

1883

JAI RAM
v.
 DULARI
 CHAND.

Munshis *Hanuman Prasad* and *Sukh Ram*, for the appellant.
 The *Junior Government Pleader* (*Babu Dwarka Nath Banarji*),
 for the respondents.

The Full Bench delivered the following opinion :—

STUART, C. J., and STRAIGHT, OLDFIELD, BRODHURST, and
 TYRRELL, JJ.—We are of opinion that an appeal does lie.

1883
 February 16

*Efere Sir Robert Stuart, Kt., Chief Justice, Mr. Justice Straight, Mr. Justice
 Oldfield, Mr. Justice Brodhurst, and Mr. Justice Tyrrell.*

MUNIA AND ANOTHER (DEFENDANTS) *v.* PURAN (PLAINTIFF)

*Hindu Law—Hindu widow—Immoveable property acquired from deceased uterine
 brother—Stridhan—Alienation—Husband's heirs.*

Immoveable property acquired by a childless Hindu widow from her deceased
 uterine brother is her *stridhan* and *stridhan* with which the heirs to her husband
 have nothing to do. Over such property her control is absolute and unimpeach-
 able, and the relations of her husband have no such reversionary *status* in respect
 of it as will entitle them to sue to set aside an alienation of it by her.

THE plaintiff in this suit claimed to set aside a transfer by gift
 of certain immoveable property by the defendant Munia to the de-
 fendant Janki, on the ground that, being a childless Hindu widow,
 the defendant Munia had only a life interest in the property, and
 he, plaintiff, was entitled to succeed thereto, as her deceased husband's
 heir. It appeared that the property had belonged to the defendant
 Munia's deceased husband and his brother. They had sold it
 to her brother, and on her brother's death it had come into her
 possession. The defendant Janki, to whom the transfer in dispute
 was made, was an heir to the defendant Munia's father. The
 defendants set up as a defence to the suit that, having regard
 to the fact that the defendant Munia had acquired the property from her
 brother, and not from her husband, the plaintiff was not competent
 to impeach the transfer. The Court of first instance allowed this de-
 fence and dismissed the suit. On appeal by the plaintiff the lower
 appellate Court held that, while an heir to her husband was living, the
 defendant Munia was not competent to alienate the property, and
 gave the plaintiff a decree setting aside the transfer in dispute.

* Second Appeal No. 179 of 1882, from a decree of J. M. C. Steinbelt, Esq.,
 Judge of Banda, dated the 23rd December, 1881, reversing a decree of Kazi Wajeh-
 ul-lah Khan, Subordinate Judge of Banda, dated the 18th August, 1881.

In second appeal the defendants contended that, with reference to the manner in which the property was acquired by Munia, the plaintiff was not legally competent to impugn its alienation by her, and the provisions of the Hindu law relating to alienations by childless Hindu widows were not applicable in this case.

The Divisional Bench (BRODHURST and MAHMOOD, JJ.) before which the appeal came for hearing referred the following question raised by the appeal to the Full Bench:—

“Who is the reversioner to immoveable property acquired exclusively, either by inheritance or otherwise, by the childless widow of a member of a divided Hindu family, *i.e.*, is the heir of the widow’s late husband, or is the heir of the widow’s father the reversioner to the property?”

Munshi *Sukh Ram*, for the appellants.

Munshi *Hanuman Prasad*, for the respondent.

The Full Bench delivered the following opinion :

STUART, C. J., and STRAIGHT, OLDFIELD, BRODHURST, and TYRRELL, JJ.—On the understanding that the defendant donor obtained the property in suit from her deceased uterine brother—we are not informed how, although it is conceded she could not acquire it from him by inheritance—it necessarily follows that it is her *stridhan*, and it is *stridhan* with which her deceased husband’s heirs have nothing to do. Over such property her control is now absolute and unimpeachable, and the relations of her husband have no such reversionary *status* in respect of it as is set up by the respondent in this case.

Before Sir Robert Stuart, Kt., Chief Justice, Mr. Justice Straight, Mr. Justice Oldfield, Mr. Justice Brodhurst, and Mr. Justice Tyrrell.

JAGAT NARAIN, GUARDIAN OF JAGESRA KUARI MINOR (PLAINTIFF) v. SHEO DAS AND ANOTHER (DEFENDANTS).

Hindu Law—Mitakshara—Inheritance—Sister.

According to the law of the Mitakshara none but females expressly named can inherit, and the sister of a deceased Hindu, not being so named, is therefore not entitled to succeed to his estate. *Gauri Sahai v. Rukko* (1) followed.

* Second Appeal No. 163 of 1882, from a decree of Hakim Rahat Ali, Subordinate Judge of Gorakhpur, dated the 25th November, 1881, reversing a decree of Maulvi Hafiz Rahim, Munsif of Bangsaon, dated the 30th July, 1881.

(1) I. L. R., 3 All., 45.

1883

MUNIA
v.
PURAN.

1883

February 23.