

Wajibun v. Kadir Buksh(1), but that decision was dissented from *Chinnaya v. Gurunatham*(2), *Sobhanadri Appa Rau v. Sriramulu*(3) and *Bhasker Tatya Shet v. Vijalal Nathu*(4). The principle laid down in these cases is that a guardian is legally competent, in the ordinary course of management, either to acknowledge a debt due by his or her ward, or to make a part-payment, or to pay interest. This being so, the only question that arises for decision is whether the first counter-petitioner can be treated upon the facts found as a person duly authorized to pay interest on behalf of the second within the meaning of section 20 of the Limitation Act. It is true that the second counter-petitioner had attained majority when the payment was made, but the Subordinate Judge finds that he allowed his mother to continue in management for sometime after he had become a major, and that the payment was made when she was so managing her son's affairs. The payment of interest accruing on an existing debt being an ordinary incident of management, I think it must be taken that the authority from the son to manage his affairs included an authority to make the payment. I may observe that section 20 of the Limitation Act only requires that the payment should be made by an agent duly authorized. It is therefore immaterial that no special authority was given to her. I set aside the decree of the Subordinate Judge and direct that the second defendant do pay the plaintiff the amount sued for with interest at 6 per cent. per annum from date of plaint till date of payment and with costs.

KAILASA
PADIACHI
v.
PONNUKANNU
ACHI.

APPELLATE CIVIL.

Before Mr. Justice Muttusami Ayyar.

SUBBANNA AND OTHERS (COUNTER-PETITIONERS), APPELLANTS,

v.

MUNEKKA (PETITIONER), RESPONDENT *

*Succession Certificate Act—Act VII of 1889, s. 4, sub-s. (2)—Debt—
Unliquidated claim.*

X, a Hindu, left some sheep with Y, who failed to return them. X having died, his widow applied for a succession certificate to enable her to sue Y for damages for wrongful detention of the sheep :

(1) I.L.R., 13 Cal., 292, 295.

(2) I.L.R., 5 Mad., 169.

(3) I.L.R., 17 Mad., 221.

(4) I.L.R., 17 Bom., 512.

* Appeal against Order No. 86 of 1893.

1894.
October
29, 30.

SUREANNA
v.
MUNEKKA.

Held, that no debt was owing by Y to X within the meaning of Succession Certificate Act, section 4, sub-section (2).

APPEAL against the order of E. J. Sewell, District Judge of North Arcot, in miscellaneous petition No. 181 of 1892.

Petitioner was the widow of deceased Mobbu Venkataramanna and claimed a certificate to enable her to collect a debt due by one Beera Gowdoo to her husband on account of some sheep. The petition was opposed by the brother and nephews of the deceased, who claimed that there had been no division of family property, and that petitioner was not entitled to a certificate. It was also alleged that there is no debt due to Beera Gowdoo. The petitioner alleged that four or five years before the death of her husband he left some sheep with Beera Gowdoo which were not returned, and now she set up a claim on account of her husband's estate for the value of the sheep.

The District Judge directed a certificate to be issued to the petitioner as prayed.

The brother and nephews of the deceased preferred this appeal. *Narasimhaachariar* for appellants.

Respondent was not represented.

JUDGMENT.—It is urged in support of this appeal that the money claimed from Beera Gowdoo by the respondent was not a debt due to Venkataramanna within the meaning of Act VII of 1889. This contention appears to me to be well founded. The word 'debt' is described in sub-section 2 to section 4 as including any debt except rent, revenue or profit payable in respect of lands used for agricultural purposes. Though to constitute a debt it is not necessary that there should be a loan, still it is necessary that there should be a sum of money due by Beera Gowdoo to the deceased. In the case before me the deceased left some sheep with Beera Gowdoo. Beera Gowdoo failed to return the same. There is nothing in the evidence to show that the original transaction was any thing more than entrustment of the sheep for safe custody, and that Beera Gowdoo was under any obligation to pay a liquidated sum as the value of the sheep. Any promise made to respondent to pay Rs. 45 for its value would not make him a debtor to Venkataramanna. The respondent was at liberty to sue Beera Gowdoo for damages either for wrongful detention of the sheep or, treating him as her debtor, sue him for the money promised to be paid to her as the value of the sheep. Beera Gowdoo never

became a debtor to Venkataramanna within the meaning of the Act. No certificate can, therefore, be granted to respondent under the Act. (See *Narayan Bhau Bartake v. Tatia Ganpatrao Deshmukh*(1)).

SUBBANNA
MUNEKKA.

I set aside the order of the Judge and dismiss the application for a certificate with costs.

APPELLATE CIVIL.

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

DAIVACHILAYA PILLAI AND OTHERS (PLAINTIFFS),
APPELLANTS,

1894.
December 13.

v.

PONNATHAL AND OTHERS (DEFENDANTS NOS. 1, 3 TO 29
AND 31 TO 48), RESPONDENTS.*

Court Fees Act—Act VII of 1870, s. 17—Suit by reversioners to declare various alienations by a Hindu widow to be invalid against them.

When reversioners sue to have declared invalid as against them alienations made by a Hindu widow, a Court fee of Rs. 10 must be paid in respect of each of the alienations in question.

SECOND APPEAL against the decree of W. Dumergue, District Judge of Madura, in appeal suit No. 56 of 1893, confirming the decree of C. Gopalan Nayar, Subordinate Judge of Madura (East), in original suit No. 15 of 1893.

The plaintiffs sued as reversionary heirs to have it declared that certain alienations made by defendant No. 1, the widow of the last male holder, were invalid as against them. The alienations in question were 42 in number, but a Court Fee stamp of Rs. 10 only was affixed to the plaint.

The Subordinate Judge rejected the plaint, an order by him to the effect that a Court fee should be paid in respect of each of the alienations in question not having been complied with. The District Judge concurred in his view of the Subordinate Judge.

The plaintiffs preferred this second appeal.

Parthasaradhi Ayyangar for appellants.

Mr. E. Norton for respondents.

(1) I.L.R., 15 Bom., 580.

* Second Appeal No. 1256 of 1894.