

APPELLATE CIVIL

Before Mr. Justice Bisheshwar Nath Srivastava

KABOOTRA, MUSAMMAT (DEFENDANT-APPELLANT) v.
 1935
 March, 5 RAM PADARATH, PLAINTIFF, AND OTHERS, DEFENDANTS-
 (RESPONDENTS)*

Hindu Law of Inheritance (Amendment) Act (II of 1929), section 2—'Sister' in section 2 of Hindu Law of Inheritance (Amendment) Act, whether includes half-sister.

The word 'sister' as used in section 2 of the Hindu Law of Inheritance (Amendment) Act means a sister of the full blood and does not include a half-sister. *Ram Adhar v. Sudesra* (1), followed.

Mr. *Hyder Husain*, for the appellant.

Messrs. *Radha Krishna* and *N. Banerji*, for the respondents.

SRIVASTAVA, J.:—This is a defendant's appeal against the decree, dated the 18th of July, 1933, of the learned Subordinate Judge of Gonda, reversing the decree dated the 1st of November, 1932, of the learned Munsif of Utraula in that district.

It arises out of a suit for possession. The plaintiff claimed to be entitled to half of the property of Mahabir deceased as one of his next reversioners. The suit was contested by the defendant-appellant, who claimed to be the full sister of Mahabir. The learned Munsif held that the fact of the appellant being the full sister of Mahabir had been satisfactorily established and that she was entitled to succeed to the property of her brother Mahabir in preference to the plaintiff under the Hindu Law of Inheritance (Amendment) Act, 1929.

On appeal the learned Subordinate Judge did not agree with the finding of the learned Munsif and after a careful scrutiny of the evidence came to the conclusion that the defendant-appellant was a half sister of Mahabir.

*Second Civil Appeal No. 292 of 1933, against the decree of Babu Gauri Shankar Varma, Subordinate Judge of Gonda, dated the 18th of July, 1933, reversing the decree of M. Mohammad Tufail Ahmad, Munsif of Utraula at Gonda, dated the 1st of November, 1932.

(1) (1933) I.L.R., 55 All., 725(F.B.).

being born of his step-mother. Relying on the Full Bench ruling of the Allahabad High Court in *Ram Adhar and another v. Sudesra* (1) he held that being a step-sister she was no heir of Mahabir under Act II of 1929.

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The learned counsel for the defendant-appellant has not questioned the correctness of the lower appellate Court's finding that the defendant-appellant is only a half sister and not the full sister of Mahabir deceased. The only contention urged by him is that the interpretation placed by the Full Bench of the Allahabad High Court on the meaning of the word "sister" as used in section 2 of Act II of 1929 is not correct. He has conceded that as between a full sister and a half sister the full sister will be entitled to preference on the principle that a relation of the full blood excludes a relation of the half blood. If the word "sister" as used in section 2 of the Act is to include a half sister, then it seems to me that on a proper interpretation of section 2 the full sister as well as the half sister must take together. If the intention of the legislature had been to include a half sister and to give preference to the full sister over her, it was to be expected that instead of using the single word "sister" they should have used the words "full sister" and after her mentioned "half sister". In the absence of any indication to that effect I am of opinion that the word "sister" as used in this section must be interpreted according to the plain meaning of the word in the English language, which ordinarily means a sister of the full blood. I need not repeat the other reasons given by the Full Bench of the Allahabad High Court in support of this interpretation with which I am in full agreement. I am accordingly of opinion that the decision of the lower appellate court is correct.

Srivastava,
J.

The appeal, therefore, fails and is dismissed with costs.

Appeal dismissed.