

## APPELLATE CIVIL.

*Before Sir W. Morgan, C.J. and Mr. Justice Innes.*

MURUGAYI (PLAINTIFF) SPECIAL APPELLANT, *v.*  
 VIRAMAKALI AND ANOTHER (DEFENDANTS) SPECIAL RESPONDENTS (1).

*Hindu law—Maraver caste—Widow, re-marriage of.*

1877.  
 January 19  
 & 26.

The Court applying the principles of the Hindu law held that a widow of the Maraver caste who has re-married, has no claim to the property of her first husband.

PLAINTIFF brought this suit as junior surviving widow against defendant, a daughter of her late husband by another wife, to recover certain lands which were the property of her late husband, on the ground that she, the plaintiff, was heiress in preference to the defendant.

The defendant admitted being in possession of the property sued for, and urged that she was in possession as daughter and heiress, the plaintiff having re-married.

The District Munsif decreed in favor of the plaintiff on "the grounds that " a Hindu dying and leaving a widow, and a daughter by a former marriage, the widow takes the estate," (2) and that she did not forfeit it by her re-marriage. The defendant appealed on the ground that plaintiff, by her re-marriage, forfeited her right to her first husband's property.

The Subordinate Judge in his judgment said,— "The plaintiff admits that she married a second husband. The moment she is re-married, her widowhood and connection with her first husband's family cease, and consequently she has no right to take, or keep, any of her first husband's property after her second marriage; property which she was entitled to hold, during her widowhood only, as a trustee for the heir or heirs of her sonless first husband: and, taking for granted that the property in dispute vested in her on the death of her first husband, her right to it ceased the moment she was married to a second husband, and she is regarded to all intents and purposes as totally dead to the

(1) Special Appeal No. 832 of 1876, against the decree of S. Narasimhulu Naidu, Subordinate Judge of Madura, dated 29th August 1876, reversing the decree of S. Kristnasami A'yyar, District Munsif of Shivaganga, dated 23rd February 1875.

(2) *Gunga v. Jeejee*, 1 Borr. 384.

family of her first husband, and the property at once passes to the next heir in succession. In the present case the property in dispute must be considered to have vested in the first defendant on the re-marriage of the plaintiff (See Strange's *Manual of Hindu Law*, Ed. 1856, p. 10, Sec. 39)." He accordingly, in reversal of the decree of the District Munsif, dismissed the suit with costs.

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The plaintiff preferred a special appeal on the ground that her re-marriage did not disentitle her to succeed to her first husband's estate.

Mr. *Handley* for the appellant, contended that the appellant's re-marriage did not disentitle her to retain the estate of her first husband, which had vested in her prior to her re-marriage. It has been decided by the High Court of Bengal (1) that unchastity is no bar to a Hindu widow's enjoyment of her deceased husband's estate, if the property had already vested in her. If then unchastity be no bar, *a fortiori* re-marriage, which is recognized in the Sudra Caste, will not disqualify. It should also be remembered that the parties in this case are Maravers, who are not, in strictness, bound by the rules of Hindu Law (2). He also referred to the judgment in the case of *Ráhi and others v. Govind Valad Tejá* (3).

There was no appearance for the respondents.

The Court delivered the following

JUDGMENT:—Although it has often been doubted whether people of the class of these contending parties are strictly speaking Hindus, there can be no question that in their customs and observances they are mainly governed by the Hindu Law. Among them widows may re-marry, and in this respect their customs differ from those of the Hindu Law as understood to be binding upon the higher castes in the present day. Their law of inheritance of property, and of the right of the widow of a man who has left no male issue to a life-interest in it is the Hindu Law, and it must be assumed that they are in such matters guided by the principles of that law, however much it may be relaxed in refer-

January 26.

(1) *Abhiram Doss v. Sroeram Doss*, 3 Ben. L. R. A. C. 421: 12 W. R. 336.

(2) See the Judgment of Holloway, J., in *Káthama Náichár v. Dorasinga Tévar*, 6 Mad. H. C. R., at p. 341.

(3) I. L. R. 1 Bom. 97, at p. 114.

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ence to some of their social usages. Now the principle on which a widow takes the life-interest of her deceased husband and when there is no male heir, is that she is a surviving portion of her husband (1); and where the rule as to re-marriage is relaxed and a second marriage permitted, it cannot be supposed that the law which these castes follow would permit of the re-marriage of a widow retaining the property in the absence of all basis for the fiction upon which the right to enjoyment of the property is founded. So far as the enquiries extended which are embodied in Steele's *Hindu Castes* it appears that it is the practice of a wife or widow among the Sudra castes of the Deccan on re-marriage to give up all property to her former husband's relations, if it had been given her by her own parents; and we have little doubt that the law in this Presidency will not permit the widow who has re-married, and who must be regarded as no longer surviving her husband, to lay claim to the property left by him, now in the possession of the daughter, who, in default of the widow, is the right heir. On these grounds we shall dismiss the Special Appeal.

*Appeal dismissed.*

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## APPELLATE CIVIL.

*Before Sir W. Morgan, C.J. and Mr. Justice Holloway.*

1876.  
November 10.  
1877.  
January 24.

VALIA TAMBURATTI (DEFENDANT) SPECIAL APPELLANT, v.  
VIRA RA'YAN (PLAINTIFF) SPECIAL RESPONDENT (2).

*Act IX of 1871, Section 21—Limitation—Bond—Payment of interest.*

Suit to recover the principal sum and one year's interest due on a bond dated the 11th March 1866. By the terms of the bond the rent of certain land was assigned to the lender as security for interest. No date was specified in the bond for the payment of the principal sum. The interest was regularly paid up to October 1871, and the present suit was brought in June 1874.

*Held*, on Special Appeal, by HOLLOWAY, J., that assuming that the period of limitation was three years, and that it had run out both before action brought and before Act IX of 1871 came into operation, Section 21 of that Act operated to save

(1) See *Smriti Chandrika*, Ch. XI, s. 1 §4.

(2) Special Appeal No. 661 of 1876, against the decree of H. Wigram, District Judge of South Malabar, dated 21st January 1876, modifying the decree of T. K. Ramen Nair, District Munsif of Calicut, dated 14th September 1875.