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RAMESHAR BAKHSH SINGH AND ANOTHER (DEFENDANTS) v. ARJUN SINGH (PLAINTIFF).

On appeal from the Court of the Judicial Commissioner of Oudh.

Construction of a grant for maintenance—Use of the words "proprietor" and "for ever"—Grant for life not extended thereby.

An Oudh taluqdar, who had inherited an impartible estate descending to a single heir, made a grant of villages for the maintenance of a member of the joint family to which they both belonged.

Documentary evidence bearing on the duration of the grant consisted of a baz-dawa, or deed of relinquishment of claim, executed by the grantee, and of petitions by the grantor for the entry of change of names in the revenue record with such entry. And relevant facts and circumstances were in evidence.

Held, that the purpose of the grant, which was for the maintenance of the grantee, was *primâ facie* an indication that the grant was intended to be only for his life; and that its true construction was not extended by the use of the words "proprietor" and "for ever" in the documents. On the evidence the District Judge had rightly declined to infer an intention to grant an estate of inheritance. His judgment that the estate did not extend beyond the life of the grantee had been reversed by the Appellate Court on insufficient grounds, and was now maintained in that respect.

Moulvi Abdul Majid v. *Fatima Bibi* (1) referred to, the principle in that case applying to this.

APPEAL from a decree (19th November, 1896) of the Court of the Judicial Commissioner of Oudh, reversing a decree (13th December, 1893) of the Additional Judge of the Lucknow district.

This suit for the proprietary possession of two villages, one Sikandarpur Amolia, and the other Samnapur, both in the Lucknow district, was brought on the 10th October, 1889, by the respondent, who was the second of the four sons of Raja Daljit Singh, formerly taluqdar of Bansingpur in the Rai Bareli district, deceased, in 1857. His eldest son, Raja Jagmohan Singh, became taluqdar, and with the latter also was settlement made of the Kamhrawan taluq. He died in 1879, and was succeeded by his son Bisheshar Singh, who died on the 8th December, 1887. Bisheshar left a minor son, Rameshar Bakhsh Singh, heir to the impartible family estates, and a widow, Rani Sukhraj, mother of the minor. She was his guardian appointed under Act XL of 1858, by whom he defended the suit and was now respondent.

Present:—LORDS HOBHOUSE, DAVEY and ROBERTSON, and SIR RICHARD COUCH.

(1) (1885) L. R., 12 I. A., 159; I. L. R., 8 All., 39.

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The plaintiff, Arjun Singh, made title to the villages in suit as next heir to Sheo Narain, the youngest brother, to whom the property had been granted by Bisheshar Singh, the *father* of the minor defendant.

The main question decided on this appeal was whether the grant had conveyed an estate of inheritance, or only an estate for the life of the grantee. This turned on the effect to be given to documents of which the making was not disputed.

A third son of Raja Daljit Singh was Shankar Singh, who died in 1888. The fourth son was Sheo Narain Singh, to whom the property now in suit was granted by his brother's son, Bisheshar Singh, when taluqdar. Sheo Narain died in 1884, leaving a widow named Jai Ratan Kuar, who died on the 9th December, 1886. She left one daughter, Mangal Kuar.

In 1856 Raja Daljit Singh gave two villages named Bankagarh and Davindgarh, the one to Arjun and the other to Shankar. He disposed of a third village named Nidhan Kuar Khera, all the three in the Rai Bareli district, assigning this last to Sheo Narain.

At the summary settlement of 1858-59 after Daljit's death, a settlement was made by the Revenue authorities with Jagmohan Singh, the eldest son, comprehending all the villages in the Bansinghpur taluq except Bankagarh and Davindgarh. In respect of these two villages the brothers, Arjun and Shankar, having unsuccessfully made a claim to shares as if the taluqdari estate had been partible, obtained decrees in the course of the regular settlement of 1869. These decrees were to them and their heirs, respectively. Sheo Narain did not obtain from Daljit possession of the village Nidhan Kuar Khera, and it was afterwards included in a settlement of another property named Sheogarh made with Jagmohan Singh.

