APPELLATE CIVIL.

Before Sir Arthur J. H. Collins, Kt., Chief Justice, and Mr. Justice Muttusámi Ayyar.

KRISHNAYYA (PLAINTIFF), APPELLANT,

and

PICHAMMA (DEFENDANT), RESPONDENT.*

1887, Oct. 10, 31.

Hindú Law—Inheritance—Bhandu—Daughter's son's son.

N., the daughter of J., inherited his property under Hindú law. N. had a son, who predeceased her, leaving a son K.:

Held that K., being a bhandu, was entitled to the property of J. on the death of N. in preference to the daughters of N.

APPEAL from the decree of T. Ramasámi Ayyangar, Subordinate Judge of Cocanada, reversing the decree of K. Ramalinga Sastri, District Munsif of Narsapur, in suit No. 659 of 1884.

The facts of this case appear sufficiently, for the purpose of this report, from the judgment of the Court (Collins, C.J., and Muttusámi Ayyár, J.).

Subba Rau for appellant.

Srirangacharyar for respondent.

JUDGMENT.—In this case the house in dispute belonged to one Jogaiya, and, upon his death, it devolved on his daughter, Narasamma. Narasamma had a son, named Krishnaya, but he predeceased her, leaving him surviving a minor son, who is the appellant before us. The respondents are Narasamma's daughters, and, on her death, the appellant claimed the house as Jogaiya's next heir. The respondents alleged a gift to them, but it was found by both courts that there was no gift. Narasamma inherited the house from her father; and, upon her death, his heirs are entitled to succeed. The respondents are his daughter's daughters, and, as such, they are not in the line of his heirs. The appellant is only the son of Jogaiya's daughter's son, and it is conceded that he is not entitled to inherit as a sapinda; but it is contended that he is entitled to succeed at least as a bhandu. This contention appears to us to be well founded. The father's maternal uncle

* Second Appeal No. 1304 of 1886.

KRISHNAYYA v. PICHAMMA.

and his son are the father's cognates, because the father's maternal grandfather is the person to whom they and the father offer funeral oblations, and though they belong to different families they are, on that ground, bhinna gotra sapindas. It follows, then, that the father's maternal grandfather, who is nearer to the father than his maternal uncle, is a bhinna gotra sapinda or bhandu as explained in Mitakshara, ch. II, s. v. 4. We, therefore, set aside the decree of the Subordinate Judge and restore that of the District Múnsif with costs.

APPELLATE CIVIL.

Before Sir Arthur J. H. Collins, Kt., Chief Justice, and Mr. Justice Parker.

1887. Dec. 9, 20.

LAKSHMINARAYANA (DEFENDANT), APPELLANT,

and

DASU (PLAINTIFF), RESPONDENT.*

Hindú Law—Grant by widow for religious benefit of husband.

Where two widows of a zamíndár granted a small portion of the zamíndárí to a brahman who had been brought up by them with a view that he should perform the funeral and annual ceremonies of their deceased husband:

Held, that the grant was not *ultra vires*, and could not be resumed by the zamíndár's successor.

APPEAL from the decree of C. L. B. Cumming, Acting District Judge of Ganjam, confirming the decree of K. Murtirazu, Acting District Múnsif of Berhampore, in suit No. 734 of 1884.

On the 2nd December 1863, two widows of an Uriya zamíndár in Ganjam granted certain land valued at Rs. 140, a portion of the zamíndárí, to the plaintiff on condition of paying a kattubadi or quit-rent of Rs. 1-8-0 to the estate.

The deed recited that plaintiff had performed ceremonies for the late zamíndár, that the land should be enjoyed for ever, and concluded with the following sentence: He who appropriates any gift made by himself or another shall suffer in hell as a worm for 60,000 years.

In 1883, the defendant, who had been adopted by the widows,

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* Second Appeal No. 284 of 1887.