

support this opinion, and I am not aware of any that are in conflict with it. All of these judgments have not been reported, but it is quite sufficient to refer to the following five rulings : *Queen v. Ramsoondar Shootar* (1), *Reg. v. Kashinath Dinkar* (2), *Queen-Empress v. Krishna* (3), *Empress v. Bahala Bibi* (4), *Queen-Empress v. Lalli* (5). These rulings extend over a period of about nineteen years, and are by nine Judges of three of the High Courts. It is incredible that all of them can have escaped the notice of the Legislature ; and it is therefore reasonable to suppose that the section would have been amended had its meaning been misinterpreted by so many Judges of at least three of the High Courts in India."

There are other cases to the same effect to which it is not necessary to refer.

The convictions must be set aside and the appellants acquitted and discharged.

S. C. B.

Conviction set aside.

APPELLATE CIVIL.

Before Mr. Justice Pigot and Mr. Justice Stevens.

DEBI DAS CHOWDHURI (PLAINTIFF) v. BIPRO CHARAN GHOSAL
AND OTHERS (DEFENDANTS).^c

1895

April 2 & 3.

Sale for arrears of revenue—Sale of share of Hindu widow—Act XI of 1859, section 54—On the sale of a share in an estate for arrears of revenue the reversion is lost.

Where a share of an estate held by a Hindu widow was sold for arrears of revenue it was contended that, under section 54 of Act XI of 1859, the estate acquired by the purchaser lasted only during the lifetime of the widow.

Held, that the purchaser did not take any interest limited to the life of the widow, but that the entire share passed by the sale.

SATANMANI, a Hindu widow, had a life interest in a share of a zemindari called Chandpara. Her share having been sold by the

^c Appeal from Original Decree No. 264 of 1892, against the decree of J. Whitmore, Esq., District Judge of Beerbhoom, dated the 8th of July 1892.

(1) 7 W. R., Cr., 52.

(2) 8 Bom. H. C., Cr., 126.

(3) I. L. R., 2 All., 713.

(4) I. L. R., 6 Calc., 789.

(5) I. L. R., 7 All., 749.

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Collector for arrears of revenue, the plaintiff Debi Das Chowdhuri, who was the reversionary heir after the expiration of the widow's interest, brought this suit after her death, alleging that, under the provisions of section 54 of Act XI of 1859, as Satanmani had only a life interest, the purchaser had no right to hold possession after her death of that share of the zemindari which had been sold. It was held by the District Judge of Beerbhoom that upon the sale of the share the reversion was lost. From this decision the plaintiff appealed to the High Court.

Babu *Nilmadhub Bose*, Babu *Hari Mohan*, Babu *Saroda Prossana Roy*, and Babu *Karuna Sindhu Mukerjee* for the appellants.

Dr. *Rash Behari Ghose* and Babu *Sarat Chundra Dutta* for respondent No. 1.

Babu *Promatha Nath Sen* (for Babu *Sreenath Dass*) for respondents Nos. 2 and 3.

Babu *Bepin Behari Ghose* for respondent No. 4.

Babu *Nalini Ranjan Chatterjee* for respondent No. 9.

The material portion of the judgment of the High Court (FIGOT and STEVENS, JJ.) was as follows :—

FIGOT, J.—We do not propose to call upon the respondents, and we do not think that this is a case in which it is necessary to put the parties to the inconvenience of awaiting a written judgment.

It is not necessary for us to attempt any narrative of the circumstances of the case which are somewhat complicated in their detail. Those circumstances are fully set out in the judgment of the learned Judge, and we have only to deal with four points which arise upon the statements of the learned pleader for the appellant before us, and what we say will arise from the facts stated in the judgment of the learned Judge.

The points with reference to Chandpara are two-fold : As to one, it is said that the defendants Nos. 2 and 3 have not got as against the plaintiff a good title to the share held as a Hindu widow by Satanmani, inasmuch as under section 54 of Act XI of 1859 no more than the right possessed by her passed to the purchaser, and that her right consisted only of that Hindu widow's estate which

of course ended with her life ; and that contention is founded upon these words in sections 54 : "The purchaser shall acquire the share or shares subject to all encumbrances, and shall not acquire any rights which were not possessed by the previous owner or owners." It is contended that here the previous owner having been a Hindu widow the purchaser did not purchase any estate which lasted longer than her life-time.

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We do not think that that is the meaning to be attributed to this section. The sale in question took place under the provisions of section 13, which is applicable to sales of separate shares in respect of which separate accounts have been kept. Section 13 provides that in such cases the Collector shall put up for sale "only that share or those shares of the estate from which, according to the separate accounts, an arrear of revenue may be due ;" and the final sentence of section 13 contains the words : "The share or shares sold, together with the share or shares excluded from the sale, shall continue to constitute one integral estate, the share or shares sold being charged with the separate portion or the aggregate of the several separate portions of *jamma* assigned thereto." We think that that passage in section 13 throws sufficient light upon anything that is doubtful, if there be anything doubtful, in section 54. It is plain that as the result of a sale under section 13 it is contemplated that the whole share in respect of which the arrear may have been due shall pass to the purchaser ; and that confirms the impression which, upon reading section 54 alone, one would be disposed to form with regard to its meaning that the words "shall not acquire any rights," in that section refer to the acquisition of rights in respect of interest, such as encumbrances or the like, which are referred to in the previous phrase of that section. We therefore are of opinion that the entire share passed upon the sale for arrears of revenue under section 54, and that the purchaser did not take any interest limited to the life of Satanmani.

[The remainder of the judgment proceeded on points not material to this report.]

F. K. D.