

(1931) 03 AHC CK 0011
In the Allahabad High Court

Bankey Lal

APPELLANT

Vs

Peare Lal and Another

RESPONDENT

Date of Decision : 16-03-1931

Acts Referred:

Citation : AIR 1932 All 244(1) : (1931) ILR (All) 710 : 137 Ind. Cas. 187

Hon'ble Judges : Sen, J

Bench : Division Bench

Judgement

Sen, J.—The facts of the case, which have given rise to this appeal, lie within a very narrow ambit. In 1910 Harsahai Mai, father of the plaintiff, and of the two defendants executed a will under which he directed that the property in dispute, which is a house situate in Bareilly should go to his three sons after his death, but out of the usufruct of this property Rs. 100 a year was to be spent for the maintenance and upkeep of a dharamshala. On 22nd July 1919, Harsahai Mai appears by his conduct to have revoked this will. He executed a registered deed of endowment under which he dedicated the property in controversy to Sri Ram Chanderji Maharaj, the God of the two worlds. He directed that out of the income of the property Rs. 100 had to be spent annually for the support of sadhus and travellers seeking shelter in the dharamshala.

2. Harsahai Mai died. The present suit was instituted on 8th April 1927 for a declaration that the document dated 22nd July 1919 was fit to be set aside, because no valid endowment was created in favour of Sri Ram Chander Ji Maharaj for twofold reasons: (1) because the property was the joint family property of Harsahai Mai and his sons, and (2) because there could be no valid dedication in favour of an impersonal deity. These pleas were repelled by the Court of first instance which dismissed the suit. The lower appellate Court has affirmed the decision. The lower appellate Court came to the conclusion that the property in suit was self-acquired property of Harsahai Mai, and that the latter was therefore competent to execute the deed of endowment dated 22nd July 1919.

3. It has been argued that there could be no valid or operative endowment in favour of Sri Ramchandraji Maharaj, "the god of the two worlds," because he was an impersonal deity. It is true that under the Hindu system of jurisprudence a general endowment for the worship of an impersonal god for whom the benefit of an endowment was intended to take effect was void for uncertainty. This has been held in *Phundan Lai v. Arya Priti Nidhi Sabha* (1) and *Ghandi Charan Mitra v. Haribala Das* (2). In the present case it could not be argued that the endowment was void for uncertainty. Here we have a trust created in favour of Sri Ramchandraji Maharaj, who is worshipped as an incarnation of Vishnu. The rulings aforesaid therefore are not applicable. We may also mention that in the plaint the document was not sought to be set aside upon the ground that; it was void for uncertainty. No authority has been cited in support of the proposition that an endowment in favour of one of the gods of the Hindu pantheon who is mentioned by name, is void under the Hindu law. This is the only point which has been urged in this appeal. We overrule this contention and dismiss this appeal with costs including counsel's fee in this Court on the higher scale.