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section 92, the case might have been different, for it is not disputed that he would then have been "the Principal Civil Court" under section 92 of the Civil Procedure Code, though he would be a Subordinate Court under section 24. Had the District Judge assigned to Mr. James the function of a District Judge in respect of section 92, then also all might have been well. But, as it is, Mr. James had no jurisdiction to deal with cases under section 92 at the time the order was made, and Mr. Roe effected nothing by his order of transfer.

The Rule is, therefore, made absolute and the order of transfer is set aside. We make no order as to costs.

S.M.

Rule absolute.

APPELLATE CIVIL.

Before Imam and Chapman, JJ.

KULA CHANDRA CHAKRAVARTI

v.

BAMA SUNDARI DASEE.*

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 Feb. 16.

Hindu Law—Stridhan—Widow's estate—Alienation—Property acquired by Hindu widow with accumulations of income of husband's estate.

Property acquired by a Hindu widow, with accumulations of the income of her husband's estate, does not constitute her *stridhan* but forms part of the *corpus* of the estate and as such is inalienable except for purposes that would justify alienation of the original estate.

Bhagbutti Deyi v. Bholanath Thakoor (1) and *Isri Dutt Koer v. Hansbutti Koerain* (2) referred to.

APPEAL by Kula Chandra Chakravarti, the plaintiff.

* Appeal from Original Decree, No. 225 of 1911, against the decree of Sarat Kishore Bose, Subordinate Judge of Pabna, dated Feb. 24, 1911.

(1) (1875) I. L. R. 1 Calc. 104

(2) (1883) I. L. R. 10 Calc. 324;

L. R. 2 I. A. 256

L. R. 10 I. A. 150.

This appeal arose out of a suit to declare that certain transfers made by defendant No. 1 could not enure beyond her life. The suit was dismissed by the Subordinate Judge of Pabna and hence this appeal.

It appears that one Bisseswar Das Baksi died in 1286 leaving a will dated the 8th of August [Assin?] 1282. On his death his widow, Ramdhani Dasee, obtained letters of administration and remained in possession of his estate till her death in Chait 1303. She seems, at the time of her death, to have been in possession of two kinds of properties, viz., those that were left by her husband and those that were her *stridhan*. On the 18th of Sravan 1303, she executed a will whereby she constituted, after her death, all the properties into *debuttar* in favour of her husband's family deity, Begraha Sridhar Thakur, and appointed her foster daughter Bama Sundari, defendant No. I, the *shebait* for her life, and the plaintiff and his heirs the reversionary *shebait*s after Bama Sundari. On the death of Ramdhani, probate of her will was obtained by Bama Sundari and she took possession of the property as *shebait*. Subsequently, however, she took out letters of administration, with a copy of the will, of the property and credits of her deceased foster father, Bisseswar Das Baksi, and made certain alienations of some of the properties in favour of the defendants 2 to 5. It is in respect of these alienations that the plaintiff seeks the declaration prayed for in his plaint.

The defendants, among other defences, contended that the plaintiff had no right to maintain the suit and that there was no cause of action. On appeal the dispute between the parties was narrowed down to the consideration of two points only, viz, (i) whether any of the properties forming the subject of the suit was the *stridhan* of Ramdhani; and (ii) whether the plaintiff has any right to maintain the suit.

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Babu Mohini Mohan Chakravarti, Babu Jadu Nath Mandal and Babu Abinash Chandra Chakravarti, for the appellant.

Mr. K. Ahmad, Babu Mohini Mohan Chatterjee, Babu Peary Mohan Sikdar and Babu Probodh Kumar Dutt, for the respondent.

Cur. adv. vult.

IMAM AND CHAPMAN, JJ. This appeal arises out of a suit to declare that certain transfers made by defendant No. 1 cannot enure beyond her life. The suit having been dismissed the plaintiff has appealed.

The appellant's case may be shortly stated here. One Bisseswar Das Baksi died in 1286 leaving a will dated the 8th Assin, 1282. On his death his widow, Ramdhani Dasee obtained letters of administration and remained in possession of his estate till her death in Chait, 1303. At the time of her death she was in possession of two classes of properties, viz., those that were left by her husband and those that were her *stridhan*. The properties of the former class are set out in schedules *ka* and *kha* while those of the latter in schedule *ga* of the plaint. On 18th Sravan, 1303, she executed a will whereby she constituted, after her death, all the properties of the three schedules into *debuttar* in favour of her deceased husband's family deity, Begraha Sridhar Thakoor, and appointed her foster daughter Bama Sundari Dasee, defendant No. 1, the *shebait* for her life and the plaintiff and his heirs the reversionary *shebait*s after Bama Sundari. On the death of Ramdhani, probate of her will was obtained by Bama Sundari and she took possession of the properties as *shebait*. Subsequently, however, she took out letters of administration, with a copy of the will, of the property and credits of her deceased foster

father, Bisseswar Das Baksi, and made certain alienations of some of the properties in favour of the defendants 2 to 5. It is in respect of these alienations that the plaintiff seeks the declaration prayed for in his plaint.

