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Court; separate orders emanating from each Court for confirming a sale, with separate sale-certificates from each Court granted to the same auction-purchaser in regard to the same sale, each bearing different dates; and confusion of other kinds may occur. But however this may be, it is open to us to make a proper order in the case, and the Munsif's order has done substantial justice, and I am not disposed to interfere. The Subordinate Judge clearly intended only to deal with the sale so far as it affected his own decree, and his order for setting the sale aside, even so far as concerned his decree, was obviously illegal. I concur with my honorable colleague in dismissing the appeal with costs.

*Appeal dismissed.*

*Before Mr. Justice Pearson and Mr. Justice Oldfield.*

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December 20.

SIA DASI AND OTHERS (DEFENDANTS) v. GUR SAHAI (PLAINTIFF).\*

*Hindu Widow—Alienation—Reversioner—Estoppel.*

A Hindu widow in possession of her deceased husband's separate landed estate, her deceased husband's mistress and his illegitimate daughter, and the next reversioner to such estate, with the object of adjusting family disputes, entered into an arrangement by an instrument in writing for the distribution of such estate. A remoter reversioner to such estate was a witness to such instrument, and took a prominent part in making such arrangement, and the same had his full consent. *Held* that such remoter reversioner was estopped by such conduct from afterwards questioning the legality and genuine character of such distribution and the validity of assignments made by the persons who shared in such distribution.

Observations on the power of a remoter reversioner to question alienations by a Hindu widow in which the next reversioner has concurred.

THE facts of this case are sufficiently stated for the purposes of this report in the judgment of the High Court.

Pandit *Ajudhia Nath* and Munshi *Sukh Ram*, for the appellants.

Mr. *Chatterji*, for the respondent.

The judgment of the High Court (PEARSON, J., and OLDFIELD, J.,) was delivered by

OLDFIELD, J.—The property in suit belonged to one Sidh Gopal, paternal uncle of plaintiff: Sidh Gopal died in 1857 and was succeeded by his widow, Sia Dasi. The next reversioner after the widow was Sheo Prasad, half brother of Sidh Gopal, and he, and Sia

\* First Appeal, No. 21 of 1880, from a decree of Pandit Jagat Narain, Subordinate Judge of Cawnpore, dated the 10th December, 1879.

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Dasi, and Mitala Kuar, the mistress of Sidh Gopal, and her daughter, Ram Dulari, entered into an arrangement for the distribution of the property left by Sidh Gopal, and executed a deed dated the 30th May, 1867, by which certain estates were assigned to Mitala Kuar and her daughter in trust for the maintenance of a temple; other estates were conferred on Mitala Kuar and her heirs; others on Ram Dulari and her heirs; other estates were assigned to Sheo Prasad; and an eight-anna share in the village of Sidhali was assigned to Sia Dasi for her life to go at her death to Sheo Prasad. Sheo Prasad sold an estate to Basant Singh, defendant, and after Sheo Prasad's death his sons sold another to Gajadhar Singh and Munni, defendants. Sheo Prasad died in 1868, predeceasing Sia Dasi, who on the 15th August, 1876, executed a deed by which she conveyed to Mitala Kuar and the heirs of Sheo Prasad the property which had been assigned to her, in consideration of their having discharged certain ancestral debts for which she was liable. The plaintiff brings this suit, as the reversioner entitled at Sia Dasi's death to the property left by Sidh Gopal, to set aside the conveyance made under the deeds of 1867 and 1876 and the sales made to Basant Singh and Gajadhar Singh and Munni. The claim has been decreed, and the two material grounds on which the decision is questioned in appeal are, (i) that the conveyances by the deed of 1867 having been made by Sia Dasi in concert with and with the consent of Sheo Prasad, the immediate reversioner, a complete title was conveyed under them which a remoter reversioner cannot question; (ii) assuming that such is not the case and plaintiff could have contested the legality of the said conveyances, he is estopped from doing so now, since he himself consented to the distribution of the property.

The first ground raises a somewhat difficult question, on which the decisions have been conflicting, as will be seen by referring to Norton's Hindu law, Part 2, p. 627, where all the decided cases are referred to. The decisions in favour of the view that the widow and the nearest heirs living at the time of the conveyance can join in making a valid conveyance which no remoter heirs can question, appear to proceed either on the ground of estoppel or on the ground that in the lifetime of the widow the whole estate may be said to be in possession, and that, looking to the policy of the Hindu

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law, the reversioner has been sufficiently represented for the purpose of the conveyance when the widow and the nearest heir join in making it. The first ground has no application to the case before us, in which plaintiff does not claim through Sheo Prasad, but as heir to Sidh Gopal; and the objections which may be urged to the view are forcibly stated in Mayne's Hindu law, s. 547. The author would reconcile the cases by holding that no person, who proved to be next heir at the death of the female tenant, and who was alive at the time of the transaction, should be bound by any consent except his own or that of some lineal ancestor through whom he claimed. This view may perhaps be supported by the case of *Koer Goolab Singh v. Rao Kurun Singh* (1), where the power of a remoter reversioner to question alienations in which the next heir was charged with having concurred was recognised. In that case, however, the next heir was a lady, the widow's mother-in-law, whose expectant interest was of a restricted character. We refrain, however, from deciding the question here, as, assuming that Sia Dasi and Sheo Prasad were unable to join in conferring a complete title, we consider the second ground of objection to which we have referred to be valid, and hold that plaintiff cannot now dispute the transfers made under the deed of 1867. He was himself a witness to that deed, and there is evidence which we see no reason to distrust that he took a prominent part in making the arrangement, which had his full consent, and was made with the object of settling family disputes. Plaintiff denies having witnessed the deed, and it appears he lodged a complaint in the police-station in 1867 on the subject; but there can be no doubt he did witness it; the evidence is direct on this point, and also as to his consent to the arrangement, and his conduct in not taking proper steps to establish the alleged fraud or to protect his interests is inconsistent with any other view, and he has not offered evidence to rebut that of defendants. With regard to the disposal of the property assigned by Sia Dasi under the deed of 1876, it cannot be questioned by plaintiff, as it is clear that it was done for the satisfaction of ancestral debts. The plaintiff's suit is therefore dismissed, with costs, by reversal of the decree of the lower Court.

*Appeal allowed.*

(1) 14 Moore's L. A., 176.