

Before Sir John Edge, Kt., Chief Justice, and Mr. Justice Banerji.

SHEOBARAT KUARI AND ANOTHER (DEFENDANTS) v. BHAGWATI PRASAD AND ANOTHER (PLAINTIFFS).*

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April 18.

*Hindu law—Hindu widow—Suit to set aside alienation by Hindu widow—
Reversioners—Grandsons of daughters of alienor's late husband.*

Held, in a suit to set aside an alienation made by a Hindu widow of property which had been of her deceased husband in his lifetime, that the sons of the son of a daughter of the alienor's late husband were, their father and grandmother being dead, reversioners, and as such entitled to sue to set aside the alienation made by the widow. *Krishnayya v. Pichamma* (1) and *Babu Lal v. Nanku Ram* (2) referred to.

THIS was a suit to set aside an alienation made by a Hindu widow under the following circumstances:—One Sheo Charan Lal was owner of the whole of mauza Nigori and of a 2-anna share in mauza Amtari. He died long anterior to this suit, leaving a widow, Sheobarat Kuari, one of the defendants to the suit, and the son of a daughter, Gokul Prasad. The widow took possession of the estate. On the 26th of May 1874, the widow executed a deed in favor of Gokul Prasad and his half-brother, Ganesh Prasad, whereby a four-anna share in Nagori was at once transferred to them, while it was also declared that they were entitled to succeed to the residue of the estate on the death of the widow. In May 1891, Gokul Prasad died, and subsequently on the 23rd November 1891, Sheobarat Kuari by a duly executed and registered deed of gift made over a 12-anna share of mauza Nigori and the 2-anna share of Amtari to Nand Kishore, the second defendant. The plaintiffs were sons of Gokul Prasad. They sued to set aside the alienation to Nand Kishore, on the grounds, first, that the transfer was void as against them, because they were, under the Hindu law, *bandhus* of Sheo Charan Lal, and therefore his reversionary heirs, and, secondly, that by reason of the deed of gift of the 26th May 1874, the widow had no transferable right in the property.

The defendants resisted the suit on the grounds that the plaintiffs were not under the Hindu law *bandhus* of Sheo Charan Lal;

* First Appeal No. 27 of 1894, from a decree of Babu Mohan Lal, Additional Subordinate Judge of Gorakhpur, dated the 17th November 1893.

(1) I. L. R., 11 Mad., 237.

(2) I. L. R., 22 Calc., 339.

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that under the deed of the 26th May 1874, the widow still had power to dispose of the property in question, excepting only the 4 annas of mauza Nigori; and that in any case the claim for possession could not be maintained in the lifetime of the widow.

The Court of first instance (Subordinate Judge of Gorakhpur) decreed the plaintiffs' claim for a declaration that the alienation in question would not affect their interests in the property after the widow's death.

The defendants thereupon appealed to the High Court.

Munshi *Gobind Prasad* for the appellants.

Mr. *T. Conlan* and Mr. *Abdul Majid* for the respondents.

EDGE, C. J., and BANERJI, J.—The only question in this case is whether the plaintiffs were reversioners. If they were reversioners, they were entitled to maintain the suit. The last owner of the property was one Sheo Charan. He died leaving a widow, who made a deed of gift in favor of Nand Kishore, one of the appellants here, and one of the defendants to the suit. The plaintiffs are the sons of the son of a daughter of Sheo Charan. Their father and his mother died before suit. This case is governed by the decision in *Krishnayya v. Pichamma* (1), and is within the principle of the decision of the Calcutta High Court in *Babu Lal v. Nanku Ram* (2). We hold that these plaintiffs were *bandhus*, being *bhinna gotra sapindas* of Sheo Charan, and, there being no one nearer, they were reversioners and entitled to maintain the suit.

We dismiss the appeal with costs.

Appeal dismissed.

APPELLATE CRIMINAL.

Before Sir John Edge, Kt., Chief Justice, and Mr. Justice Aikman.

QUEEN-EMPRESS v. PIRBHU AND OTHERS.

Act No. 1 of 1872 (Indian Evidence Act), s. 30—Joint trial—Statement of co-accused who pleaded guilty—Evidence.

Where two out of several persons on their trial in a Court of Session on a joint charge pleaded guilty and made certain statements to the Court, it was held that

(1) I. L. R., 11 Mad., 287.

(2) I. L. R., 22 Calc., 339.

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