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pre-empted property. In the circumstances they cannot possibly object to a mortgage by Sewak Ram and Raghunath Singh of the property which they had acquired by pre-emption.

[The rest of the judgement, not being material to this report, is omitted.]

Decree modified.

Before Mr. Justice Sulaiman and Mr. Justice Kendall.

1928 *November*, 15.

AMARJIT UPADHIYA (DEFENDANT) *v.* ALGU CHAUBE (PLAINTIFF).*

Hindu law—Stridhan—*Inheritance—Daughter's daughter preferential heir over daughter's son.*

A daughter's daughter is a preferential heir, as against the daughter's son, to *stridhan* property left by their maternal grandmother, in cases where their mother predeceased her own mother. *Subramanian Chetti* v. *Arunachelam Chetti* (1), followed. *Sheo Shankar Lal* v. *Debi Sahai* (2), distinguished.

THE facts material to this report were briefly as follows:—The plaintiff claimed to be the heir to certain property which was the *stridhan* of his maternal grandmother, Musammat Gomta. During the trial of the suit it transpired that the plaintiff had two sisters living. It was also established that the plaintiff's mother, Musammat Reshma Kuar, had predeceased her own mother, Musammat Gomta. The trial court having decreed the suit, there was an appeal to the High Court.

Mr. *A. Sanyal*, for the appellant.

Maulvi *Iqbal Ahmad* and Pandit *Narmadeshwar Prasad Upadhiya*, for the respondent.

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*First Appeal No. 107 of 1925, from a decree of Mathura Prasad, Subordinate Judge of Azamgarh, dated the 28th of January, 1925.

(1) (1904) I.L.R., 28 Mad., 1. (2) (1903) I.L.R., 25 All., 468.

SULAIMAN and KENDALL, JJ. :—[After setting forth the facts the judgement continued.]

It is not disputed before us that the plaintiff's mother, Musammat Reshma Kuar, had predeceased her own mother. It follows that on the date when Musammat Gomta died she left property which had been her *stridhan* property. Chapter 2, section 11, paragraphs 15 and 18, of the Mitakshara make it quite clear that to a *stridhan* estate daughters' daughters have preference over daughters' sons.

The learned advocate for the respondent has relied on the case of *Sheo Shankar Lal* v. *Debi Sahai* (1). In that case daughters' sons were given preference over a daughter's daughter. That case, however, is clearly distinguishable. On the death of the female whose *stridhan* was in dispute, her daughter had first succeeded and it was a dispute between the grandsons and the granddaughters of the *stridhan* owner after the death of the daughter. Their Lordships of the Privy Council held that property which a woman has taken by inheritance from a female is not her *stridhan*, and that *stridhan* when once it has descended to a female ceases to be *stridhan*. The sons got the property because it had ceased to be *stridhan* in the hands of their mother. In the case before us the property never descended from one female to another, and therefore did not cease to be *stridhan*. It must accordingly go to the *stridhan* heirs of Musammat Gomta. Those heirs are her daughter's daughters in preference to her daughter's son. This view has been accepted in Madras in *Subramanian Chetti* v. *Arunachelam Chetti* (2) and the ground on which the Privy Council decision has been distinguished by the Madras High Court has been accepted by this Court in several cases. In the presence of his sisters who are entitled to

(1) (1903) I.L.R., 25 All., 468. (2) (1904) I.L.R., 26 Mad., 1.

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succeed to this property the plaintiff has no *locus standi* to sue. His sisters may sue hereafter.

We accordingly allow this appeal and, setting aside the decree of the court below, dismiss the plaintiff's suit.

REVISIONAL CIVIL.

Before Mr. Justice Sulaiman.

1928 November, 16.

BANSI RAM AND OTHERS (PLAINTIFFS) *v.* B. N.-W. RAILWAY AND ANOTHER (DEFENDANTS).*

Railway—Risk-note form A (as amended)—"Loss arising from the same"—Interpretation—Goods insecurely packed—Shortage in weight at destination—Burden of proof.

A consignment consisting of three bundles of corrugated iron sheets was despatched over a railway. As the consignment was defectively packed, a risk-note in form A (as amended) was executed by which the consignor agreed to hold the railway "harmless and free from all responsibility for the condition in which the aforesaid goods may be delivered to the consignee at destination and for any loss arising from the same except upon proof that such loss arose from misconduct on the part of the railway administration's servants." At destination the consignment was found to be short in weight by over two maunds. In a suit for damages against the railway: *Held*, that the expression "loss arising from the same" meant "loss arising from the condition in which the goods are delivered," that a shortage in weight is a condition in which the goods are delivered and is covered by the saving clause, and that the burden lay on the plaintiff to prove the exception, i.e., misconduct of the railway's servants.

THE facts of the case are fully set forth in the judgement of the Court.

Pandit *Ambika Prasad Pandey*, for the applicants.

Mr. *B. Malik*, for the opposite parties.

*Civil Revision No. 205 of 1928.