APPELLATE CIVIL.

Before Sir Charles Sargent, Kt., Chief Justice, and Mr Justice Candy.

1892
September 29.

FARDUNJI ASPANDIA'RJI (ORIGINAL OPPONENT), APPELLANT, *v.* NAVAJBA'I (ORIGINAL APPLICANT), RESPONDENT.*

Letters of administration, grant of—Deceased having no property or fixed place of abode within district—Jurisdiction of the District Judge—Section 240 of the Indian Succession Act (X of 1865).

A District Judge cannot grant letters of administration to a Pársi if the deceased had not at the time of his death a fixed place of abode or any property within his district. See section 240 of the Indian Succession Act X of 1865.

APPEAL from an order of J. B. Alcock, District Judge of Surat.

One Aspandiárji died after making a will of his property bequeathing a legacy to his daughter Jáiji, who had possession of part of his estate at Surat. The will was proved and Jáiji received her legacy. Afterwards Navajbái, widow of Mancherji Aspandiárji (son of the testator), brought a suit against Jáiji in the Subordinate Judge's Court at Surat for the administration of Aspandiárji's estate. Jáiji died pending that suit. Navajbái thereupon presented an application to the District Court at Surat under section 222 of the Indian Succession Act (X of 1865) for the grant to her nominee Thákardás of letters of administration to Jáiji's estate.

The opponent Fardunji Aspandiárji, a brother of Jáiji, contended that the Court had no jurisdiction to grant the application, inasmuch as Jáiji left no property within the jurisdiction of the District Court at Surat, and that she resided at Bombay.

The District Judge of Surat granted the application, observing: "Jáiji had possession of part of Aspandiárji's estate in Surat. She gets nothing under his will except a legacy, which she has received; the will having been proved and the estate administered in Surat. This Court, therefore, has jurisdiction to make an order under section 222."

The opponent appealed against the order.

Govardhanrám M. Tripathi for the appellant:—The application can only be granted under the provisions of section 240 of the Indian Succession Act. Jáiji owned no property of her own at

*Civil Reference, No. 84 of 1892.

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Surat, nor was she a resident there. The mere circumstance that the administration suit is going on at Surat, and that Jáiji was in possession of Aspandiárji's property at Surat, could not give to the District Judge the jurisdiction to entertain the application for administration to Jáiji's estate.

Mánekshán J. Taleyárkhan for the respondent.

SARGENT, C.J. :—The Court of Surat, in which the suit to administer the estate of Aspandiárji has been brought, had no jurisdiction to grant administration of Jáiji's estate. Section 222 of Act X of 1865 enables the plaintiff to apply for the issue of letters of administration to his nominee; but the Court, to which such application had to be made, was the Court as determined by section 240, and as Jáiji had not "a fixed place of abode, nor owned property," within the district of the District Judge of Surat at the time of her death, that Court had no jurisdiction to grant the letters of administration asked for.

We must, therefore, discharge the order appealed from, but without costs.

Order discharged.

FULL BENCH.

Before Sir Charles Sargent, Kt., Chief Justice, Mr. Justice Parsons and Mr. Justice Telang.

1892. *December* 6.

GADA'DHAR BHAT (ORIGINAL PLAINTIFF), APPELLANT, *v.* CHANDRABHA'GA'BA'I (ORIGINAL DEFENDANT), RESPONDENT.*

Hindu law—Inheritance—Moveable property—Daughter-in-law inheriting moveable property from father-in-law—Estate taken by her in such property—Widow—Widow's estate in moveables—No power to dispose by will of moveables.

Where a son predeceased his father, and the son's widow subsequently succeeds to her father-in-law's property as his heir, she takes the same estate in it as she does in property inherited by her from her husband.

Under the law of Mitákshara a widow has no power to bequeath moveable property inherited by her from her husband.

In the Presidency of Bombay, moveable property inherited by a widow from her husband devolves on her death to her husband's heirs.

If the decision of *Dámodar* v. *Purmánandás*(1) is to be regarded as necessarily giving to the heir of a widow on her death such moveable property inherited from her husband as remains undisposed of by her, it must be treated as of no authority.

* Appeal No. 34 of 1890.

(1) I. L. R., 7 Bom., 155.