In 1879, after the death of Jagmohan, his son and successor Bisheshar Bakhsh Singh, made an oral agreement with Sheo Narain which resulted in the relinquishment of Nidhan Kuar Khera by the latter, and in exchange for it his acceptance of the two villages now in suit. The transaction is set forth in a baz-dawa, or deed of relinquishment, dated the 2nd May, 1879. On the same date Bisheshar signed petitions for the recording of Sheo Narain's

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name in the revenue registers, and on the 9th March, 1880, orders were made for the recording of his name accordingly. The bazdawa was the following :—

"I am Babu Sheo Narain Singh, son of Raja Daljit Singh, "caste Amethia, resident of Sheogarh, pargana Kamhrawan, "tahsil Drigbijaiganj, district Rai Bareli.

"On the death of my full brother, Raja Jagmohan Singh, "taluqdar of Kamhrawan, district Rai Bareli, Raja Bisheshar "Bakhsh Singh, the eldest son of the late Raja, became the owner "and possessor of the movable and immovable property of every "description left by the late Raja. I, the declarant, am the late "Raja's younger brother of full blood. My father, Raja Daljit "Singh, had, during his life-time, given me the muafi village "of Nidhan Kuar Khera, pargana Kamhrawan, district Rai "Bareli, valued at Rs. 2,000 for my maintenance: I, however, lived "jointly with him, the said Raja Sahib, and did not therefore "take possession of the Guzara: on Raja Daljit Singh's demise, "the village continued under possession and enjoyment of Raja "Jagmohan Singh: it is a small village, and it is not possible "for me to maintain myself from the profits thereof. For this "reason Raja *Bisheshar Bakhsh Singh*, the proprietor in posses- "sion of the estate, granted to me, out of his own pleasure, village "Sikandarpur, rental Rs. 1,050, valued at Rs. 13,500, and village "Samnapur, rental Rs. 420, valued at Rs. 4,400, pargana and "tahsil Mohanlalganj, district Lucknow, as an exchange for "the Guzara village Nidhan Kuar Khera under an oral agree- "ment; and made an application for dakhil-kharij, and had "them duly registered. Therefore, I have now, or shall have in "future, no claim whatever to village Nidhan Kuar Khera, "pargana Kamhrawan, district Rai *Bareli*, and to any property "left by the late Raja; and, if I make any, it shall be void and "not entertainable. Wherefore I have written these few words "in the form of withdrawal of claim, so that it may attest the "transaction."

The applications for dakhil-kharij of the villages were as follow :—

"Whereas agreeably to my verbal promise I have after the "execution of the deed of relinquishment regarding the village

"Nidhan Kuar Khera, pargana Kamhrawan, district Rai Bareli, "and other properties left by the late Raja Jagmohan Singh, Taluq-"dar of Kamhrawan, given the entire village Sikandarpur, valued "at Rs. 13,500, and Samnapur, valued at Rs. 4,400, both situated "in the pargana and tahsîl of Mohanlalganj, district Lucknow, "and owned and possessed by me, to my own uncle (paternal) "Sheo Narain Singh, for his maintenance, and placed him in "possession and occupation of both the said villages; and whereas "owing to the demise of my father, the said Raja Jagmohan Singh, "a case for mutation of names respecting the haqiyat (proprie-"torship) and lambardari of village Sikandarpur, pargana and "tahsil Mohanlalganj, district Lucknow, is pending, therefore "submitting this application, I pray that when my name is substi-"tuted in place of the deceased Raja, the name of Babu Sheo "Narain Singh may, in the terms of this application, be substitu-"ted and entered in the records in place of my name in respect "of the zamindari haqiyat and lambardari of the entire village "Sikandarpur, tahsil and district Lucknow, as its proprietor in "perpetuity."

The application as regards Samnapur was in the same terms, except that the words "in perpetuity" were inserted after the words "for his maintenance" and that the words "as its proprietor in perpetuity" were omitted at the end.

