

PRIVY COUNCIL.

P. C.*
1875
June 4 & 5.

BHAGBUTTI DEYI (DEFENDANT) *v.* BHOLANATH THAKOOR
AND OTHERS (PLAINTIFFS).

[On appeal from the High Court of Judicature at Fort William in Bengal.]

IN this case the decision of the High Court (1) was reversed by the Privy Council, who held that the effect of the instruments was to give the widow an estate for life with power to use the proceeds as she chose, and consequently that the proceeds or property purchased by her out of the proceeds would belong on her decease to her heirs. But as the decision turns entirely on the effect of the particular expressions used in the instruments and illustrates no principle of law, no detailed report is now given.

ORIGINAL CIVIL.

Before Mr. Justice Phear.

1875
Sept. 6 & 13.

MOKOONDO LALL SHAW AND ANOTHER *v.* GONESH CHUNDER
SHAW AND ANOTHER.

Hindu Law—Will—Clause restraining Partition or Enjoyment.

Where a Hindu testator gave all his immoveable property to his sons, but postponed their enjoyment thereof by a clause that they should not make any division for twenty years, *Held*, that the restriction was void as being a condition repugnant to the gift, and that the sons were entitled to partition at once.

SUIT for construction of the will of one Nilmoney Shaw, for an account, for partition, and other relief.

The testator Nilmoney Shaw, a liquor merchant in Calcutta, died on 23rd June 1874, leaving four sons, *viz.*, the defendant Gonesh Chunder, the plaintiff Mokoondo Lall, Promodee Lall

* *Present* :—SIR J. W. COLVILLE, SIR B. PEACOCK, SIR M. E. SMITH,
AND SIR ROBERT P. COLLIER.

(1) 7 B. L. R., 93.