

APPELLATE JURISDICTION (a)

*Regular Appeal No. 51 of 1863.*NÁRAYANA DEVU.....*Appellant.*HARISCHENDANA DEVU.....*Respondent.*

A zamindár has no more power to charge a perpetual annuity in favour of a stranger on the income of the zamindári than he has to alienate the corpus.

THIS was a Regular Appeal against the decree of the Agent's Court at Ganjam, in Original Suit No. 9 of 1863.

1863.
November 30.
R. A. No. 51
of 1863.

Mayne, for the appellant.

Sloan, for the respondent.

The facts appear from the following

JUDGMENT :—The plaintiff, the maternal nephew of a former zamindár, sues for an annuity granted to him by that zamindár.

The defendant, the successor, denied his liability.

The Agent decided that the act of the former zamindár was not binding upon his successor.

The case made by the pleadings is that the deceased zamindár granted an annuity, and being unable to pay it assigned land, part of the zamindári, which has since been recovered from the plaintiff. It is not alleged that the plaintiff has any right to maintenance as against the present defendant, nor is it alleged that the annuity can be considered otherwise than as a charge upon the income of the zamindari. It is quite clear on these facts that the deceased zamindár could no more charge a perpetual annuity upon the income of the zamindári, than alienate the corpus. That he could not so alienate has been frequently decided. The result is that this appeal is dismissed with costs.

Appeal dismissed.

(a) Present : Scotland, C. J. and Holloway, J.

NOTE.—See *Special Appeal No. 15 of 1862*, supra, p. 141, *Special Appeal No. 114 of 1862*, supra, p. 349. *Anund Lal Sing Deo v. Maharaj Dhera Gurrul Narayan Deo*, 5 Moo. I. A., 82 : *Chetty Colum Comara Vencatachella Reddyer v. Rajah Rungasawmy Streamunth Iyengar Bahadoor*, 8 Moo. I. A. Ca., 319.