After the death of Sheo Narain his widow obtained mutation of names in the revenue record in her favour as to both the villages on the 27th September, 1874. She remained in possession of the villages till her death in December 1886. Arjun Singh and Shankar Singh both survived her.

In 1889 Arjun brought this suit. His plaint alleged that the grant of 1879 by Bisheshar to Sheo Narain conveyed absolutely a permanent and heritable estate; and that thus the title to the two villages, on the death of the grantee and his widow, had passed to him, the plaintiff, as next heir to his brother.

The defendant's written answer was, mainly, that the grant to Sheo Narain by Bisheshar was only for his maintenance; and that the estate granted to him in the villages came to an end at his death. Reliance was placed on Arjun's having obtained the decree of 1869, which, it was contended, operated in satisfaction of

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all his claim upon any part of the family estate. It was also contended that a will of Jai Ratan was evidence of the nature of Sheo Narain's possession, stating that it had been regarded as only for his life.

On issues relating to these points the District Judge dismissed the suit. As to the documents relating to Bisheshar's grants to Sheo Narain, he was of opinion that "Sheo Narain did not possess "heritable and transferable rights in the villages in suit and that "the plaintiff Arjun was not entitled to succeed as his heir to the "possession of those villages."

In the Court of the Judicial Commissioner this decision was reversed. The Commissioners concurred in a judgment in favour of the plaintiff, and the proprietary possession was decreed to him with costs in both Courts.

The only point on which the appellate Court was asked to decide was whether Sheo Narain had an heritable or only a life interest in the villages. Upon this point the Court decided that he had a heritable interest which had passed to Arjun Singh on the death of the widow. The Commissioners were of opinion, first, that the grants made by Daljit Singh to his three younger sons must be assumed to have been all of the same nature; secondly, that the absolute character of the grants to Arjun Singh and Shankar Singh was shown by an award of the British Indian Association of the 20th August, 1868, and by the subsequent litigation and settlement decree in 1869; thirdly, that the character of the grant to Sheo Narain by Bisheshar in 1879 was shown from the presumption that as the village of Nidhan Kuar Khera was held on an absolute tenure, so also, from the words used by the grantor in his application for mutation of names, it appeared that the villages given in exchange for that property would have been given by similar grant for the same absolute estate. The continued possession of Jai Ratan Kuar, as a matter of right on her part after her husband's death, led to the same inference, that Sheo Narain's interest in the villages granted was intended by Bisheshar to be absolute.

On this appeal.

Mr. *L. DeGruyther*, for the appellant, argued that the decree of the appellate Court below was erroneous, and that the Distric

Judge's judgment should be restored. The question being one of the terms of the grant there was no direct evidence of them, but the evidence as to them included the words "proprietor" and "for ever." Those words had in former decisions been construed, in manner well ascertained, to the effect that they would not of themselves denote the grant of a heritable estate in a conveyance for the purpose of maintenance, such as this case presented. To control the *primâ facie* construction of this grant, the judgment of the Judicial Commissioners had drawn inferences which had not in reality a sufficient basis in the circumstances of the grant which they had to consider. That Court had acted on insufficient evidence in finding that Raja Daljit in 1856 had by grant conferred on the plaintiff and Shankar Singh absolute estates in the villages of Bankagarh and Davindgarh. Even if that grant conferred hereditary estates on those brothers, still no presumption would thence arise that the grant by Raja Daljit of Nidhan Kuar Khera to Sheo Narain conveyed to him an absolute and heritable estate in that village. Again, even if it were to be assumed that Raja Daljit had granted an estate of inheritance in Nidhan Kuar Khera, still no legitimate presumption thence arose that the grant to Sheo Narain by Bisheshar was for an estate of inheritance. If references to the deed of withdrawal of the 2nd May 1879 and to the petitions for the mutation of names were permissible, for the purpose of ascertaining the terms of the oral grant, which was distinctly a grant for maintenance, still it was apparent that those documents contained no words sufficient to indicate the transfer of an estate of inheritance in the two villages granted by Bisheshar to Sheo Narain. Reference was made to *Moulvi Muhammad Abdul Majid* v. *Fatima Bibi* (1), *Toolshi Pershad Singh* v. *Raja Ramnarain Singh* (2), *Anund Lal Sing Deo* v. *Maharaja Dheraj Gurrood Narayun Deo* (3), *Baboo Lekhraj Roy* v. *Kunhya Singh* (4), *Roshan Singh* v. *Balwant Singh* (5).

