

the passage in *Ramana v. Babu*⁽¹⁾, I have quoted above, it seems to me that this application is one which comes under Article 182 of the Indian Limitation Act, Schedule I, and therefore the application is time-barred.

In my opinion, therefore, the appeal should be allowed and the Darkhast dismissed with costs throughout.

This judgment will govern both appeals.

SHAH, J.:—I concur.

Decree reversed.

J. G. R.

(1) (1912) 37 Mad. 186.

APPELLATE CIVIL.

Before Sir Norman Macleod, Kt., Chief Justice, and Mr. Justice Shah.

VAMAN VITHAL KULKARNI (ORIGINAL PLAINTIFF) APPELLANT *v.*
VENKAJI KHANDO KULKARNI AND OTHERS (ORIGINAL DEFENDANTS)
RESPONDENTS*.

Hindu law—Adoption—Widow of predeceased nephew adopting with the consent of the widow of the last co-parcener—Subsequent adoption by the the latter widow not legal—Effect of invalid adoption—Status of a person in the natural family, when his adoption is invalid.

K, a Hindu, died leaving him surviving his widow G and A the widow of his pre-deceased nephew. A adopted a son with the consent of G. Afterwards G adopted defendant No. 1 to her husband. A question having arisen as to the validity of the defendant No. 1's adoption and whether he lost his rights in his natural family:—

Held, that on the adoption by A with the consent of G, the whole estate vested in the adopted son and the right of G to adopt to her husband came to an end.

Held, further, that defendant No. 1 did not lose his rights in his natural family, inasmuch as his adoption was invalid and was not acquiesced in by any person in the family of K.

* Cross Appeals Nos. 978 and 979 of 1917.

1920.

GANGADHAR
v.
BALKRISHNA
SOIROBA.

1920.

September 14.

1920.

VAMAN
VITHAL*
VENKAJI
KHANDO.

CROSS-appeals from the decision of L. C. Crump, District Judge of Belgaum, confirming the decree passed by A. K. Asundi, Subordinate Judge at Gokak.

Suit for declaration.

The plaintiff claimed to be one of three persons entitled to the estate of Bhau. He filed a suit to have it declared that he was entitled to a half-share in Bhau's estate, on the ground that defendant No. 1 who was also one of the three persons had been adopted into another family and lost his right in the family of his birth.

A question thus arose whether the adoption of defendant No. 1 was valid. He was adopted in 1884 by one Godubai, a widow of Khando. Khando died in 1860 leaving behind him his two widows, Kashibai and Godubai, and a widow of his predeceased nephew Ahilyabai. In 1862, Kashibai died. In 1864, Ahilyabai adopted Gopal with the consent of Godubai. Thereafter Godubai adopted Ramchandra in 1867; but as he died in 1882, she adopted defendant No. 1 in 1884.

The lower Courts held that the adoption of defendant No. 1 by Godubai was invalid; that the right of defendant No. 1 to inherit in his family of birth remained intact; and that the plaintiff was only entitled to a third share in Bhau's estate.

Both parties preferred separate appeals to the High Court.

S. R. Bakhale, for the appellant.

Nilkant Atmaram, for the respondent No. 8.

SHAH, J.:—The only question in this appeal relates to the share of defendant No. 1, who is said to have lost all rights in his natural family on account of his adoption by Godubai. The facts about that adoption are

that one Khando died in 1860 leaving two widows Kashibai and Godubai and a lady named Ahilyabai, the widow of a predeceased nephew. Kashibai died in the year 1862. With the consent of Godubai Ahilyabai adopted one Gopal in 1864. After the adoption of Gopal, Godubai is said to have adopted one Ramchandra in 1867; and after the death of Ramchandra she is said to have adopted defendant No. 1 in 1884. The validity of the adoption of Gopal by Ahilyabai is not questioned before us. But it is argued that after the adoption of Gopal by Ahilyabai, Godubai's right to adopt did not come to an end, that she in fact adopted defendant No. 1 and that the adoption is valid. It seems to us clear, however, that when with the consent of Godubai Gopal was adopted by Ahilyabai, the whole property vested in Gopal, and Godubai's right to adopt to her husband came to an end. It is not disputed before us, and it cannot be disputed, that if Gopal had been the natural son of Ahilyabai, on the death of Khando, Godubai could not have made any adoption without the consent of Gopal; and in our opinion when Godubai consented to the adoption of Gopal by Ahilyabai and when Gopal was in fact adopted by Ahilyabai, her power of adoption was at an end, as it would be if Gopal had been the natural son of Ahilyabai. Thus it is clear that defendant No. 1's adoption by Godubai was not valid. It appears that in Suit No. 20 of 1892 when defendant No. 1 attempted to assert his right as the adopted son of Godubai in the family of Khando, his right was not recognized; and it is not suggested in the present case that since then he has ever attempted to assert his right as the adopted son in that family or that his position as such has been accepted or acquiesced in by any person in that family. His position, therefore, in the present litigation is that he continued to be a member of his natural family, and

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on that footing he is entitled to his share in the property in suit. The contention which was urged before the lower appellate Court that after his adoption by Godubai, he lost all his rights in his natural family, even though the adoption was invalid, has been quite properly abandoned before us.

The result is that the decree of the lower appellate Court is affirmed and this appeal dismissed with costs.

This judgment will govern appeal No. 978 of 1917 also.

There will be only one set of costs in appeal No. 978.

Decree affirmed.

R. E.

APPELLATE CIVIL.

Before Sir Norman Macleod, Kt., Chief Justice, and Mr. Justice Fawcett.

1920.

Septem-
ber 21.

RAVJIBHAI KASHIBHAI (ORIGINAL DEFENDANT), APPLICANT v. DAHYA-
BHAI ZAVERBHAI PATEL (ORIGINAL PLAINTIFF), OPPONENT^o.

*Civil Procedure Code (Act V of 1908), section 115, Schedule II, para 16—
Arbitration—Award—Award filed in Court—Court should give time to the
parties to file objections to the award—Procedure and practice.*

In a pending suit, the parties referred their disputes to an arbitrator, who heard the parties, made the award, and filed it in Court. On the day the award was filed the Court examined the parties who happened to be in Court, overruled the objections which one of the parties made to the award, and passed a decree in terms of the award. The party aggrieved having applied to the High Court :

Held, that though no appeal lay from the decree so made on the ground that there was any defect in the award itself, yet the High Court could, under section 115 of the Civil Procedure Code, set aside the decree and remit the award to the lower Court to enable the applicant to file his objections to it within the time prescribed by law.

^o Civil Extraordinary Application No. 248 of 1919.