

BALARAMIER
 v.
 VASUDEVAN.
 WALLACE, J. civil revision petition re-heard, since the order pronounced in it by Mr. Justice DEVADOSS has now no validity in law. I would grant both petitions, and post the civil revision petition for fresh hearing and direct each party to bear his own costs in these petitions.

PAKENHAM WALSH, J.—I agree.

K.R.

APPELLATE CIVIL.

Before Mr. Justice Venkatasubba Rao and Mr. Justice Madhavan Nair.

1928,
 July 24.

PARINAM RAMA RAO AND ANOTHER (RESPONDENTS),
 APPELLANTS,

v.

PARINAM KRISTNAMMA (PETITIONER), RESPONDENT.*

Married Women's Property Act (III of 1874), sec. 6—Amending Act (XIII of 1923), sec. 2—Applicability of sec. 6 to policies effected by Hindus in Madras before 31st December 1913—Effect of sec. 2 of Act XIII of 1923.

Section 2 of Act XIII of 1923, which declares that section 6 of the Married Women's Property Act, 1874, shall apply to any policy effected by any Hindu in Madras after the 31st December 1913, does not take away the applicability of that section to similar policies effected before that date, as held by the Full Bench in *Balambal v. Krishnayya*, (1914) I.L.R., 37 Mad., 483.

APPEAL against the order of the District Court of Ganjām in Original Petition No. 45 of 1926.

This appeal arises out of an application for letters of administration made by the widow of one P. Subba Rao in respect of a policy of life insurance effected by him

* Civil Miscellaneous Appeal No. 333 of 1927.

in 1894. He died in 1926. The policy, on the face of it, was for the benefit of the widow and her children. The application was opposed by the son by the first wife of the deceased and by the divided brother of the deceased, who claimed that the policy was pledged to him for a debt due by the deceased. The respondents contended that section 6 of Act III of 1874 did not apply to Hindus by reason of section 2 of Act XIII of 1923. The District Judge overruled the contention and granted letters of administration to the widow. The respondents preferred this appeal.

V. Govindaraja Achari for appellants.—The trust in favour of the petitioner in the policy is invalid. Section 6 of the Married Women's Property Act does not apply to this case. There was a conflict of decisions as to the applicability of section 6 to Hindus; the Full Bench decided in 37 Mad., 483, that section 6 was applicable to Hindus. By the Amending Act (XIII of 1923) section 6 is made applicable to Hindus after 31st December 1913. Before 1913, it is implied by the legislature that section 6 did not apply to Hindus, as held by the other High Courts and in 35 Mad., 162. It is made clear by the Amending (Act XIII of 1923) section 2, that, prior to 1913, section 6 did not apply to Hindus, and that the Full Bench decision in 37 Mad., 482, is not good law. If the legislature meant to leave the Full Bench case untouched, it would have said that the amendment takes effect throughout British India.

B. Jagannadha Das for respondent was not called on.

The JUDGMENT of the Court was delivered by

VENKATASUBBA RAO, J.—The short question in this appeal is this: Has section 2 of Act XIII of 1923 the effect of rescinding *Balambal v. Krishnayya*(1)? The District Judge is of course wrong in saying that it was not open to the legislature to give effect to a view different from that taken in that decision. But the question is, what is the true construction of section 2?

VENKATA-
SUBBA
RAO, J.

(1) (1914) I.L.R., 37 Mad., 483 (F.B.).

RAMA RAO
v.
KRISTNAMMA.

VENKATA-
SUBBA
RAO, J.

It declares that the provisions of section 6 of the Married Women's Property Act of 1874 shall apply in the case of any policy effected by any Hindu in Madras after the 31st December 1913 (the Full Bench decision having been given on the 19th December). It does not further enact that they shall not apply to policies effected before that date. What then about such policies? They are clearly governed by the old Act. The present policy was effected in 1894 and governed as it is by the earlier Act, the decision of the Full Bench applies. We therefore confirm the judgment of the lower Court and dismiss the appeal with costs.

K.R.

INSOLVENCY.

Before Mr. Justice Kumaraswami Sastri.

1928,
November 21.

THE NEDUNGADI BANK, LTD., MADRAS, APPLICANTS,

v.

THE OFFICIAL ASSIGNEE OF MADRAS, RESPONDENT.*

Presidency Towns Insolvency Act (III of 1908), sec. 52—Debtor's property taken possession by receiver—Debtor subsequently adjudicated insolvent—If section 52 applicable to property in receiver's possession—Property in possession of receiver appointed by Court—Legality of possession—If can be questioned by third parties while order appointing receiver remains in force.

Where the property of a debtor is taken possession of by a receiver appointed by the Court, and the debtor is subsequently adjudicated an insolvent, section 52 of the Presidency Towns Insolvency Act does not apply, and the property cannot, during

* I.P. No. 264 of 1928, Application No. 723 of 1928.