Mr. *J. D. Mayne*, for the respondent, argued that the Judicial Commissioners were right. Daljit Singh, the father of the

(1) (1885) L. R., 12, I. A., 159; I. L. R., 8 All., 39.

(2) (1885) L. R., 12, I. A., 205; I. L. R., 12 Calc., 117.

(3) (1850) 5 Moo. I. A., 82, at p. 103.

(4) (1877) L. R., 4 I. A., 223; I. L. R., 3 Calc., 210.

(5) (1899) L. R., 27, I. A., 51; I. L. R., 22 All., 191.

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brothers, in 1856 made grants, by way of absolute division of part of his property, to the two younger brothers, Arjun and Shankar, and made a grant to the youngest Sheo Narain; and this disposition was calculated to secure the succession of his eldest son, Jagmohan, to an undivided taluqdari estate. The gift of village Nidhan Knar Kherá was one of a series of three gifts to the younger brothers. The two, Arjun and Shankar, afterwards did claim a right to share in the family estate, alleging that the taluqdari estates were not impartible. But the above view of the impartibility and the arrangements made commended itself to the associated taluqdars, who made an award in 1868 on the occasion of the claim made by the younger members of the family. Moreover, the decrees of the Revenue Courts, in the course of the regular settlement of 1869 were made to Arjun and Shankar as grantees from their father, Daljit, and expressly to them and their heirs. The grants to the two brothers were treated as the basis of claims to estates of inheritance, and there was no reason to suppose that Daljit's gift to Sheo Narain of village Nidhan Kuar Khera was not of the same permanent character. The combined effect of the grant in May 1879 with that of the previous transactions in favour of the younger members of the family was to effect an absolute assignment of all the right which the grantor possessed in the villages so disposed of, he having purported to convey that right. The estates were obtained not merely in discharge of recognized obligations upon a taluqdar to maintain his younger brothers, but were made upon compromise of claims that would have been litigated. Accordingly, under these circumstances the burden was on the appellant to show that Sheo Narain's interest in the particular villages, the subject of this controversy, was restricted to an estate for life. The evidence, as it stood, was to the contrary, and indicated estates of inheritance.

The document of the 2nd May, 1879, stating the exchange of Nidhan Kuar Khera for the other villages should receive a benignant construction, according to the extent of the estate which the law allows; see *Juttendromohun Tagore* v. *Ganendromohun Tagore* (1).

(1) (1872) L. R., I. A., Sup. Vol., 47, 55.

Whatever might be said as to the usual construction placed on the words "proprietor" and "for ever" in grants for maintenance, they might in this case well be considered as words of description and not necessarily to limit the quantity of estate granted. The duration of the estate depended upon the intention with which the grant was made, and in this case that intention had been found with reasonable and sufficient certainty to have been gathered from the circumstances surrounding the parties and their acts. Reference was made to the following :—*Rajah Nursing Deb* v. *Roy Koylasnath* (1), *Bhaiya Ardawan Singh* v. *Raja Pratab Singh* (2), *Lalit Mohun Singh Roy* v. *Chakkun Lal Roy* (3), *Braja Kissora Deva Garu* v. *Sri Kundana Devi* (4), and to the two cases cited in the argument for the appellant from 12 Indian Appeals and Indian Law Reports, 12 Calcutta.

Mr. *L. DeGruyther* replied.