The defendants pleaded several defences, the principal among which may be stated to be that the plaintiff had no right to maintain the suit and that there was no cause of action. The pleadings of the parties raised many issues in the lower Court but in appeal the dispute between them has narrowed down to the consideration of two points only, *vis.*, (i) whether any of the properties forming the subject of this suit was the *stridhan* of Ramdhani Dasee ; and (ii) whether the plaintiff had any right to maintain the suit.

For the appellant it has been contended that Bisseswar Das Baksi by his will bequeathed to Ramdhani Dasee an absolute right in his estate but, reading the whole will, no doubt is left in our mind that under it she had merely a restricted interest, the interest not amounting to anything more than a widow's estate.

The *stridhan* properties mentioned in schedule *ga* are said to have been derived from two sources, first by gift from her husband, and, second, by her own purchases. The alleged gift is not supported by any deed though the plaintiff in his deposition stated that the gift was by a registered deed. Neither the original deed nor a certified copy of it has been produced to establish the nature of the gift. Mention of it, however, is made in a Land Registration *Roobkari*, Ex. 30, but the document does not show the character of the gift. It merely implies that Bisseswar Baksi and his brother made some arrangement for the future maintenance of their wives. In subsequent documents to which Ramdhani Dasee was a party, the alleged gift was asserted but considering that the

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statements were admissions of Ramdhani or her vendors no value can be attached to them.

As regards the purchases, the appellant's case in the lower Court was that their consideration was paid by Ramdhani out of a sum of money that she had realized about 7 years before from the sale of a certain property belonging to her. Its obvious improbability and the insufficiency of evidence to establish such a case have led to its abandonment in this Court, but the learned vakil for the appellant has urged that accepting that the consideration for the purchases was paid out of the profits of the husband's estate, she yet would be entitled to such acquisition as her *stridhan*. It is now a well-settled rule of Hindu Law that property acquired by a Hindu widow with the accumulations of the income of her husband's estate does not constitute her *stridhan* but forms part of the *corpus* of the estate. In the present case the distinction between accumulations and current income has been pointed out, and for the appellant it has been maintained that the purchases were with the current income only. This contention, however, is not supported by any evidence and we are left to conjecture that it was so. In the case of *Bhagbutti Deyi v. Bholanath Thakoor* (1), their Lordships of the Privy Council enunciated the rule of Hindu Law in these terms: "If she took the estate only of a Hindu widow, one consequence, no doubt, would be that she would be unable to alienate the profits, or that at all events, whatever she purchased out of them would be an increment to her husband's estate." In the later case of *Isri Dutt Koer v. Hansbutti* (2), after reviewing the decided cases on the subject, their Lordships came to the conclusion that "a widow's savings from the income of her

(1) (1875) I. L. R. 1 Cal., 104 :
L. R. 2 I.A. 256,

(2) (1883) I. L. R., 10 Cal. 324 :
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husband's estate are not her *stridhan*; and if she made no attempt to dispose of them in her life-time, there could be no doubt that they follow the estate from which they arose." As in the case just referred to so in this, the property in question consists of shares in land in which the husband was a share-holder. The object of the disposition by will was not the need or the personal benefit of Ramdhani but a desire to give the property to the appellant who, though a stranger to the family, exercised appreciable influence on her. She does not appear to have made any distinction between the original estate and the after-purchases. In the circumstances, we hold that the after-purchases were accretions to the husband's estate and therefore inalienable by the widow except for purposes that would justify alienation or disposition of the original estate.

As regards the plaintiff's right to maintain the suit, it has been candidly admitted before us that if Bissessarwar Das Baksi's will is interpreted to confer on Ramdhani only a widow's estate and if none of the properties in suit is held to have been her *stridhan*, the appellant's case must fail for want of cause of action.

In the view we have already expressed, this appeal therefore must be and is dismissed with costs.

S. K. B.

Appeal dismissed.

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