death. But we are not prepared to accept this argument. He has not referred us to any case in support of it, and notwithstanding her power of disposal, while she lived, over the moveable property inherited from her husband its devolution upon her heirs on her death does not at all follow. Whether we take the expression *stridhan* in its technical and narrower sense as in the Mayukha[1], so as to exclude such property, or in its etymological and larger sense as in the Mitakshara[2], so as to include it, both the authorities agree as to how it should descend upon her death[3]. To satisfy the Mitákshara we would presume, in the absence of any evidence to the contrary, that the marriage in this case was in one of the four approved forms. Besides, this case comes from Gujarát, where the authority of the Mayukha prevails in case of real conflict between it and the Mitákshara.

We must, therefore, confirm the decree of the Subordinate Judge with costs, the correctness of his decision as to the value of the property not having been questioned before us.

(1) Ch. IV., Sec. X, pl. 1, 2. (2) Ch. I., Sec. XI, pl. 3, 4.
(3) Vyav. May., Ch. IV., Sec. VIII., pl. 1, 4; Mit., Ch. II., Sec. XI., pl. 11.

APPELLATE CIVIL.

Before Mr. Justice Birdwood and Mr. Justice Parsons.

BA'I JAMNA' AND ANOTHER, (ORIGINAL DEFENDANTS), APPELLANTS, *v.* BHA'ISHANKAR (ORIGINAL PLAINTIFF), RESPONDENT.*

1891. *April* 7.

Hindu Law—Inheritance—Widow's estate in moveables inherited from her husband—Liability of such property for her debts after her death.

Under the Hindu Law in force in the Presidency of Bombay, a widow inheriting from her husband, or a mother from her son, may have an absolute power of disposal over moveable property so inherited; but any undisposed of residue of such property reverts on her death to the estate of the last male holder, and passes as his property to his heirs. It is not, therefore, her personal property liable in their hands for her debts.

SECOND appeal from the decision of Ráo Bahádur Chunilál Máneklál, First Class Subordinate Judge of Ahmedabad, in Appeal No. 218 of 1889 of the District File.

* Second Appeal, No. 558 of 1890.

1891.

BÁI JAMNÁ v. BHAISHANKÁR.

The plaintiff sued the defendants as legal representatives of Bái Mánek, deceased, to recover certain debts contracted by her on her own personal account.

A decree was passed "against the personal property of Bái Mánek, if any, in the hands of the defendants."

In execution of this decree the plaintiff attached certain mortgage debts which were originally due to the estate of Chhagan, the husband of Bái Mánek, and which vested in her on the death of Chhagan's only son.

The defendants, who were the reversionary heirs of Chhagan, applied to have the attachment raised, on the ground that the debts, which were attached, were no longer the personal property of Bái Mánek liable in their hands to satisfy the decree sought to be executed.

The Court of first instance allowed this objection, and ordered the attachment to be removed.

The Appellate Court held that as Bái Mánek had during her life-time an absolute power of disposal over the property attached, it was part of her *stridhan* or personal property, and as such was liable to be attached in execution of the decree. He, therefore, reversed the order of the first Court, and directed the attachment to continue.

Against this decision the defendants appealed to the High Court.

Ráo Sáheb Vásudev Jagannáth Kirtikar for appellants:—The decree sought to be executed is passed against the personal property of Bái Manek. The question is, whether the debts which have been attached are her personal property. The debts were originally due to her husband Chhagan. On his death they passed to his son, and on the son's death to Bái Mánek. When she died, they vested in the defendants as reversionary heirs of Chhagan. They are not, therefore, her personal property liable in their hands to satisfy her debts. Refers to *Bhugwándeen Doobey* v. *Myna Báee*[1]; *Harilal* v. *Pranvalavdás*[2]; *Tuljárám Morárji* v. *Mathurádás*[3].

(1) 11 Moore's, I. A., 487. (2) *Supra* p. 220.
(3) I. L. R., 5 Bom., 662.

Shántárám Nárayan for the respondent:—The debts attached came to Bái Mánek by inheritance from her son. A mother takes the same estate as the widow—*Narsappa* v. *Sakhárám*(1). It is the settled law in this Presidency that a widow takes an absolute estate in moveables inherited from her husband. Her right to alienate moveables so inherited is unrestricted—*Beehur Bhagwán* v. *Bái Lukmee*(2). She can even will away such property—*Dámodar Mádhowji* v. *Purmánandás Jeewandás*(3). Such property is, therefore, her *stridhan* liable to satisfy her debts. The property attached was Bái Mánek's *stridhan*. It vests in the appellants as her heirs, not as her husband's. Even assuming that they take it not as her heirs, but as her husband's heirs, the nature of the property is not affected by the mode of its devolution. If it was the widow's *stridhan* during her life-time, it remains her *stridhan* after her death, no matter on whom it devolves. Refers to West and Bühler, 3rd Edition, pp. 266, 297, 333; *Vijiarangam* v. *Lakshuman*(4); *Jánkibái* v. *Sundra*(5). The property in dispute is, therefore, liable to attachment.

