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section to quash the commitment on a question of law. When a matter is brought before the High Court and it appears that the order of commitment was illegal, the High Court will, of course, quash the commitment, and may either drop the proceedings altogether or act under section 439 read with section 423 of the Code and order a fresh inquiry.

Our answers to the two questions referred to us are as follows:

1. Permission of the authorities mentioned in section 83 of the Registration Act is necessary before an accused can be prosecuted under section 82 of the Registration Act.

2. The permission accorded by the Inspector-General of registration on the 28th of August, 1933, did not validate the sessions trial because the commitment to the sessions court was itself illegal.

APPELLATE CIVIL

Before Mr. Justice Niamat-ullah and Mr. Justice Collister

TULSHI PRASAD (PLAINTIFF) v. JAGMOHAN LAL AND OTHERS (DEFENDANTS)*

Hindu law—Widow's estate—Alienation by widow—Sale by widow to discharge time barred debts of her husband

A sale by a Hindu widow of property inherited by her from her husband, for the purpose of discharging the debts of her husband, even if they are time barred, is valid and binding on the reversioners.

Messrs. P. L. Banerji and K. Verma, for the appellant.
Mr. Panna Lal, for the respondents.

NIAMAT-ULLAH and COLLISTER, JJ.:—This is a plaintiff's appeal. The plaintiff is a daughter's son of one Ganga Ram, who died on the 5th February, 1904. He left a widow, by name Mst. Mohani Kunwar, who died on the 1st February, 1922, leaving a daughter Mst.

*First Appeal No. 374 of 1931, from a decree of J. N. Dikshit, Additional Subordinate Judge of Etah, dated the 20th of July, 1931.

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Kausilla. The latter died on the 12th May, 1922, and the plaintiff is her son. On the 20th of November, 1904, i.e. 9 months after her husband's death, Mst. Mohani Kunwar executed a sale deed for Rs.20,000 in respect to certain property in the village of Baghwala. The ostensible reason for this sale deed was the obligation which rested upon Mst. Mohani Kunwar to pay the debts of her deceased husband, and it was alleged that Ganga Ram had actually given her instructions to this effect before his death.

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The plaintiff alleged that Ganga Ram was a zamindar and money-lender and carried on an indigo business, that he died in a state of solvency, that his widow was old and of feeble intellect and that the members of the family took advantage of her position and dominated her mind and, in conspiracy with each other, induced her to execute this deed of sale. The defendants denied all the allegations of the plaint and they pleaded *inter alia* that the sale deed was executed by Mst. Mohani Kunwar to satisfy the debts of her deceased husband, that this amounted to a legal necessity and that the sale deed is therefore binding on the plaintiff.

The court below has found against the plaintiff on all material points.

[The evidence was then discussed, and the judgment arrived at the conclusion that the recitals in the sale deed were true and that the sale was executed with a view to liquidate the debts of Ganga Ram.]

Counsel for the plaintiff has contended that the debts for the payment of which the sale deed of 20th November, 1904, purports to have been executed were time barred and that therefore Mst. Mohani Kunwar was under no legal necessity to alienate this property. He relies on a remark of their Lordships of the Privy Council in the case of *Sham Sundar Lal v. Achhan Kunwar* (1). That was a case in which a daughter having a life

(1) (1898) I.L.R., 21 All., 71.

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interest in certain property alienated the said property without legal necessity, and at page 83 of the report their Lordships quote with approval from a judgment of Mr. JUSTICE PONTIFEX in another case, who remarked that "the touch-stone of the authority is necessity". In *Udai Chunder v. Ashutosh Das* (1) a Bench of the Calcutta High Court held that the payment by a Hindu widow of her husband's debts, though barred by limitation, is a pious duty for the performance of which a Hindu widow may alienate her property. This same view was taken in *Ashutosh Sikdar v. Chidam Mandal* (2). In *Bhagwat Bhaskar v. Nivratti Sakharam* (3) a Division Bench of the Bombay High Court took the same view, but differentiated the case in which the deceased husband had repudiated the debts before his death. The view which has been taken by the above High Courts has been followed by the Madras High Court in *Kondappa v. Subba* (4) and by the Lahore High Court in *Santu Ram v. Mst. Dodan Bai* (5). The question was indirectly considered by a Division Bench of this Court in *Gauri Shankar v. Sheonandan Misra* (6). That was a case in which a father in a joint Hindu family executed a mortgage in order to satisfy a prior debt, and so the case was not quite similar to the one before us; but on page 388 LINDSAY, J., remarked as follows: "It is well settled that an alienation made by a Hindu widow for the purpose of discharging a debt due by her husband is binding on the reversioner even though the recovery of the debt which was discharged had become time barred at the time of the transfer made by the widow." The learned Judge referred to the cases from Madras, Bombay and Calcutta, of which we have already made mention. A more or less similar case came before a Full Bench of this Court in *Gajadhar v. Jagannath* (7) in which it was held that a time barred

(1) (1893) I.L.R., 21 Cal., 193.

(2) (1929) I.L.R., 57 Cal., 904.

(3) (1914) I.L.R., 39 Bom., 113.

(4) (1889) I.L.R., 13 Mad., 139.

(5) (1927) I.L.R., 9 Lah., 85.

(6) (1924) I.L.R., 46 All., 384.

(7) (1924) I.L.R., 46 All., 775.

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debt can constitute a valid antecedent debt as consideration for a sale deed executed by a father of a joint Hindu family alienating joint ancestral family property. On page 785 KANHAIYA LAL, J., remarked: "The case of an alienation effected by a Hindu widow to pay a debt due by her deceased husband, if barred by time, presents a useful analogy for the purpose of guiding the decision of this question. It is well settled that a Hindu widow is competent to transfer the property which she has received from her husband to pay a debt due by him though it may have been barred by limitation, so as to bind the reversionary heirs of her husband." All the rulings of the other High Courts of which we have already made mention were referred to in that case. We are in full agreement with this view. It is contended by counsel for the plaintiff that there is nothing on the record to show that Mst. Mohani Kunwar, at the time of the execution of the sale deed, was aware that the debts were time barred and that therefore she may have been under a wrong impression that the property was liable to be attached and sold in satisfaction of those debts. We do not think that there is much force in this plea, in view of the fact that she had the assistance of her own brother Bhojraj and of her husband's brother Nainsukh Das. Moreover, it has not even been proved that the debts of Ganga Ram were in fact time barred. No plea to this effect was taken in the suit and no evidence was given to prove it. For all we know to the contrary, the debts may have been kept alive by acknowledgment or otherwise; and in any case it is extremely difficult for any one to show after so long a time whether certain debts had or had not become time barred in the year 1904.

In our opinion, the view which the learned Subordinate Judge has taken is correct on all points. We accordingly dismiss this appeal with costs.