APPELLATE CIVIL.

Before Mr. Justice Muttusámi Ayyar and Mr. Justice Parker.

AMMAKANNU (PLAINTIFF), APPELLANT,

and

APPÚ (DEFENDANT), RESPONDENT.*

1887.
April 21.
August 16.

Hindú Law—Maintenance of son's widow—Self-acquired property.

A Hindú is under no obligation to maintain his adult son or his son's widow out of his self-acquired property. Thus a daughter-in-law can enforce no claim for maintenance against the self-acquired property of her father-in-law which has passed to his grandson, unless the father-in-law showed by conduct or otherwise an unequivocal intention that it should be taken subject to the obligation of providing for his support.

SECOND appeal against the decree of J. Hope, District Judge of South Arcot, in Appeal Suit No. 215 of 1885, reversing the decree of C. Sury Ayyar, District Múnsif of Cuddalore, in Original Suit No. 192 of 1885.

This was a suit brought by a widow against her husband's nephew to recover maintenance out of the self-acquired property of her father-in-law now in the hands of the defendant.

The District Múnsif decreed as prayed, but his decree was reversed on appeal by the District Judge.

The plaintiff preferred this second appeal.

Mahadeva Ayyar for appellant.

Rámá Ráu for respondent.

The further facts of the case and the arguments adduced on this second appeal appear sufficiently for the purpose of this report from the judgment of the Court (Muttusámi Ayyar and Parker, JJ.).

JUDGMENT.—" The appellant, Ammakannu Ammall, is the widow of the undivided brother of Ragava Pillai, the son of one Srinivasa Pillai, and the father of the minor respondent named Appú *alias* Lokanada Pillai. The appellant's husband predeceased his father and the finding is that it was the latter who acquired the property now in the respondent's possession. The appellant's case was that as between her and the respondent the

* Second Appeal No. 784 of 1886.

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property in question was ancestral, that her father-in-law was bound to maintain her, and that she was entitled to a decree for maintenance against the respondent and to have it charged on the property in his hands. The respondent's contention was that his grandfather satisfied the appellant's claim in full during his lifetime and that, at all events, her maintenance was not a charge on the property which is in his possession. It was found that the plea of satisfaction was not proved, but the Judge was of opinion that the claim itself could not be supported under Hindú law. He observed that the property in dispute was acquired by the appellant's father-in-law, that he was under no obligation to provide for her maintenance out of his self-acquired property, and that the respondent's father and the respondent inherited it from him in regular course of succession free of such obligation. It is argued in support of this second appeal that a father-in-law is bound under Hindú law to support his widowed daughter-in-law irrespective of any ancestral or joint property vesting in him on his son's death by survivorship, and that for the purposes of the present suit the property which the respondent and his father inherited from his grandfather ought to be treated as ancestral.

"As to the first contention, we åre inclined to agree with the Judge that, according to Hindú law, a father is under no legal obligation to maintain his adult son or the son's widow out of his self-acquired property. It is stated by the author of Smriti Chandriká (Krishnasawmi Iyer's translation, ch. XI, s. I., § 34) that the duty of maintaining a coparcener's widow, whether the survivor is a father or a brother, is dependant on his taking by survivorship coparcenary property. Again, "where there is no property but what has been self-acquired," says the Mitákshará, "the only parties whose maintenance out of such property is imperative are aged parents, wife and minor children" (see Mitákshará on Subtraction of Gift). The decisions in support of this view are collected in Mr. Mayne's learned Treatise on Hindú Law, §§ 375 and 376. The first contention cannot therefore be supported.

"With reference however to the second contention, it must be borne in mind that the suit which is the subject of this second appeal was brought not by the son's widow against her father-in-law but by the uncle's widow against her husband's nephew. It is not sufficient to show that the property in question was acquired by the appellant's father-in-law, that her husband had no vested

interest in it by birth, and that as he predeceased his father he had also acquired no interest in it by inheritance, but it is necessary to go a step further and to inquire whether the property was burthened with the appellant's maintenance by her father-in-law before it descended to the respondent's father. If it was, it ceased to be self-acquired property as against the appellant on its descent from her father-in-law to her brother-in-law. If the former who acquired the property and who was competent to alienate it at his pleasure subjected it to her maintenance, either by express declaration or by conduct, the heir could only take it subject to the appointment made by the person who acquired the property. This question was not considered by the Judge, though the plea of satisfaction by the grandfather set up by the respondent, and the averment in the plaint that the appellant had lived in the family as one of its members until 1879 suggest that the parties believed that the father-in-law desired to support her. The finding therefore that the property was acquired by Srinivasa Pillai and that the appellant's husband predeceased him is not sufficient in law for the disposal of this appeal. We shall ask the Judge to try the following issue upon such evidence as the parties may adduce, and return a finding.

"Whether the respondent's grandfather manifested by his conduct or otherwise an unequivocal intention that his self-acquired property should be taken subject to the obligation of providing for the support of his widowed daughter-in-law."

[The District Judge returned a finding to the effect that no such intention had been manifested. This was accepted by their Lordships, who accordingly dismissed the second appeal.]