

joint interest, the offender will be liable to punishment under section 353 of the Penal Code.

The order of discharge is set aside and the case must be re-tried.

QUEEN-
EMPRESS
v.
RAMASAMI.

APPELLATE CIVIL.

Before Mr. Justice Parker and Mr. Justice Wilkinson.

NARASANNA (PLAINTIFF), APPELLANT,

v.

GANGU AND ANOTHER (DEPENDANTS NOS. 1 AND 6), RESPONDENTS.*

Hindu law—Deva dasi—Inheritance.

On the death of a prostitute dancing girl her adopted niece, belonging to the same class, succeeds to her property, in whatever way it was acquired, in preference to a brother remaining in caste.

SECOND APPEAL against the decree of L. Moore, Acting District Judge of Cuddapah, in appeal suit No. 73 of 1886, confirming the decree of S. Dorasami Ayyangar, District Munsif of Cuddapah, in original suit No. 484 of 1885.

Suit to recover certain land, alleged by plaintiff to have been the property of his father, which, on his death, passed into the possession of the plaintiff's sisters. Defendant No. 1 was the widow of Konappa, the plaintiff's brother, and defendant No. 6 was her daughter, who claimed title as the adopted daughter and heiress of a dancing girl Pedda Lakshmi, the plaintiff's sister. The plaintiff was divided from the rest of the family and had received, from his father, his share of the family property.

The District Munsif dismissed the suit, and, on appeal, his decree was affirmed by the District Judge.

The plaintiff preferred this appeal.

Rama Rau for appellant.

Sadagopacharyar for respondents.

The further facts of the case and arguments adduced on this second appeal appear sufficiently for the purpose of this report from the judgment.

JUDGMENT:—The Acting District Judge has found that the sisters, Pedda Narasi and Lakshmi, each took one-fourth share in

* Second Appeal No. 652 of 1887.

NARASANNA
v.
GANGU.

the plaintiff property, and, on the ground that the sisters' property must revert to the surviving male member of the family, holds that plaintiff is entitled to recover it. The respondents contend that the case is governed by the peculiar law applicable to dancing women and that plaintiff is no heir.

The two sisters were admittedly dancing women, though their brothers, plaintiff and Konappa, remained in caste. At the division the two sisters were given shares. There is now no dispute that defendant No. 1 is entitled to the share of her late husband Konappa, but the question is as to the devolution of the property of the two sisters. Pedda Narasi died first and her degraded sister Lakshmi was, therefore, her heir. The question then is who succeeds to the property left by Lakshmi.

The contention is practically between her brother the plaintiff and defendant No. 6, her niece, who, though not formally adopted by Pedda Narasi, was introduced by her into the temple and has become a *deva dasi*. The decision of this Court in *Sirasangu v. Minal*(1) would, no doubt, govern the case were it clear that the property had been acquired by the gain of prostitution, but it is urged that the property was in its origin family property, which should, therefore, revert to the surviving male member of the family.

It is impossible for us to say whether this contention is even well founded on fact. Unless part of the property divided in 1863 had been acquired by the sisters in the exercise of their profession, it is not explained how they came to be allotted a share at all. They were certainly not entitled to it under the ordinary rules of Hindu law. However that may be, it appears to us that it is immaterial how the property was originally acquired. It was at the death of Lakshmi, the property of a dancing girl, and the question is who is the nearest heir to the dancing girl. The general rule is that the legal relation between a prostitute dancing girl and her undegraded relations remaining in caste becomes severed, and in this view the defendant No. 6 is the only legal heir to Lakshmi.

Taking this view, we must hold that the plaintiff's claim fails with regard to the whole property. The second appeal is, therefore, dismissed with costs.