

v. *Mohar Singh* (1). Such an expectancy cannot be transferred under section 6 of the Transfer of Property Act [*Narasimham v. Madavarayulu* (2)].

MANICKAM
PILLAI
v.
RAMALINGA
PILLAI.

We dismiss the second appeal with costs.

APPELLATE CIVIL.

*Before Sir S. Subrahmaniam Ayyar, Officiating Chief Justice,
and Mr. Justice Sankaran Nair.*

RAJAMMA (PETITIONER), APPELLANTS,

v.

RAMAKRISHNAYYA AND ANOTHER (RESPONDENTS),
RESPONDENTS.*

1905
August 16.

H; du Law-Acquisitions out of salary, prima facie separate property--Succession Certificate Act VII of 1889, s. 19--Discretion of Court in granting certificate.

Money connected with insurance, the premia for which are paid out of the salary of a deceased Hindu, is *prima facie* his separate property.

Mahadeva Pandia v. Rama Narayana Pandia, (13 M.L.J., 75), followed.

Where an application for a succession certificate under Act VII of 1889 by the widow of the deceased in respect of such money is opposed by his brother on the sole ground that the deceased was educated at the family expense, the certificate ought to issue in favour of the widow.

APPLICATION under Act VII of 1889 by the widow of a deceased Hindu for a certificate to enable her to collect the monies due on policies of insurance standing in the name of the deceased, as his heir as well as legatee under his last will and testament.

The brother of the deceased opposed the application on the ground that the policies were joint family property to which he was entitled by survivorship. He prayed for a certificate in favour of himself.

The District Judge granted the certificate to the brother.

The widow preferred this appeal to the High Court.

(1) I.L.R., 24 All., 94.

(2) 13 M.L.J., 323.

* Civil Miscellaneous Appeal Nos. 7 and 8 of 1905, presented against the order of H. O. D. Harding, Esq., District Judge of South Canara, dated the 11th and 15th November 1904, in Original Petitions Nos. 112 and 129 of 1904, respectively.

R. JAMMA
v.
RAMAKRISH-
NAYYA.

B. Sitwama Rau for appellant.

Balakrishna Rau for *K. Narayana Rau* for respondent.

JUDGMENT.—No evidence was taken in the case. It was disposed of upon the petitions of the parties. The decision in *Mahadeva Pandia v. Rama Narayana Pandia* (1) is strongly in favour of the view that the money connected with insurance the premia for which were paid out of the salary of the deceased is *prima facie* his separate property. In a summary inquiry like the present, the proper course is to follow this view leaving the party, the brother, who sets up that it is joint property to establish it by suit having regard specially to the fact that the brother's claim is based solely upon the assumption that the education of the deceased was at the expense of the family. We set aside the orders of the District Judge and direct that the certificate be issued to the appellant on her giving security to the satisfaction of the District Judge of South Canara. Each party will bear his own costs in these appeals.

APPELLATE CIVIL.

*Before Sir S Subrahmania Ayyar, Officiating Chief Justice,
and Mr. Justice Sankaran Nair.*

1905
July 31.
August 10,
16.

KANNAMBATH IMBICHI NAIR AND ANOTHER (SECOND AND
THIRD COUNTER-PETITIONERS), APPELLANTS,

v.

MANATHANATH RAMAR NAIR AND ANOTHER (PETITIONERS),
RESPONDENTS.*

Appeal against order of District Court granting sanction—Criminal Procedure Code, Act V of 1898. s. 195. cls. 6, 7—Power of High Court on such appeal.

An appeal lies to the High Court against an order of the District Judge granting sanction under clauses 6 and 7 of section 195 of the Code of Criminal Procedure. Where such order has revoked the sanction granted by the Munsif

(1) 13 M.L.J., 75.

* Civil Miscellaneous Appeal No. 115 of 1905, presented against the order of L. G. Moore, Esq., District Judge of South Malabar, in Miscellaneous Petition No. 197 of 1904, presented against the order of M.R.Ry. T. V. Anantan Nair, Principal District Munsif of Calicut, in Miscellaneous Petition No. 764 of 1904 (Small Cause Suit No. 260 of 1903),