

that the lower court's decision that the defendant is not entitled to take part in the conduct of the case amounts to a "case decided" within the meaning of section 115 of the Code of Civil Procedure. In depriving Parshotam Lal Jaitly of his right to cross-examine the plaintiff's witnesses and to examine witnesses in defence the lower court acted illegally in the exercise of its jurisdiction.

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The result is that this application is allowed. The order of the lower court is set aside and it is declared that Parshotam Lal Jaitly, as one of the partners of the firm P. L. Jaitly and Company, is entitled to cross-examine the plaintiff's witnesses and to examine such witnesses on his behalf as he may be advised, provided there is no other circumstance in the case which disentitles him to these privileges.

 FULL BENCH

Before Sir Shah Muhammad Sulaiman, Chief Justice, Justice Sir Lal Gopal Mukerji, and Mr. Justice King

RAM ADHAR AND ANOTHER (PLAINTIFFS) v. SUDESRA
 (DEFENDANT)*

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Hindu Law of Inheritance (Amendment) Act (II of 1929), section 2—"Sister" does not include a half-sister.

The word "sister" in section 2 of the Hindu Law of Inheritance (Amendment) Act, 1929, does not include a half-sister, either consanguine or uterine.

Messrs. *Ram Nama Prasad and Kanhaiya Lal*, for the appellants.

Mr. *Shiva Prasad Sinha*, for the respondent.

*Second Appeal No. 1517 of 1931, from a decree of Mathura Prasad, Additional Subordinate Judge of Benares, dated the 31st of August, 1931, confirming a decree of Harish Chandra Sinha, Additional Munsif of Benares, dated the 7th of May, 1931.

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SULAIMAN, C. J., MUKERJI and KING, JJ.:—This is a reference to a Full Bench. The questions to be decided are:

(1) Does the word "sister" in section 2 of the Hindu Law of Inheritance (Amendment) Act (Act II of 1929) include a half-sister?

(2) If so, does it include both a half-sister by the same father and a half-sister by the same mother?

These are abstract questions of law, and we therefore need not go into the facts of the case.

The word "sister" in the English language ordinarily means a sister of the full blood. For authority see Murray's English Dictionary, edition of 1919. It says: "A female in relationship to another person or persons having the same parents." Then it notes in smaller types: "Sometimes loosely used in the sense of half-sister, and in that of sister-in-law." In the Concise Oxford Dictionary "sister" is stated to mean "daughter of same parents (also sister-german) or (strictly half-sister) parent". This means that a sister must be the child of the same parents, but sometimes a half-sister is also called a sister. Chambers's Dictionary also gives the same meaning to the word sister. Thus, in plain English language a sister would not include a half-sister.

In the Indian Succession Act (Act XXXIX of 1925), section 27 lays down that for purposes of succession under that Act there is no distinction between those who are related to a person by the full blood and those who are related to him by the half blood. But this section 27 does not apply to Hindus; see section 23 of the same Act. The fact that it was necessary to mention that there was no distinction for purposes of the Indian Succession Act of 1925 between a person of the half blood and a person of the full blood goes to

show that, but for this enactment, there would be a distinction.

This is by way of a general observation based on the language of the Act.

If we look into the spirit of the Hindu law as interpreted in those parts of the country where the Mitakshara law prevails, we shall find that a relation of the full blood excludes a relation of the half blood. If we hold that "sister" in section 2 of Act II of 1929 includes a half-sister, we shall be putting a sister and a half-sister in the same category. Further, we shall be introducing a "half-sister" between the words "sister" and "sister's son". Further, Act II of 1929 is an enabling Act which introduces certain persons as heirs who had no such place according to the ordinary interpretation of the Mitakshara law. Unless we have a clear reason to believe that the legislature was introducing, by implication, a person not specifically mentioned as an heir, we have no right to give the word "sister" a wider meaning than it would ordinarily bear.

Again, if we hold that a sister includes a half-sister, then there will be no reason to make a distinction between a uterine sister and a consanguine sister. Among the Hindus a woman on becoming a widow does not remarry, except under the enabling Act of 1856, and instances of such marriages are very rare. Ordinarily it would be repugnant to the notions of Hindus to recognize a woman as a sister who has not the same father as the person himself. She would, therefore, not be regarded as an heir.

For the reasons given above, we think that the Act should be construed strictly, and we hold that the word "sister" does not include a half-sister, either uterine or consanguine.

The second question does not arise in view of our answer.

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