

APPELLATE CIVIL.

Before Mr. Justice Shepard and Mr. Justice Subramanya Ayyar.

LAKSHMAKKA (DEFENDANT No. 1), APPELLANT,

1896.
April 1.

v.

BOGGARAMANNA (PLAINTIFF), RESPONDENT.*

Hindu Law—Deed containing restrictions on inheritance invalid.¹

A deed which attempts to create a new line of inheritance by excluding all heirs other than direct male heirs is contrary to Hindu Law and invalid.

SECOND APPEAL against the decree of W. H. Welsh, District Judge of Cuddapah, in appeal suit No. 6 of 1893, modifying the decree of T. Ethiraja Mudaliar, District Munsif of Proddatur, in original suit No. 643 of 1891.

The plaint property originally belonged to one Bachu Lakshmakka, who conveyed all her property to Lingana Ramanna, plaintiff's predecessor in title by exhibit A, dated 25th September 1854, and died four days afterwards. On the occurrence of her death Devisetti Subbarayadu, brother of the donor, took possession of all the movable property belonging to the deceased and conveyed by her to Lingana Ramanna under exhibit A. In order to induce Subbarayadu to give up the movables Lingana Ramanna conveyed the plaint lands to Subbarayadu by exhibit I, dated 9th November 1854, in which Lingana Ramanna, after giving a list of the property of Lakshmakka, sets forth a definite arrangement as to how the lands belonging to deceased should be divided between them and as to how her debts should be paid. By this arrangement it was agreed that in consideration of Subbarayadu having given up certain property to Lingana Ramanna and agreeing to pay Lakshmakka's debts, he should always enjoy certain lands in Koilkuntla and Jammalamadugu taluks. Subsequently, on 5th December 1854, Subbarayadu executed another document B in Lingana Ramanna's favour by which he (Subbarayadu) agreed to hold the plaint lands for his life and his male heirs' lives, subject to Lingana Ramanna's right to succession and without right of alienation. The plaintiff claimed under exhibit B, the

* Second Appeal No. 407 of 1895.

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cause of action being that Subbarayadu's daughter-in-law, the first defendant, executed a deed of gift to the second defendant in 1890 and that her possession then became adverse.

The District Munsif dismissed the suit, holding that exhibit B, the basis of the plaintiff's title, was a forgery; but the District Judge, finding it to be genuine, gave a decree for the plaintiff with costs.

Defendant No. 1 appealed.

Rama Rau for appellant.

Sheshagiri Ayyar for respondent.

JUDGMENT.—The plaintiff can only recover on the strength of his title-deed (exhibit B). By that instrument Subbarayadu, the then owner, agrees to hold the property only so long as there is male issue in his family. On failure of such issue he agrees to hand it over to Boggaramanna under whom the plaintiff claims. The document is somewhat obscure, but the meaning appears to be that Boggaramanna should take on failure of male issue at any time, however remote. It is in fact an attempt to create a new line of inheritance by excluding all heirs other than direct male heirs. This being so, the instrument is invalid. The plaintiff must, therefore, fail. We must reverse the decree of the District Judge and restore that of the District Munsif. Respondent must pay appellant's costs in this Court only.
