

Before Mr. Justice Markby.

SRIMATI RUKKINI DASÍ v. KADARNATH GHOSE AND OTHERS.

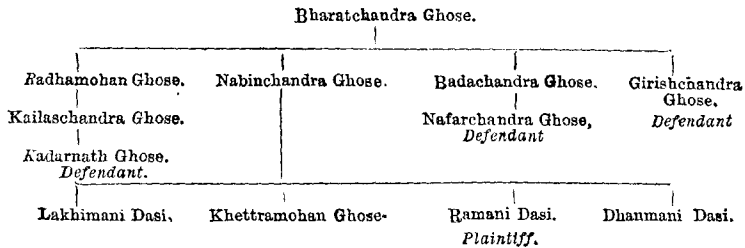
1870
August 9.

Hindu Law—Inheritance—Sister.

A sister cannot succeed her brother as heir by Hindu law:

THIS was a suit for partition of certain moveable and immoveable property situated in the town and suburbs of Calcutta and for an account.

The following was the pedigree :—



Bharatchandra Ghose, a Hindu inhabitant of Calcutta died in 1244 (1837-1838) intestate, leaving him surviving his widow, Srimati Dayamayi Dasi, and four sons, Radhamohan Ghose, Nabinchandra Ghose, Badanchandra Ghose and Girishchandra Ghose. Nabinchandra died in 1247 (1840-1841) intestate, leaving him surviving his widow, Srimati Brommomayi Dasi; an infant son, Khettramohan Ghose; and two daughters, the plaintiff and Srimati Dhanmani Dasi. On the 29th Bhadra 1262 (September 13th, 1855), Khettramohan Ghose died intestate and childless, leaving him surviving his mother, Brommomayi Dasi; his widow, Srimati Lakhimani Dasi; and his sisters, the plaintiff and Srimati Dhanmani Dasi. Srimati Lakhimani Dasi died about a year after her husband, and Brommomayi Dasi and Dhanmani Dasi died in Aswin 1268 (September and October 1861). The plaintiff was married in 1260 (1853), and a son was born to her in 1263 (1856) who died unmarried and intestate; in Aghran 1262 (November and December 1855), Badanchandra Ghose died intestate, leaving him surviving his widow, Srimati Bimola Dasi, and an only son, Nafarchandra Ghose; and in Kartik 1276 (October 1869), Radhamohan Ghose died intestate, leaving him surviving his widow, Srimati Harimani Dasi; and a grandson, Kadarnath Ghose, an infant under the age of 16 years; and his daughter-in-law, Srimati Saradamani Dasi, the mother of the said Kadarnath Ghose. The plaintiff therefore prayed that she might be declared to be entitled to the share of Nabinchandra Ghose in the estate of Bharatchandra Ghose, with all accumulations and additions thereto; that an account might be taken of what the estate, with such accumulations and additions, consisted, and for such further or other relief as the Court should think fit.

1870
SRIMATI
RUKKINI DASI
v.
KADARNATH
GHOSE.

During the hearing of the suit, it was asked that the plaintiff might be allowed, in case the Court thought she was not entitled to the inheritance as claimed, to put in a claim for maintenance, and to raise an issue as to the amount thereof. The defendants objected to this claim, it not having been preferred either in the plaint or written statement, and the Court refused it.

Mr. Bonnerjee (Mr. Ingram with him), for the plaintiffs, contended that the plaintiff was entitled to inherit from her brother. According to the principle laid down by MITTER, J., in the case of *Guru Gobind Shaha Mandal v. Anand Lal Ghose Mazumdar* (1), those who could confer spiritual benefits on the deceased were entitled to inherit; and a sister could confer spiritual benefits on her brother.

Mr. Creagh (Mr. Piffard with him), for the defendants, contended that by Hindu law, a sister could not inherit from her brother, but the property would go to the paternal uncles and cousins, and that a sister could not confer spiritual benefits on her brother. He referred to Shama Churn's Vyavashta Darpana 226, and the cases there cited, and to *Ramlal Deb v. Mussamut Magnee* (2) *Kalee Pershad Surma v. Bhairabee Dabee* (3).

