

(1898) 05 CAL CK 0004
In the Calcutta High Court

Hemanginee Dassee

APPELLANT

Vs

Kumode Chander Dass

RESPONDENT

Date of Decision : 04-05-1898

Acts Referred:

Citation : (1899) ILR (Cal) 441

Hon'ble Judges : Jenkins, J

Bench : Single Bench

Judgement

Jenkins, J.—Suit for a declaration that the plaintiff, as the widow of Herumbo Chunder Dass, deceased, is entitled to proper maintenance and suitable accommodation for residence out of the properties in the hands of the defendant belonging to the estate of Herumbo Chunder Dass, deceased, for suitable allowance for such maintenance and suitable accommodation for such residence; for a declaration that such allowance forms a charge on the said properties; for possession of certain stridhan ornaments and articles forcibly and wrongfully taken possession of by the defendant; or to receive the value thereof, &c.

2. This cause coming on, on the 25th day of November last, the 25th day of April last, and on this day for further directions on the report of the Registrar of this Court, dated the 30th day of March last, and filed on the 21st day of April last, before the Hon'ble Lawrence Hugh Jenkins, one of the Judges of this Court, in the presence of Counsel for all the parties, it is declared that the sum of Rs. 35 a month is a fit and proper sum to be allowed to the plaintiff for her maintenance during the term of her natural life. And it is further declared that the eastern portion of the family dwelling house, No. 102, Machooabazar Street, in the plaint in this suit mentioned with the alterations suggested by the said Registrar in his said report at a cost not exceeding Rs. 1,200 would be a suitable accommodation for the residence of the plaintiff. And it is ordered and decreed that the defendant do out of the estate of Herumbo Chunder Dass, deceased, in the plaint in this suit named, pay to the plaintiff the sum of Rs. 1,345-12-0 for arrears of maintenance up to the 31st day of October last, and do out of the said estate

monthly, and every month commencing from the first day of November 1897, pay to the plaintiff the sum of Rs. 35 a month for her maintenance, and do out of the said estate pay the costs of the alterations to be made to the eastern portion of the said family dwelling house within the limit aforesaid, and allow the plaintiff" to occupy the said eastern portion of the said family dwelling house as her residence during the term of her natural life. And it is further ordered and decreed that the said monthly sum of Rs. 35, and the arrears of maintenance, and the costs of the alterations to be made to the said eastern portion of the said family dwelling house within the limit aforesaid, and the plaintiff's costs of this suit hereinafter mentioned, form a charge on the properties, belonging to the estate of the said Herumbo Chunder Dass, deceased, incumbered since the institution of this suit, and on the equity of redemption of the properties belonging to the said estate incumbered before the institution of this suit, and also on the sale proceeds of the properties belonging to the said estate sold by the Receiver appointed in suit No. 271 of 1888 (hereinafter referred to as the said properties) subject to any incumbrances which affected the said property before the institution of this suit, and which now attach to the said sale proceeds. And it is further ordered and decreed that the Receiver appointed in the said suit No. 271 of 1888 be appointed Receiver of the said properties, but that he do not take possession of the same or realize the rents thereof, until the further order of this Court. And it is further orderly and decreed that the said Receiver do sell the said properties, or a sufficient portion thereof for the purposes of this decree if and when necessary, the necessity for carrying out the directions to be determined by the Court. And it is further ordered and decreed that in the event of the said monthly sum of Rs. 35 being in arrears for two consecutive months, or in default of payment of the said arrears of maintenance, or the costs of the alterations to be made to the said eastern portion of the said family dwelling house within the limit aforesaid, or the plaintiff's costs of the suit, this plaintiff be at liberty to apply to this Court on notice to the other parties, that the said Receiver do take possession of the said properties, and sell the same or a sufficient portion thereof as hereby directed, and do out of the sale proceeds pay all arrears of maintenance payable to the plaintiff and the costs of the said alterations within the limit aforesaid, and the plaintiff's costs of this suit and invest the balance or a sufficient portion thereof in Government Promissory Notes to provide for the payment of the said monthly sum of Rs. 35, payable to the plaintiff, and hold the same and residue, if any, subject to the further order of this Court. And it is further ordered and decreed that it be referred to the Taxing Officer of the Court to certify the amount of Court-fees which would have been paid by the plaintiff, if she had not been permitted to sue as a pauper, and to tax the plaintiff her other costs of this suit on scale No. 2, and it is further ordered and decreed that the defendants do out of the said estate pay the amount to be certified as aforesaid to the Government Solicitor, and to the plaintiff, her other costs of this suit, to be taxed as aforesaid with interest thereon at the rate of six per cent, per annum from the date of taxation until realization. And the parties are to be at liberty to apply to this Court from time to time as may be necessary.