

## APPELLATE CIVIL.

*Before Mr. Justice Subrahmania Ayyar and Mr. Justice Boddam.*

VANGALA DIKSHATULU AND OTHERS (PLAINTIFFS), APPELLANTS,

*v.*

VANGALA GAVARAMMA AND OTHERS (DEFENDANTS AND THIRD  
DEFENDANT'S LEGAL REPRESENTATIVES), RESPONDENTS.\*

1908.  
November  
5, 11.  
1901.  
April 20.

*Hindu Law—Enfranchisement of service inams—Grant of title-deed to widow in respect of personal inam given to her late husband—Widow's estate.*

Certain property was given to a widow's late husband by his maternal grandfather. It was enfranchised by the Inam Commissioner in the name of the widow, to whom a patta was issued. The widow alienated the property. In a suit by reversioners for a declaration that the alienation was not binding on them except during the lifetime of the widow :

*Held*, that the grant of the inam title-deed to the widow did not constitute the property her absolute property. The inam was taken by inheritance by the widow as the widow of the previous holder.

*Cherukuri Venkanna v. Mantravathi Lakshmi Narayana Sastrulu*, (2 M.H.C.R., 327), followed.

*Subba Naidu v. Nugayya*, (Second Appeal No. 604 of 1900, (unreported)), commented on.

SUIT for a declaration that a certain sale by a Hindu widow was not valid and binding on plaintiffs beyond the lifetime of the widow. Plaintiffs sued as reversioners to the estate of one Brahmanna, the deceased husband of first defendant. The defence was, *inter alia*, that plaintiffs were not reversioners, as alleged by them. The Subordinate Judge so held and dismissed the suit, without deciding the second and third issues, which raised the questions as to whether the alienations in question were made for necessary and valid purposes and were binding, and whether the widow had an absolute right in the property alienated. The property in question had been given to the widow's late husband by his maternal grandfather and had been enfranchised by the Inam Commissioner in the name of the widow, to whom a patta was issued.

Plaintiff proffered this appeal, which came, in the first instance, before the Officiating C.J. and Bhashyam Ayyangar, J., who held that plaintiffs had established the relationship set up by them

\* Appeal No. 69 of 1901, presented against the decree of M.R.Ry. C. G. Kuppuswamy Ayyar, Subordinate Judge of Coanada, in Original Suit No. 38 of 1900.

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and their right to succeed to the estate of the widow's late husband on the death of the widow. A finding was accordingly called for on the second and third issues. The Subordinate Judge found that the alienations in question were not justified by any necessity. On the third issue he found that the property was that of the widow's late husband, though it had been enfranchised in the name of the widow. He held that the widow took a limited, or restricted estate in it, and that it did not become her exclusive or absolute property simply because the inam title-deed had been issued in her favour.

The appeal came on for hearing after the return of these findings, before the Court constituted as above.

*V. Krishnaswami Ayyar* and *V. Ramesam* for appellants.

*C. Ramachandra Rau Sahib*, *S. Srinivasa Ayyangar* and *I. V. Ramanuja Rau* for first and second respondents.

JUDGMENT.—As regards the alienations under exhibit J, we agree with the Subordinate Judge that it is not an alienation binding upon the reversioner. We cannot accept the suggestion that the grant of the inam title-deed to the first defendant, the widow, constituted the property her absolute property. The inam was taken by inheritance by the first defendant as the widow of the previous holder. Though there has been some difference of opinion as to the effect of the enfranchisement of service inams, there never has been any doubt that enfranchisement or grant of title-deed in respect of personal inams in any way affects the right of parties entitled thereto. This was laid down so far back as 1865 in *Cherukuri Venkanna v. Mantravathi Lakshmi Narayana Sastrulu*(1). The law as laid down there was adopted by the legislature itself in Madras Act VIII of 1869. The case of *Subba Naidu v. Nayayya*(2) to which our attention has been drawn, if inconsistent with our view, cannot be held to be of any binding authority considering that it is opposed to *Cherukuri Venkanna v. Mantravathi Lakshmi Narayana Sastrulu*(1) which it does not notice, and to the terms of the enactment referred to above.

We must therefore accept the findings and, reversing the decree of the Subordinate Judge, pass a decree in terms of the prayer of the plaint with costs throughout inclusive of the costs incurred on the findings.

(1) 2 M.H.C.R., 327.

(2) S.A. No. 604 of 1900 (unreported).