

MUNRO AND from 1878, but his possession gave him, as against every one but
 ABDUR the true owner, an interest capable of being inherited, devised or
 RAHIM, J.J. conveyed—vide *Narayan Row v. Dharmachar*(1). In 1894, when
 SUBBAROYA conveyed—the inam was enfranchised, the widow's estate which Sivakami took
 CHETTY in 1886 remained a widow's estate, and the enfranchisement did
 v. not convert into her absolute property.
 AIYASWAMI
 AIYAR.

As to the second point there is no foundation for the contention that Sivakami had obtained an absolute right to the property by adverse possession in 1902 when she executed exhibit X. It is not shown how her original widow's estate changed into something else. Mere lapse of time would not change the character of that estate. In exhibit XVII, dated the 16th October 1893, and in exhibit XIII, dated the 8th March 1901, Sivakami referred to the suit properties as the properties which she acquired from her husband and which she had been enjoying with patta in her name. In exhibit X, the only other document to which we have been referred, Sivakami, no doubt, said she had been enjoying with absolute right, but we are not referred to any evidence that she ever set up such a right to the properties before, or any right other than as the widow of her husband.

We dismiss the second appeal with costs.

APPELLATE CIVIL.

*Before Sir Arnold White, Chief Justice, and Mr. Justice
 Abdul Rahim.*

GURUMURTHI REDDI, MINOR BY HIS MOTHER AND NEXT
 FRIEND LINGAMMAL (PLAINTIFF), APPELLANT.

v.

GURAMMAL AND ANOTHER (DEFENDANTS NOS 2 AND 4),
 RESPONDENTS.*

*Hindu Law—Collateral succession—Property not taken from 'ancestor'
 does not devolve with incidents of ancestral property.*

Property inherited by one from a collateral relation, as a brother, uncle, etc., is not taken as, and subject to the incidents of, ancestral property, and his male descendants are not coparceners with him in respect of such property.

* Second Appeal No. 1465 of 1905.

(1) (1903) I.L.R., 26 Mad., 514 at p. 516.

Karupai Nachiar v. Sankaranarayanan Chetty, [(1904) L.R. 27 WHITE, C.J.,
Mad., 300], followed.

SECOND APPEAL against the decree of S. Gopalaoharriar, District JUDGE OF SALEM, in Appeal Suit No. 26 of 1904, presented against the decree of T. Rajaram Row, District Munsif of Krishnagiri, in Original Suit No. 307 of 1902. RAHIM, J.
GURUMURTHI REDDI
v.
GURAMMAL.

Suit for possession of immoveable property. The properties in dispute were allotted to the plaintiff's uncle on a division between him and plaintiff's father. The plaintiff's uncle died issueless, leaving a widow behind him who subsequently died. The father of the plaintiff survived the widow and disposed of some of the plaintiff's properties by will to defendants Nos. 2 and 4. He died prior to suit. The defendants Nos. 1 and 3 claim to be in possession of some of the properties under an alleged gift by the plaintiff's father and defendants Nos. 2 and 4 claim the properties in their possession under the will above referred to.

As regards the gift to defendants Nos. 1 and 3 both the lower Courts held that the gift was not proved and decreed possession in favour of plaintiff of the properties held by defendants Nos. 1 and 3.

The will in favour of defendants Nos. 2 and 4 was held to be valid on the ground that the plaintiff was not a coparcener with his father in the properties taken by the latter as reversioner on the death of the widow of plaintiff's uncle. Plaintiff's suit against defendants Nos. 2 and 4 was dismissed by both Courts.

The plaintiff appealed to the High Court.

C. Madhavan Nair for appellant.

The Hon. The Advocate-General for respondents.

JUDGMENT.—We are of opinion that the property which devolved upon the plaintiff's father on the death of his brother, Gurumurthi, was the separate property of the plaintiff's father and not ancestral property. The inheritance was from a collateral relation and not from an 'ancestor.' The present case in our opinion is not governed by the judgment of the Privy Council in *Venkayamma Garu v. Venkataramanayamma Bahadur Garu*(1); but by the principle of the decision of the Full Bench of this Court in *Karupai Nachiar v. Sankaranarayanan Chetty & Co.*(2), where

(1) (1902) I.L.R., 25 Mad., 678. (2) (1904) I.L.R., 27 Mad., 300 at p. 311.

WHITE, C.J., it was held (page 311) that the maternal uncle from whom the inheritance devolved was not an "ancestor." The law is thus AND
ABDUR RAHIM, J. stated at page 344 of Mayne's 'Hindu Law,' seventh edition, published after the judgment of Privy Council in *Ve. kanyamma Garu v. Venkataramanayamma Bahadur Garu* (1). "Hence all GURUMURTHI REDDI
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GURAMMAL. property which a man inherits from a direct male ancestor, not exceeding three degrees higher than himself, is ancestral property, and is at once held by himself, in coparcenary with his own issue. But where he has inherited from a collateral relation, as for instance from a brother, nephew, cousin or uncle, it is not ancestral property; consequently his own descendants are not coparceners in it with him."

This second appeal is dismissed with costs.

APPELLATE CRIMINAL.

Before Mr. Justice Abdur Rahim.

ADAIKALAMMAI

v.

RAMAN.*

1908.
July 18.
November
13.

Penal Code, Act XLV of 1860 ss. 464 and 467—No false document where execution simply sets up a false claim but has no intention of causing belief that document was executed by another.

A, who was not the son, natural or adopted, of the deceased *B*, executed a deed of mortgage of certain properties of *B* in favour of *C*. In the body of the document *A* was described as the son of *B*, though no such description appeared in the signature. *A* was known to *C* for a long time, and *A* had no intention of causing it to be believed that the document was executed by any other person than himself.

Held, per MUNRO AND ABDUR RAHIM, JJ., that *A* was not guilty of making a 'false document' within the meaning of section 464, Indian Penal Code. The assertion of a false claim in a document will not constitute the document false, when it is executed by the party who purports to execute it and there is no intention of causing a belief that it was executed by some other person, real or fictitious.

(1) (1902) I.L.R., 25 Mad., 678.

* Criminal Revision Case No. 287 of 1908.