1863. January 31. R. A. No. 26. of 1862.

came to a decision upon the matters submitted to them previously to the letter withdrawing the submission. If nothing more existed the decision would be binding. The arbitrators then drew up a fair copy, affixing to it the same date as that to the original rough draft, thereby showing the date at which they conceived their purely judicial functions to have ended. We are of opinion that a valid award having been made, its validity cannot be impeached because the arbitrators chose subsequently to do an act required neither by the law nor the terms of the submission. The fact that they did draw up the fair copy is merely evidentiary that the oral determination and the original rough draft were not and were not intended by the arbitrators to be a completed award. Looking at native practice in such matters, we consider that this fact is entirely outweighed by the evidence on the other side, that a valid award binding upon the parties was made, and that the judgment of the court below is right.

This decision upon the facts of the case renders it unnecessary to notice several questions upon the pleadings and the power of amendment which were ably argued upon both sides.

The result of our judgment is the dismissal of this appeal with costs.

Appeal dismissed.

APPELLATE JURISDICTION (*a*)

Special Appeal No. 177 *of* 1861.

SRINIVÁSA AYYANGÁR ..... *Appellant.*

KUPPAN AYYANGÁR ..... *Respondent.*

Special Appeal No. 182 *of* 1861.

RÁYAN KRISHNAMÁCHÁRIYÁR ..... *Appellant.*

KUPPANAYYANGÁR ..... *Respondent.*

A member of a Hindu family cannot as such inherit the property of one taken out of that family by adoption.

The severance of an adopted son from his natural family is so complete that no mutual rights as to succession to property can arise between them.

Special Appeal No. 15 *of* 1859 affirmed.

1863. January 31. 28 A.A. Nos. 177 and 182 of 1861.

THESE were special appeals from the decision of G. H. Fullerton, the Officiating Civil Judge of Chingleput in Appeal Suits Nos. 104 and 105 of 1861.

(*a*) Present Strange and Holloway, J J.

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SS. AA. Nos. 177 *and* 182 *of* 1861.

Branson for the appellant the fourth defendant, in Special Appeal No. 177.

Sadagopachárlu for the respondent, the plaintiff in both appeals.

Tirumalàchariyar for the appellant, the fifth defendant in Specil Appeal No 182.

The facts appear from the following judgment, which was belivered by

STRANGE, J. :—The property in dispute was vested in one Jánaki Ammál. She mortgaged it to Chechappa Nayakkan the ancestor of the first, second and third defendants. Jánaki Ammál adopted one Rágava Aiyan who died unmarried. The plaintiff as brother of Ranga Aiyan, the natural father of Rágava Aiyan, sues to redeem this property as heir of Rágava Aiyan in default of issue from him.

The mortgagees offer no objection to giving up the property to the rightful heir on discharge of their lien.

The fourth defendant claims to succeed as cousin of Jánaki Ammál's husband, and the fifth defendant does so as fosterson of Ranga Aiyan.

The District Munsif gave judgment in the plaintiff's favour, and his decision has been affirmed by the Acting Civil Judge.

The prominent question to be decided in this suit is whether a member of the natural family can succeed to one taken out of the family by adoption? The settlement of this question depends upon whether the severance of the person adopted from his natural family is so complete that no mutual rights between them to property, in succession the one to the other, can arise, or whether the severance is not so thorough a one as to shut out such succession the one to the other.

In *Special Appeal No.* 15 *of* 1859(*a*), this question came before the late Sadr Court, when it was sought to establish the succession of a person adopted to his natural

(*a*) M. S. D. 1856, p. 81.

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brother. The pandits, relying on the reasoning of Cri Ráma Pándita(a), asserted that the right of succession did exist. But the Court, after examining the basis of their opinion and other law authorities, were satisfied that the gift made of one for adoption created an entire and irrevocable severance of him from his natural family.

We are of opinion that the above decision is founded upon a just appreciation of the principle of an adoption, whereby the son of one man ceases to be such in the eye of the law and becomes the son of another man, inheriting thenceforth in his adoptive family and having no more rights in his own family. If it would be a violation of that principle to allow a person adopted to return to his natural family and take up their rights, it would be a still greater violation thereof to introduce to the rights in the adoptive family the natural kindred of the adopted person, who assuredly never had any part or title in the adoptive family or in their possession.

We observe, furthermore, that in the Mitákshará, the great authority in this Presidency on the law of inheritance, no place has been given in the natural family for the re-introduction into the line of heirs of one taken out of that family by adoption, and none in the adoptive family for the admission of those in the natural family.

We conclude, therefore, on all these grounds that the plaintiff has no title to represent the late Rágava Aiyan, and we consequently reverse the decrees below and dismiss the suit with costs.

Appeal allowed.

NOTE.—See Manu, IX, 142: *Dattaka-Mínánsà*, VI, 6, 7: *Dattaka-Chandrikà*, 11, 18, 19: Sutherland, Adoption, p. 229: *Mitakshara*, chap. I, sec. XI. § 32: 3 Coleb. Dig. 147, 148: *Vyavahàra Mayuka*, chap. IV, section V, §§ 21, 23: *Crastnarao's Case*, Perry's Or. Ca. 156.

When an adopted son dies without issue property which he has inherited from his adoptive father goes to the natural heirs of the latter S. A. No. 71 of 1858. M. S. D. 1859, p. 265.