

1931
 BANKEY LAL
 v.
 PEARE LAL.

an incarnation of Vishnu. The rulings aforesaid, therefore, are not applicable. We may also mention that in the plaint the document was not sought to be set aside upon the ground that it was void for uncertainty. No authority has been cited in support of the proposition that an endowment in favour of one of the gods of the Hindu pantheon, who is mentioned by name, is void under the Hindu law. This is the only point which has been urged in this appeal. We overrule this contention and dismiss this appeal with costs.

MISCELLANEOUS CIVIL.

1931
 March, 18

Before Sir Shah Muhammad Sulaiman, Acting Chief Justice and Mr. Justice Bajpai.

GURU CHARAN PRASAD AND ANOTHER (APPLICANTS) v
 BABURAO VISHNU PARARKAR (OPPOSITE PARTY).*

Contempt of court—Newspaper—Advertising a will propounded by one party but impugned by the other in a pending suit—Object being to create general impression and atmosphere in favour of the will and its genuineness.

The publication, as an advertisement, by a newspaper of the copy of a will, with the knowledge that the will was being propounded by one party and impugned by the other in a pending suit, the object of the publication obviously being to create an atmosphere in favour of the will and adverse to the contesting party by making the public believe in the existence and genuineness of the will, was calculated to interfere with the fair administration of justice and amounted to a contempt of court.

Messrs. *Iqbal Ahmad, K. N. Katju and K. K. Verma*, for the applicants.

Messrs. *K. D. Malaviya and J. C. Mukerji*, for the opposite party.

SULAIMAN, A. C. J. and BAJPAI, J. :—This is an application for taking proceedings against Baburao Vishnu Pararkar, editor, printer and publisher of the

*Miscellaneous Case No. 194 of 1931.

“Aj” newspaper. The facts are not now in dispute and may be accepted as substantially set forth in the written statement filed by the editor. On the 28th January, 1931, one Beni Ram Shukul brought a certified copy of a document purporting to be a will of one Musammat Raj Rani and showed it to the assistant manager, Baldeo Das, and requested him to publish it as an advertisement. Rs. 15 were paid for the costs of printing and the copy was published in the paper. We may assume in favour of the editor that the certified copy was actually shown to the assistant manager and was taken back after a copy of it had been retained in his office. The editor however does not deny that the assistant manager understood that this was a document filed in a suit in the court of the Subordinate Judge of Benares. As a matter of fact the copy itself purported to have been taken from a document filed in that suit. It is also now an admitted fact that in the proceedings relating to the substitution of names in that suit the genuineness of the alleged will of Musammat Raj Rani was seriously disputed by the opposite party.

On these facts there cannot be the slightest doubt that the whole object of publishing the will in the advertisement column was to announce to the public that a will of Musammat Raj Rani existed and that the contents of it were as put in the paper. The whole purpose obviously must have been to make the public believe in the genuineness of the document and to act upon it. It is obvious that this was likely to prejudice the mind of the public against the party to the suit who was impugning the genuineness of the document. The publication undoubtedly helped to create an atmosphere in favour of the party relying upon it and adverse to those who were contesting it. If before the disposal of a pending suit, in which a will is disputed, newspapers are allowed to interfere

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in this way with a fair administration of justice there would be a serious harm done.

In Oswald's Contempt of Court (3rd edition, page 95) it is noted that "printing, even without comments, and circulating the brief, pleadings, petition, or evidence of one side only, is a contempt; and accounts of a case by notices, advertisements, or circulars, which misrepresent, or present mere *ex parte* statements of the case, are a contempt."

The publication of this will was in no sense the publication of a *bonâ fide* report of the proceedings of the court. As a matter of fact it was not published as such. The editor therefore cannot claim a qualified privilege on that account. We are satisfied that the publication of this document, if unchallenged, would seriously prejudice the other party and he has a just right to complain. We are satisfied that the act of the persons responsible for this paper amounted to a contempt of court.

Before we pass our final order we would like to have a statement to be made on behalf of the editor, printer and publisher of the "Aj" as to whether he is prepared to publish an unconditional apology in his paper without delay.

Mr. *Malaviya* on behalf of the editor states that the editor will be prepared to publish such an apology. Mr. *Iqbal Ahmad* states before us that in view of the fact that the editor has agreed to publish an apology, he does not press for anything except nominal costs. We accordingly issue only a warning to Baburao Vishnu Pararkar, the editor, printer and publisher, and order him to pay one rupee as nominal costs of the applicants.