

## APPELLATE CIVIL.

Before Mr. Justice Harrison and Mr. Justice Dalip Singh.

MOHAMMAD AKBAR AND OTHERS (PLAINTIFFS)

Appellants

versus

DHARMSALA BABA SIDQI DAS AND OTHERS

(DEFENDANTS) Respondents.

Civil Appeal No. 301 of 1922.

*Custom—Alienation—Gift by heirless proprietors to a Mahant—Suit by other members of the proprietary body of the village, as such, to contest that gift—Locus standi.*

Where two heirless *Sidhu Jat* proprietors, being the last of their race and kind in the village, gifted land to a *Mahant*:

*Held*, that the plaintiffs suing as members of the same proprietary body as the deceased donors had failed to establish their *locus standi* to challenge the gift.

*Umra v. Karim Bakhsh* (1), and *Jotu v. Lehna* (2), distinguished.

*First appeal from the decree of Rai Sahib Lala Maya Bhan, Senior Subordinate Judge, Gujranwala, dated the 24th November 1921, dismissing the plaintiff's suit.*

DURGA DAS and MAYA DAS, for Appellants.

DIWAN MEHR CHAND and D. S. CHAND, for DES RAJ NARANG, for Respondents.

The judgment of the Court was delivered by:—

HARRISON J.—The plaintiffs in this case being members of a proprietary body of Chihanwali brought a suit against *Mahant* Ishar Das and other members of the proprietary body for possession of 1,118 *kanals*, 16 *marlas* of land, which the *Mahant* is holding in virtue of an alleged gift in his favour by two men

1927

MOHAMMAD  
AKBAR  
v.  
DHARMSALA  
BABA  
SIDQI DAS.

Jawala and Diala. These men Jawala and Diala were the last of their race and kind in this village, they being *Sidhu Jats*, and the plaintiffs came to Court resting their claim on the fact of their being members of the same proprietary body as the deceased donors. The trial Court has held that they are in no sense the heirs of the donors, that the land should have escheated to Government, but as Government has not exercised its right they, the village proprietary body, have a right to oust a perfect stranger, or in other words, a trespasser can oust another trespasser. In support of this finding counsel has referred us to *Umra versus Karim Bakhsh* (1), and *Jotu versus Lehna* (2), both of which are quoted by the trial Court. Neither of these help the plaintiffs' case in any way. In *Umra v. Karim Bakhsh* (1), the plaintiffs relied successfully on an entry in the *Rivaj-i-am* which was in their favour, and in *Jotu v. Lehna* (2), they belonged to the same *got* and had descended from the original founder of the village. In this case neither of these circumstances exist. The plaintiffs are a heterogeneous collection of Muhammadans and Sikhs none of whom can show any connection or relationship whatsoever with the founder of the village or with any member of the original proprietary body. In these circumstances the plaintiffs have wholly failed to establish their *locus standi*, and it is not necessary to go into the question whether the finding of the trial Court is correct or not as to the genuineness and validity of the gift.

We dismiss the appeal with costs.

A. N. C.

*Appeal dismissed.*

(1) 15 P. R. 1912.

(2) 18 P. L. R. 1913.