Afterwards, on the 8th December 1900, their Lordships' judgment was delivered by SIR RICHARD COUCH :—

Raja Daljit Singh, a taluqdar of Oudh, who died in 1857, had four sons, Jagmohan, Arjun, Shankar and Sheo Narain. Jagmohan died in 1879, leaving a son Bisheshar Bakhsh, who died in December 1887, leaving a son Rameshar Bakhsh. Shankar died in 1888, leaving two sons, and Sheo Narain died on the 23rd July, 1884, leaving a widow, Jai Ratan Kuar, and a daughter, Mangal Kuar. The widow died on the 9th December, 1886. At the time of the annexation of Oudh in 1856 Daljit Singh was the taluqdar of taluqa Bansinghpur in the district of Rai Bareli. After the death of Daljit, Arjun and Shankar made a claim against Jagmohan for half of the taluqa to be settled with them, the whole having been forfeited under Lord Canning's Proclamation. In the proceedings of the Financial Commissioner's Court at Lucknow on the 9th February, 1869, with reference to the settlement of the forfeited estate it is stated by the Commissioner that these two brothers refused to accept anything but a complete share of the estate, and had been several times on the point of creating disturbances; that he had had the parties before him several times; the plaintiffs

(1) (1862) 9 Moo. I. A., 55, 64.

(2) (1896) L. R., 23 I. A., 64; I. L. R., 22 Calc., 838.

(3) (1897) L. R., 24 I. A., 76; I. L. R., 24 Calc., 834.

(4) (1899) L. R., 26 I. A., 66; I. L. R., 22 Mad., 431.

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then appeared more reasonable and were willing to withdraw their claim if the Raja (Jagmohan) would make them some further allowance; that Jagmohan Singh was unwilling to alienate any of the property to the detriment of his own son and maintained that the plaintiffs' share was settled as younger sons by their father; that the taluqdar defendant (Jagmohan) after some discussion in which Maharaja Man Singh took part and advised him consented to give up lands paying Rs. 1,000 more in perpetuity to the two plaintiffs and had signed an agreement to this effect. Thereupon Colonel Barrow, the Financial Commissioner, ordered the settlement to be recorded. This was done by the Assistant Settlement Officer who, on the 22nd June, 1869, decreed the proprietary right in the village Bankagarh to Arjun and his heirs. On the 28th June, 1869, the same officer decreed the proprietary right in the village Davingarh to Shankar and *his heirs*.

The facts as regards Sheo Narain are these. On the 2nd May, 1879, Jagmohan having died on the 15th February previous, he executed a deed by which, after stating that his father Daljit had during his lifetime given him the village of Nidhan Kuar Khera, pargana Kamhrawan, district Rai Bareli, valued at Rs. 2,000 for his maintenance, that he lived jointly with the Raja and did not take possession of the village, and, on Daljit Singh's death, the village continued under the possession and enjoyment of Jagmohan, and it was not possible for him to maintain himself from the profits thereof, that for this reason Bisheshar Bakhsh had granted to him "out of his own pleasure" village Sikandarpur, rental Rs. 1,050, " valued at Rs. 13,500, and village Samnapur, rental Rs. 420, valued at Rs. 4,400," as an exchange for the village Nidhan Kuar Khera under an oral agreement and made applications for dakhil-kharij and had them duly registered, he relinquished all claim to that village and to any property left by the late Raja. Accordingly, on the 2nd May, 1879, Bisheshar petitioned the Assistant Commissioner of Lucknow that when his name was substituted in place of Jagmohan's the name of Sheo Narain might be substituted and entered in records in place of his name in respect of the zamindari haqiyat and lambardari of the entire village Sikandarpur. On the same day he made a similar application for the village Samnapur. There is a difference in the words of these applications

as stated in the record in this appeal. In the first it is said that Jagmohan had given the villages to Sheo Narain for his maintenance, and at the end, after the description of the villages as in the district of Lucknow, are the words "as its proprietor in perpetuity." In the second these words are omitted after "Lucknow," but in the middle of the document after the words "Sheo Narain for his maintenance" are the words "in perpetuity." The difference is not material; the meaning is the same. On the death of Sheo Narain the tahsildar having reported it and that his widow was the proprietress and was in possession, mutation of names as to both villages was made in her favour, and she was in possession of them until her death on the 9th December, 1886.

