PAPIREDDI v. NARASAREDDI.

see how he can resist the present suit, as the property has not passed to him and cannot vest in him until he is in possession of a registered deed. We reverse the decree of the Lower Court and give plaintiffs a decree for possession and mesne profits from 15th October 1887 to the date on which possession is given to plaintiffs to be ascertained in execution. Credit must be given to defendant for the Rs. 150 paid to plaintiffs as part-payment. Plaintiffs are entitled to their costs throughout.

APPELLATE CIVIL.

Before Mr. Justice Muttusami Ayyar and Mr. Justice Best.

1893. March 17.

RAMASAMI AND OTHERS (DEFENDANTS NOS. 2 TO 4 AND 7 TO 9), APPELLANTS,

v.

PAPAYYA AND ANOTHER (PLAINTIFFS), RESPONDENTS.*

Hindu Law—Gift of land to a daughter—Presumption as to interest taken by donee.

In a suit to recover possession of certain land, the plaintiff claimed title under a gift made to his mother, deceased, by her father, whose sons and grandsons, the defendants, had entered into possession on the death of the donee, which took place less than three years before suit. The deed of gift was not produced, and it did not appear that the donee, who had been placed in possession of the land and had retained it for thirty-seven years, was a widow at the time of the gift:

Held, that the plaintiffs were entitled to a decree, there being no ground to presume that a life-interest merely was intended to pass under the gift.

SECOND APPEAL against the decree of H. G. Joseph, Acting District Judge of Ganjam, in appeal suit No. 44 of 1892, confirming the decree of N. Somayajulu Pantulu, Acting District Munsif of Sompet, in original suit No. 243 of 1891.

The plaintiffs sued for possession of certain land claiming title under a gift made to Gangammal, the late mother of plaintiff No. 1, from her father. The defendants were the son and grandsons of the donor, and had entered into possession on the death of Gangammal. The defendants pleaded that Gangammal had taken only a life-interest. The deed of gift was not produced.

Second Appeal No. 1070 of 1892.

The District Munsif passed a decree as prayed, which was affirmed on appeal by the District Judge.

The defendants preferred this second appeal.

Ramachandra Rau Saheb for appellants.

Ananda Charlu for respondents.

JUDGMENT.—It is conceded that Gangammal obtained the land in dispute as a gift from her father some forty years ago, and that she was in possession from that time till her death three years ago. The plaintiffs are her son and grandson, and defendants are her brothers and brother's sons. Both the Courts below have held that the plaintiffs are entitled to the land and not the defendants. The contention, on appeal, is that under Hindu law it must be presumed that a gift to a female is only for her life, and reference is made to *Mahomed Shumsool* v. *Shewukram*(1) and *Bhujanga* v. *Ramayamma*(2).

It is no doubt remarked by the Lords of the Privy Council in *Mahomed Shumsool* v. *Shewukram*(1) that it may be assumed that a Hindu knows that, as a general rule at all events, women do not take absolute estates of inheritance which they are enabled to alienate, and that in construing the will of a Hindu it is not improper to take into consideration what are known to be the ordinary notions and wishes of Hindus with respect to the devolution of property. That case was decided on the construction of the will. The above case was considered by the Calcutta High Court in *Mussamut Kollany Kooer* v. *Luchmee Pershad*(3), and it was held that women are not, by reason of their sex, debarred from taking an absolute estate when such estate appears to have been intended by the testator. In *Bhujanga* v. *Ramayamma*(2) it was held on construction of the document that the property was given as stridhanam. In the present case the deed of gift is not produced, nor is it shown that Gangammal was a widow when her father gave the property to her. She has left sons surviving her. Under these circumstances there is no foundation for the presumption that the donee's sons were intended to be displaced by those of the donor.

Such is not the ordinary intention of a Hindu when he makes a gift to his daughter under coverture.

The presumption relied on by the appellant being inapplicable, we dismiss this appeal with costs.

(1) L.R., 2 I.A., 7. (2) I.L.R., 7 Mad., 387. (3) 24 W.R., 395.