

(1892) 11 PRI CK 0004

In the Privy Council

Lakshmi Narayana Ananga Garu

APPELLANT

Vs

Durga Madhawa Deo Garu

RESPONDENT

Date of Decision : 25-11-1892

Acts Referred:

Citation : (1893) 16 ILRPC 268 : (1892) 20 IndApp 9

Hon'ble Judges : Hobhouse, Macnaghten, , Hannen, Shand, R. Couch, E. Fry, JJ.

Judgement

1. The defendant and appellant is the Zamindar of Pedda Kimedy, an impartible raj. The plaintiff belongs to a branch of the same family, and the sole question is, whether the plaintiff is entitled to be paid out of the revenues of the zamindari the amount of a charge created by an agreement made between the defendant's father, Pitambara Deo, who was then Zamindar of Pedda Kimedy, and Jogi Deo, the eldest son of Pitambara's younger brother, and the uncle of the plaintiff. According to the agreement there seem to have been disputes between the elder and younger branches of the family, and the agreement is in the following terms:--Pitambara agrees " to give (you)"--that is, Jogi Deo--" presently Rs. 10,000 (ten thousand), so that neither you nor your younger brothers nor the members of your family may make any demand in future in respect of the household articles, jewels, etc., or anything, or in respect of the debts incurred by your deceased father, Parasurama Deo Garu." Their Lordships do not know the meaning of the expression " the debts incurred by your deceased father." Whether " incurred " is a wrong word used in the translation, or whether the deceased father may have incurred debts in such circumstances as would give a claim against the estate of the elder brother, their Lordships cannot tell; but it is quite clear that there were substantial disputes respecting a substantial property. 2. The next paragraph of the agreement is as follows: " To give (you), through the Collector, every month Rs. 300 on account of the maintenance of yourself, your younger brothers, three in all, and the rest of your family. As we hereby agreed that you, your younger brothers, and the other members of the family shall have no concern whatever henceforward in the said zamindari, or any other thing, you should enjoy the said Taoji"--that is, allowance. Jogi Deo

and his two younger brothers are now dead, and the plaintiff" is the son of the youngest of them, apparently the only issue of the three. It is contended, on behalf of the defendant, that the payment of Rs. 300 a month was only to endure for the life of Jogi Deo, or, at the most, for the lives of the three brothers. It is immaterial which of those constructions is put forward. Either of them seems to their Lordships to be directly at variance with the terms of the agreement. It cannot be reasonably suggested who is to be included in the expression " the rest of your family," unless the issue of the three brothers are to be included. It seems clear to their Lordships that the respondent, as the issue of one of the brothers, is to be so included, and that is the view taken by the High Court whose judgment is now appealed from. With respect to the amount of the maintenance, it seems to have been altered from time to time, but no question is now brought before their Lordships in regard to the exact amount which has been decreed by the High Court. Their Lordships see no reason for interfering with the decree of the High Court, and they will humbly advise Her Majesty to dismiss the appeal.