Bisheshar Bakhsh having died, the suit in this appeal was brought by Arjun on the 10th October, 1889, against his son, Rameshar, a minor, and Rani Sukraj Kunwar, his guardian, the present appellants, for proprietary possession of the two villages of which they were alleged to be in possession, and being heard by the Additional Civil Judge of Lucknow on the 13th December, 1893, it was dismissed. Arjun thereupon appealed tothe Court of the Judicial Commissioner of Oudh, which reversed the decree of the Lower Court and decreed to the plaintiff possession of the villages.

The case of Arjun was that according to the custom prevailing in the family a daughter is excluded from inheritance, and that he was the heir to Sheo Narain. The defendants denied the alleged custom and asserted that Bisheshar granted to Sheo Narain a maintenance right only in the villages. The material issues of those laid down were whether daughters were excluded from inheritance by the family custom and whether the right of maintenance was heritable. It may here be noticed that Shankar as well as Arjun having survived Sheo Narain, Arjun, if right in his contention, would be entitled to only a half share of the property. The First Court found that the custom to exclude daughters was proved, and with reference to an argument for the plaintiff that Nidhan Kuar Khera was held by Sheo Narain as absolute owner, and it must therefore be presumed that he obtained similar rights in the two villages, held that there was nothing to prove that it was given to him by Daljit Singh absolutely, and it was unlikely that two villages of large value were given to him

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absolutely in lieu of an insignificant village like Nidhan Kuar Khera. On the evidence in the petitions the Court held that there was nothing in them from which it could be gathered that it was the intention of Bisheshar Bakhsh to create an estate of inheritance, and referred to the case of *Abdul Majid* v. *Fatima Bibi* (1) and to three cases in the Judicial Commissioner's Court similar to the present, in which it had been held that heritable estates had not been created, and dismissed the suit. On appeal to the Judicial Commissioner's Court that Court referred to the decision or award of the British Indian Association in a dispute between Arjun and Shankar and Jagmohan in which the former two claimed that the ancestral property was held in common and was divisible and each claimed one quarter of it. The opinion or award was against their claim. But the Court quotes from the award, which is a lengthy document occupying ten pages of the printed record, two passages. One of them is:—"It is clear that Raja Daljit Singh himself dur-"ing his lifetime separated the plaintiffs, after giving them a suit-"able maintenance." And the other is:—"that it has been proved by trustworthy witnesses that Raja Daljit Singh by this action," namely the gift by him of a village to each of his three younger sons, "intended to avoid future disputes." It is then said by the Court:—"It is clear from the award that the taluqdars who made "it regarded the grants to the plaintiff and Shankar Bakhsh "Singh as absolute." Their Lordships cannot agree to this conclusion from the award. Apparently the question whether the grants were absolute was not the matter in dispute. The question referred to was whether the ancestral property though styled a Raj was held in common and was divisible. That appears in the statement in the so-called award of the points in issue and the opinion. There is no finding that the grants were absolute. The Court then says that the grants to Arjun and Shankar (which were made upon a compromise of the claim of $\frac{1}{4}$ share) being absolute, it seems to follow that the grant to Narain was one of the same nature; that the circumstance that Nidhan Kuar Khera, although granted to Sheo Narain for maintenance, was granted to him absolutely (which is erroneously taken as proved) goes to show that Sheo Narain, when he stated in the baz-dawa that that

(1) (1885) L. R., 12 I. A., 159; I. L. R., 8 All., 39.

