

(1892) 03 MAD CK 0019
In the Madras High Court

Alapati Narasayya and Others

APPELLANT

Vs

Mullapudi Venkayya

RESPONDENT

Date of Decision : 01-03-1892

Acts Referred:

Citation : (1892) 2 MLJ 149

Judgement

1. The property in dispute was the stridhanam of plaintiff's mother who died three years ago, leaving her surviving, plaintiff a son, a maiden

daughter since deceased, 2nd defendant her father, 3rd to 5th defendants her brothers, and 1st defendant her maternal uncle. Both the courts

below held that on the death of the plaintiff's mother the property devolved on his sister, and the question for determination was whether the

plaintiff was the heir of his maiden sister. The District Munsif held that the rule of succession applicable to this case was the same as that which would

be applied if the last holder were a male instead of a female, and that the plaintiff was no heir as his father was alive.

2. On Appeal however, the Subordinate Judge was of opinion that as a female the plaintiff's sister took but a qualified heritage and that upon

her death the last full owner's heir was her heir. On this view of the law he considered that the son, the plaintiff, was his mother's heir and

setting aside the decision of the District Munsif remanded the case for disposal with reference to the other issues which had not been tried. For the

appellant it is contended issues which had not been tried. For the appellant it is contended that the decision of the Subordinate Judge is bad in law

but we are not prepared to accede to the contention. As regards the property of a maiden daughter the Mitakshara lays down a special rule of

succession in Chapter II, Section XI, 30, and explains that her uterine brothers shall take her head ornaments and other gifts as well as property inherited by her. Vignaneswara yogi refers to a text of Baudhyana as saying "the wealth of a deceased damsel let the uterine brothers themselves take; on failure of them, it shall belong to the mother or if she be dead to the father." As pointed out by Mr. Mayne in Section 618 of his treatise on Hindu Law (4th Edition) this text is cited in all the commentaries. It was held in the Shivaganga case 9 M.I.A 543, the property inherited by a maiden daughter from her father would pass on her death to his and not to her heirs, for, her succession is only a case of interposition between the last full male owner and his next male sapinda. But when a daughter succeeds to her mother's stridhanam she is as much a full owner as her mother and it is her heirs and not her mother's heirs, as erroneously observed by the subordinate Judge, who are entitled to take. But his decision is in accordance with the special rule of succession laid down in the Mitakshara, and the other commentaries as regards succession to property inherited by a maiden daughter from her mother or other than a male owner. This appeal cannot therefore be supported and is dismissed with costs.