MARKBY, J.—In this case the question which is raised for my decision is whether the plaintiff, as sister of Khettramohan, is entitled, under the Hindu law, to succeed to his property in preference to Khettramohan's uncle, his uncle's son and his uncle's grandson, who are the defendants. Mr. Bonnerjee who appears for the plaintiff, has very candidly and properly admitted that the direct authorities on the point are against him. I express no opinion whatever whether those authorities are correct or not. But Mr. Bonnerjee maintains that the recent exposition of the law laid down in the case of *Guru Gobind Shaha Mandal v. Anand Lal Ghose Mazumdar* (1), has introduced a principle of inheritance, which, if applied to this case, would shew that those decisions were based on a misconception of the law. As I before said whether they are so or not, I express no opinion whatever. It seems to me that that question ought properly to be raised not here, but before the appellate Bench. I think that sitting here I should follow the principle laid down in more than one case, and especially in the case of *Raj Koonwaree Kirpa Mayee Debeah v. Rajah Damoodhur Chunder Deyb* (4), and that I ought to hold that a sister is not the heir of her brother; that being so, the plaintiff must fail in this suit, which is a suit for a partition. The suit is dismissed with costs on scale No. 2.

Attorney for plaintiff: Mr. Watson.

Attorney for defendant; Mr. Leslie.

(1) 5 B. L. R., 15.

(2) 1 W. R., 227.

(3) 2 W. R., 180.

(4) 7 Sel. Rep., 192.

Before Mr. Justice Loch and Mr. Justice Manby.

IN THE MATTER OF RAMDYAL SING.*

Act XX of 1865, s. 34—*Conviction by a Magistrate for practising as a Moolkhtar in the Revenue Court without a Certificate—Jurisdiction.*

1870
Nov. 9.

Reference.—Mr. D. M. Testro, Assistant Magistrate of Khoordah, has fined the appellant, under section 34 of Act XX of 1865, for practising as a Revenue Agent in the office of the Assistant Collector of Khoordah, without having the certificate required by the Act.

This order appears to me to be illegal, as such a fine could only be imposed by the Revenue officer in whose Court the appellant practised. I therefore forward the papers of the case, in order that the sentence may be set aside as illegal.

Order of the High Court.

LOCH, J.—We think that there has been a formal error on the part of the Assistant Magistrate in transferring this case from the Revenue to the Criminal side of his Court, and trying it in his capacity of Assistant Magistrate and not in that of Assistant Collector. This error, however, does not appear to be material, as Mr. Testro is both Assistant Collector and Assistant Magistrate, and the offence was committed before him in the former capacity, and as Assistant Collector he might have disposed of the case. The error, we think, may be rectified by his drawing up a fresh order in his capacity of Assistant Collector and filing the proceedings in the Revenue side of his office.

Before Mr. Justice Norman.

ROBERT LACHLAN AND OTHERS *v.* SHAIK ABDULLA.

1870
August 26.

Plaint—Signature and Verification—Practice.

Where the plaintiffs described themselves as lately carrying on business under the name of C. and Co., held, that there was no irregularity in the plaint being signed by C. and Co., and verified only by A. B., one of the partners.

See also
XII B.L.R.31

The plaintiffs in this suit were Robert Lachlan, Thomas Greenhill, and Arthur Bois, lately carrying on business in co-partnership at Dharramtolla in Calcutta, under the style and firm of Cook and Co., and the plaint was signed "Cook and Co." and verified by Arthur Bois alone.

Mr. Ingram, on behalf of the defendant, applied, on notice, to have the

* Reference to the High Court, under section 434 of the Code of Criminal Procedure, by the Sessions Judge of Cuttack, under his letter No. 251, dated 23th September 1870.