virtual/physical) mode.

2. Heard learned Counsel for the Appellants and on going through the judgments passed by the Courts below, the Appeal is admitted to answer the following substantial questions of law:-

1) Whether the Courts below in rendering the finding that the transaction under Ext.E/4 of the year 1949 was a Benami one wherein Budhia Bibi, the vendee was merely a name-lender whereas the actual owner was Sk. Abdul Hakim, who had purchased it Benami in the name of Budhia are the outcome of perverse appreciation of evidence without keeping in mind for a moment that the nature of a transaction has been called in question after lapse of six decade?

2) Whether the Courts below while passing the preliminary decree for partition in respect of the property in suit having not excluded the property covered under the deed of gift, Ext.K/4 and sale-deed, Ext.E/4 and that too even

without taking into account to pleadings and evidence in support of the same have committed grave error?

3. Issue notice to the Respondents by Registered Post with AD. Steps be taken within a week hence. In that event, notice be issued fixing a short returnable date.

4. The Appeal be listed in the week commencing 18th December, 2023.

**(D. Dash),
Judge.**

Narayan