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village had been granted to him as maintenance, was referring not to a grant for life but an absolute grant; that there was therefore a strong presumption when he stated in the same document that the disputed villages were granted to him in lieu of Nidhan Kuar Khera that he referred to an absolute grant of those villages, and that Bisheshar Bakhsh when he stated in the application for mutation of names that he had granted those villages to Sheo Narain for maintenance was referring to an absolute grant of them; that this presumption is strengthened by "proprietor" and "for ever" and was not weakened by the fact that the disputed villages were of considerably greater value than Nidhan Kuar Khera which was accounted for by Sheo Narain relinquishing all claims on the taluqa property movable and immovable, and that there was no reason to suppose that Bisheshar Bakhsh would grant to his uncle, who had lived jointly with his father up to the latter's death, the least he could well do. The construction is thus made by the Court to depend upon a fact as to Nidhan Kuar Khera which was not proved and the supposition by the Court of what Bisheshar Bakhsh would do. It does not seem to have been in the mind of the Court that a statement of Sheo Narain in his own favour was not admissible evidence. But the Court had just before said:—"There seems to be no doubt that where the purpose "of the grant is the 'guzara,' or maintenance of the grantee, such "purpose goes to show that the grant is intended to be for the "life of the grantee. This was so held in Select Case No. 291 on "the authority of *Woodoyaditto Deb* v. *Mukoond Narainaditto* "(22 W. R. 225). There seems also to be no doubt that in the "case of a grant for maintenance the words 'proprietor' and 'for ever' will not *per se* create an inheritable estate." Their Lordships may observe that in the case in L. R., 12 I. A. 159, where this was held, the gift by a will was of the management of property, but it is also applicable in the construction of the gift in this case. The Court should have stopped here and dismissed the appeal and not proceeded to give so insufficient a reason as followed for allowing it and reversing the decree of the First Court. This Court had found on the issue whether daughters were excluded from inheritance by the family custom in favour of the plaintiff Arjun. The Judicial Commissioner's Court has taken no

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notice of this issue, and in the view which their Lordships take of the case it is not necessary to decide it. That Court also seems not to have been aware that Shankar survived Sheo Narain and left a son, and consequently Arjun could only inherit a half share of the property. Their Lordships being thus of opinion that the decree of the First Court ought not to have been reversed will humbly advise Her Majesty to affirm it and reverse the decree now appealed from with the costs of the appeal in which it was made. The respondent will bear the costs of this appeal.

Appeal allowed.

Solicitors for the appellant :—Messrs. *Watkins* and *Lempriere.*

Solicitors for the respondent :—Messrs. *T. L. Wilson & Co.*

1901
February 5.

APPELLATE CIVIL.

Before Mr. Justice Blair and Mr. Justice Aikman.

NARSINGH MISRA AND ANOTHER (DEFENDANTS) *v.* LALJI MISRA (PLAINTIFF).*

Hindu Law—Joint Hindu family—Liability of sons to pay their father's debts—Limitation—Act No. XV of 1877 (*Indian Limitation Act*), *schedule ii, article* 120.

The father of a joint Hindu family executed, on the 23rd June, 1898, a simple money bond, payable on the 18th June 1894. The money not being paid on due date, the creditor sued the father alone, and obtained a decree against him on the 17th June, 1897. The father died in 1899, and after his death the creditor attached certain joint family property in the hands of the sons. The sons objected to the attachment, and their objection was allowed. Thereupon the creditor, on the 22nd January, 1900, filed a suit against the sons, claiming payment from them of the father's debt. *Held* (1) that the liability of the sons to pay their father's debt accrued on the 18th June, 1894, the date when the bond became payable, and (2) that the suit was one to which article 120 of the second schedule to the Indian Limitation Act, 1877, applied, and was therefore not barred by limitation. *Badri Prasad* v. *Madan Lal* (1) followed. *Mallesam Naidu* v. *Jugala Panda* (2) and *Natasayyan* v. *Ponnusami* (3) referred to. The latter case dissented from as regards the *terminus a quo* of the period of limitation.

THE facts of this case sufficiently appear from the judgment of the Court.

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* First Appeal No. 72 of 1900 from an order of Rai Anant Ram, Additional Subordinate Judge of Ghazipur, dated the 1st May 1900.

(1) (1893) I. L. R., 15 All., 75. (2) (1898) I. L. R., 23 Mad., 292.
(3) (1892) I. L. R., 16 Mad., 99.