

(1889) 03 CAL CK 0003
In the Calcutta High Court

Kristo Gobind Majumdar

APPELLANT

Vs

Hem Chunder Chowdhry

RESPONDENT

Date of Decision : 19-03-1889

Acts Referred:

Citation : (1889) ILR (Cal) 511

Hon'ble Judges : Wilson, J; Prinsep, J

Bench : Division Bench

Judgement

Prinsep and Wilson, JJ.—Decrees for arrears of rent were obtained against Brojosundari, a Hindu widow, which are now put into execution after her death against properties forming her father's estate in which she had only a life interest. The question raised on these appeals is, whether they are decrees merely against her personally, and, therefore, to be satisfied out of whatever she left at her death, or whether the estate which has passed to the next heirs, is liable.

2. We are of opinion that the principle laid down by their Lordships of the Privy Council in the case of Baijun Doobey v. Brij Bhookun Lall Awusti L.R. 2 IndAp 275 : ILR Cal. 133 should be adopted, and that the debt cannot be regarded as other than a personal debt, payment of which can be enforced only against the property left by the widow. The case decided by the Full Bench of this Court—Hurry Mohun Rai v. Gonesh Chunder Doss ILR Cal. 823 is not in point, as the debt of the Hindu widow was contracted under different circumstances, such as were held by the majority of the Judges to bind the ancestral estate. We accordingly set aside the order of the lower Courts with costs.