Ráo Sáheb *Vásudev Jagannáth Kirtikar* in reply:—The property attached is not moveable property. It is a mortgage-debt and an interest in immoveable property. The cases cited do not, therefore, apply. The Mayukha does not recognize inherited property as *stridhan*. Even assuming that the property in dispute was Bái Mánek's *stridhan*, on her death it descends to her husband's heirs and not to her own. It reverts to his estate and passes to his heirs as his property. The case of *Harilál* v. *Pránvalavdás*(6) is conclusive on the present question.

PARSONS, J.:—The facts of this case are as follows:—Bái Mánek, the widow of Chhagan Pitámber, contracted certain debts to the present respondent, who, after her death, brought a suit for them against the present appellants as the representives of Bái Mánek and her husband. The plaint asked for a decree against the property of Bái Mánek as well as against the property of Chhagan. The 3rd issue in the case was "whether the property of Bái Mánek as well as that of her husband Chhagan is liable

(1) 6 B. H. C., 215, A. C. J.
(2) 1 B. H. C., 56.
(3) I. L. R., 7 Bom., 155.
(4) 8 B. H. C., 244, O. C. J.
(5) I. L. R., 14 Bom., 612.
(6) *Supra* p. 229.

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for the claim." The finding thereon was that "Bái Mánek's *stridhan* only is liable for the plaintiff's claim." The Judge who tried the case found that there was nothing to show that Bái Mánek had contracted the debts to the plaintiff as representative of her husband or of the estate she held. He remarked that "on the contrary, from the plaintiff's accounts and balances put in, she appears to have contracted the debts in her own name, and the debts have not been secured by a mortgage or hypothecation of the estate or any part thereof." He quoted Mayne's Hindu Law, section 545 (3rd Edition), and *Gadgeppa Desái* v. *Apáji Jivanráo*[1] in support of the proposition laid down by him that "reversioners are not liable to satisfy bonds executed by a widow as security for loans contracted by her which neither specifically pledge the estate nor purport to be executed by her as representing the estate."

The decree was passed only against "the personal property of Bái Mánek, if any, in the hands of the defendants." In execution of that decree, the respondent has attached two mortgage debts, and the only question now before us therefore is whether these debts are the personal property of Bái Mánek in the hands of the appellants or not. In the face of the admission made in the Court of first instance we cannot give any weight to the argument that there is any distinction to be made between these debts. We must hold that both the debts were the property of Chhagan, the husband of Bái Mánek, and came to the latter on the death of Chhagan's son without other heirs. Bái Mánek thus inherited as a mother from a son, and, as admitted in the argument before us, the estate which a mother takes in such a case is similar to the estate which a widow takes as heir of her husband. The decision in *Narsappa* v. *Sakhárám*[2] is to this effect.

The question, therefore, narrows itself to this: "Is the moveable property inherited by a Hindu widow from her husband or by a mother from her son her personal estate liable after her death for her debts?" That question we must answer in the negative. No doubt it has been decided that, under the law in

(1) I. L. R., 3 Bom., 237. (2) 6 Bom. H. C. Rep., 215, A. C. J.

force in this Presidency, the woman during her life-time has an absolute power over such property to do whatever she pleases with it—see *Dámodar* v. *Purmánandás*[1]. But it has also been decided that both under that law, as well as under the law that prevails elsewhere, any undisposed of residue of such property descends, after her death, not to her heirs, but to the heirs of her husband—*Hárilal* v. *Pránvalardás*[2] following *Mussamat Thakoor Deyhee* v. *Rai Baluk Ram*[3]; *Bhugwán Deen Doobey* v. *Myna Baee*[4]. There is a difference, therefore, between property inherited by a woman from her husband and property acquired by her as *stridhan* in the ordinary way. Both may be called '*stridhan*', but that only can legally be held to be her personal property which is such at the time of her death and passes to her heirs. It is impossible to call that her personal property which on her death reverts to her husband's estate and passes as his property to his heirs. There can be little doubt that, in both her husband's moveable and immoveable property, the widow under strict Hindu Law had only a life estate, and though the Courts on this side of India may have given her in respect of moveable property an absolute power of disposal during her life-time, yet the estate remains one for life only as regards any residue thereof that is undisposed of at the time of her death. Such residue in the hands of her husband's heirs would not be liable for the debts of the widow unless the debts were of such a nature that the estate of the husband would be liable therefor—see *Kristo Gobind* v. *Hem Chunder*[5], adopting the principle laid down by the Privy Council in *Baijun Doobey* v. *Brij Bhookun Lall*[6].

In the present case the respondent failed to obtain a decree against the husband's estate. It follows, therefore, that he cannot in execution attach the debts in suit which, at the moment of the widow's death, became part of the husband's estate and vested in the appellants as the heirs of Chhagan. We, therefore, reverse the decree in execution of the lower appellate Court, and restore that of the Court of first instance, with costs throughout on the respondent.

Decree reversed.

(1) I. L. R., 7 Bom., 155.
(2) *Supra* p. 229.
(3) 11 M. I. A., 139.
(4) *Ibid.*, 487.
(5) I. L. R., 16 Calc., 511.
(6) L. R., 2 I. A., 275.