

APPELLATE CIVIL.

Before Mr. Justice Chitty and Mr. Justice Carnduff.

NARENDRA NATH BAIRAGI

v.

DINA NATH DAS.*

1909
June 18

Hindu Law—Adoption by Hindu Woman—Prostitute, adoption by—Inheritance, right of—Letters of Administration.

A Hindu woman cannot under any circumstances adopt a son to herself, nor can any so-called adoption confer a right of inheritance on the adopted son.

APPEAL by the petitioner, Narendra Nath Bairagi.

The appellant, Narendra Nath Bairagi, applied to the District Judge of the 24-Parganas for the revocation of the letters of administration to the estate of Ramani Debi, alleged to be a prostitute, on the ground that he was adopted by the said Ramani Debi, and that Dina Nath Das, her husband's brother's son, to whom the letters of administration were granted, had not served him with a special citation and was not entitled to the said letters of administration.

The learned District Judge held that an adoption of a son by a Hindu woman to herself was nowhere recognised as creating any status, except in Mithila and then only when the adoption was in *kritrima* form; that it was illegal in Bengal; and that the petitioner was not entitled, even if he proved the adoption, to apply for the revocation of the letters of administration.

Against this decision Narendra Nath Bairagi appealed to the High Court.

Mr. J. Chatterjee (Babu Biswanath Bose with him), for the appellant. Adoption by a prostitute of a daughter is recognised in Madras and Western India; it is not recognised in Bengal because it is opposed to public policy; but no such

* Appeal from Original Decree, No. 434 of 1907, against the decree of C. P. Beachcroft, District Judge of 24-Parganas, dated July 17, 1907.

consideration would underlie the adoption of a son by a woman of that class, and therefore the adoption by Ramani Debi of the appellant was valid and gave him all the rights of a natural-born son.

Babu Mohendra Nath Roy (Babu Surendra Nath Ghosal with him), for the respondent. A Hindu woman can under no circumstances adopt a son to herself: Mayne's Hindu Law, 7th edition, page 263: Golap Chandra Shastri's Hindu Law, 3rd edition, page 129.

1909
NARENDRA
NATH
BAIRAGI
v.
DINA NATH
DAS.

CHITTY AND CARNDUFF JJ. On 5th January 1907, the respondent, Dina Nath Das, obtained letters of administration to the estate and effects of one Ramani Debi, widow of Chintamani Bairagi. On 6th March 1907, the appellant Narendra Nath Bairagi applied to the District Judge of the 24-Parganas for revocation of the letters of administration on the ground that the said Ramani Debi was a prostitute, and that he was her adopted son and heir, and so entitled to administer her estate in preference to Dina Nath Das, who claimed to be her husband's brother's son. The appellant further objected that he should have, but had not been, cited at the time the letters of administration were granted to Dina Nath Das. The District Judge has rejected the appellant's application on several grounds. He found that appellant's alleged adoption had not been proved; that it was not proved that Ramani Debi was a prostitute; that, even if proved, the kind of adoption set up by the appellant would give him no right of inheritance. He further found that appellant was aware of the application by Dina Nath Das for letters of administration.

Narendra Nath Bairagi has appealed. It is obvious that unless he can show that he was so adopted by the deceased as to give him a right of inheritance to her property he is in the position of a mere stranger, and has no *locus standi* in the administration proceedings. This point was argued before us by the counsel for the appellant. He maintained that Ramani Debi was a prostitute; that the adoption of daughters by women of her class is recognised in Madras and Western India; that

1909
 NARENDRA
 NATH
 BAIKRAJ
 v.
 DINANATH
 DAS.

it is only not recognised in Bengal because it is considered to be opposed to public policy ; that no such consideration would underlie the adoption of a son by a woman of that class ; and that, therefore, his client's adoption was a good adoption giving him all the rights of a natural-born son.

Assuming for the purposes of argument that Ramani Debi was a prostitute, no authority was cited to us either from texts, or text-books, or decided cases for the proposition that a Hindu woman can under any circumstances adopt a son to herself. On the other hand, the contrary is clearly stated : see Mayne's Hindu Law, page 263 ; Shastri, page 129. The learned counsel admitted that he had no authority for this proposition, but asked us to decide in appellant's favour on "general principles." We have no intention, even if we had the power, of creating a new rule of Hindu Law for the appellant's benefit. It is manifest that Ramani Debi had no power to adopt, if she did adopt, the appellant as a son to herself, nor could any so-called adoption confer on him a right of inheritance. It follows that he has no *locus standi* in this case, and it is unnecessary to go into the other questions, mainly of fact, which are raised on this appeal. The appeal is dismissed with costs.

Appeal dismissed.

S. A. A. A.