

petition for letters of administration was thereupon ordered to be treated as a plaint, and the caveators as defendants were directed to file written statements. Both the defendants in their written statements submitted that, by reason of the second marriage, the will, even if duly executed, was revoked, and that the deceased died intestate.

The case was set down for settlement of issues, and the issue was raised whether the second marriage revoked the will?

Mr. *Jackson* for the plaintiff.

Mr. *Macrae* for the defendant Sarah Gabriel.

Mr. *Woodroffe* and Mr. *Branson* for the defendant Mordakai.

Mr. *Jackson* referred to s. 56 of the Indian Succession Act, and pointed out that the case of a second marriage in cases where such a marriage was lawful in the lifetime of the first wife, had apparently not been in contemplation of the Legislature. [PHEAR, J.—I suppose there is no doubt a Jew may lawfully marry a second time in the lifetime of the first wife.] No, that is admitted.

PHEAR, J.—I think I may say the will was revoked by the second marriage; and this will dispose of the present petition.

Attorney for the plaintiff: Mr. *Gregory*.

Attorneys for the defendants: Baboo *G. C. Chunder* and Mr. *J. O. Moses*.

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*Before Mr. Justice Phear.*

IN THE GOODS OF WILLSON (DECEASED).

1876  
Feb. 1.

*Succession Act (X of 1865), s. 258—Grant of Letters of Administration with Will annexed—Practice.*

Letters of administration with the will annexed may, under s. 258 of the Succession Act, be granted after the expiration of seven clear days from the death of the testator.

W. G. Willson died on 8th February 1876, leaving a will, of which no executor was appointed, and there being no next-of-kin in India, an application for administration with the will annexed was made on behalf of the Administrator General on 18th February, i.e., ten days after the testator's death. On a

1876  
 IN THE GOODS  
 OF WILLSON.

reference by the Registrar as to whether the issue of the grant of letters of administration should be delayed until fourteen days had expired or should be granted at once, s. 258 of the Succession Act was referred to, and the following order was made by

PHEAR, J.—I have read this section (258) as if there were a comma after the words “fourteen clear days,” and the word “respectively” after “death:” and I understand “letters of administration” not to include the case of letters of administration with the will annexed. The distinction intended by the Legislature appears to me to be this: where a will is proved, the grant may be made on the lapse of seven clear days, but where there is no will, not until after the expiration of fourteen clear days. The application may be granted.

*Application granted.*

Attorneys for the Administrator General: Messrs. *Chauntrell, Knowles, and Roberts.*

*Before Mr. Justice Phear.*

IN THE GOODS OF ROYMONEY DOSSEE.

1875  
 Dec. 20 & 22.

*Will, Attestation of—Succession Act (X of 1865), s. 50—Hindu Wills Act (XXI of 1870), s. 2.*

By the Succession Act, s. 50, no particular form of attestation is necessary: therefore, where to a document purporting to be her last will and testament the name of a testatrix was written by A, and the testatrix then, in his presence, affixed her mark, and A in her presence wrote beneath it, “by the pen of A;” and the testatrix was then identified to the Registrar, who was present, by B, who had seen her affix her mark to the document, and who in her presence put his signature as having identified her, *Held* a sufficient attestation, and probate was granted (1).

APPLICATION for probate of the will of S. M. Roymoney Dossee, a Hindu inhabitant of Calcutta, dated 31st October

(1) When a person signed a will competent as an attesting witness—  
 for the testator, the testator merely *Avabai v. Pestonji Nanabhai*, 11 Bom.  
 holding the pen and making no mark, H. C. R., 87.  
 it was held that such person was not