

## APPELLATE CIVIL.

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

KRISHNAGIRI GURU TRIKAMGIRI MAHANTMATH (ORIGINAL PLAINTIFF), APPELLANT v. SHRIDHAR KAVALEKAR (ORIGINAL DEFENDANT), RESPONDENT<sup>o</sup>.

1921.

November 16.

*Hindu law—Math—Succession to guruship—Designation of heir by a Guru—Formal initiation not essential.*

The *guru* of a Math designated the defendant as his successor, but died before the defendant could be formally initiated. The plaintiff, who claimed to be a *guru-bhaubandh*, having sued for a declaration that he was entitled to succeed to the guruship:—

*Held*, that the defendant who was clearly designated as the heir by the last *guru*, was entitled to succeed, even in the absence of the formal ceremony of initiation.

FIRST appeal from the decision of E. F. Rego, First Class Subordinate Judge at Belgaum.

Suit by the plaintiff for a declaration that he was entitled to succeed as the *guru* of the Math at Patgaon in the Kolhapur State.

The last *guru* of the Math was one Ramgiri. During his life time Ramgiri had designated the defendant as his successor. He had obtained the permission of the Kolhapur State to adopt the defendant as a chela. Defendant was then sent out to learn the work of managing the landed property.

In 1911 Ramgiri fell ill. He sent for the defendant, but died before the defendant could arrive. Defendant was thus never formally initiated.

The plaintiff, who claimed to be a *guru-bhaubandh* of Ramgiri, sued for the declaration abovementioned.

The trial Court held that the defendant as the heir designate of Ramgiri had a preferential right to succeed to the guruship.

<sup>o</sup> First Appeal No. 190 of 1920.

1921.

The plaintiff appealed to the High Court.

KRISHNAGIRI  
2.  
SHRIDHAR.

V. V. *Bhadkamkar*, for the appellant.G. S. *Rao*, and A. G. *Desai*, for respondent No. 1.

MACLEOD, C. J. :—This is an appeal by the plaintiff whose suit has been dismissed on the ground that the first defendant was a designated heir of the last *guru* Ramgiri, and therefore, was entitled to succeed. The plaintiff claimed as a *gurubandhu*. But I do not think there was any necessity to enter into the question whether as a matter of fact he was connected with the line of *gurus* to this Math, as the first defendant was clearly designated by Ramgiri as his successor. An application was made to the Kolhapur Darbar for permission to adopt the first defendant as a *chela*. That permission was granted. But before the initiation ceremony was carried out Ramgiri sent the first defendant to Malvan to learn business matters, so that he might be competent when he succeeded to manage the Math properties. When Ramgiri found his end approaching he sent for the first defendant, but unfortunately from one cause or another the first defendant arrived too late, and therefore, although one may very safely infer that Ramgiri intended to initiate the first defendant, he was unable to do so owing to his dying before the first defendant arrived. The question then is whether in these circumstances the first defendant is not the person to succeed to the Math rather than the plaintiff, even assuming the latter was able to prove that he was distantly connected as a *gurubandhu*. I should say on general principles that the designation of the heir would be quite sufficient to enable the first defendant to succeed, the performance of the formal ceremony during the life-time of Ramgiri not being really material to his success in the suit. I think, therefore, that the Judge was right in holding

that the designated heir could succeed to the Math and the appeal should be dismissed with costs.

SHAH, J.:—I agree. I only desire to add that there is nothing to show that the person in the position of defendant No. 1, clearly designated as heir by Ramgiri, would not be able to succeed simply because the initiation ceremony was not performed during the life-time of Ramgiri. Though the proposition has been advanced that the initiation ceremony is essential for the purpose of constituting discipleship which would entitle him to succeed to the property, no authority has been cited in support of that proposition and I do not think that it could be said as a matter of law that where the designation has been so clear, as in the present case, the absence of formal initiation during the life-time of the last holder, Ramgiri, should present insuperable difficulty in the way of the designated disciple succeeding as heir.

*Appeal dismissed.*

R. R.

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## CRIMINAL REVISION.

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

EMPEROR v. MATUBHAI M. SHAH\*.

*Bombay District Municipal Act (Bombay Act III of 1901), sections 96, 97—  
Building of huts—Permission of the Municipality—Building without per-  
mission—Alteration of charge.*

A Magistrate trying an accused person for erecting huts without permission of the Municipality, under section 96, clause 5 of the Bombay District Municipal Act, 1901, was of opinion that the accused had committed no offence under the section, but altered the charge and convicted him under section 97,

\* Criminal Application for Revision No. 262 of 1921.

1921.

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