

(1929) 10 AHC CK 0035
In the Allahabad High Court

Lala Banwari Lal	Vs	APPELLANT
Lala Maksudan Lal and Others		RESPONDENT

Date of Decision : 28-10-1929

Acts Referred:

Citation : 122 Ind. Cas. 183

Hon'ble Judges : Mukerji, J; Bennet, J

Bench : Division Bench

Final Decision : Allowed

Judgement

1. This is an appeal by one Lala Banwari Lal who applied before the District Judge of Allahabad to obtain a succession certificate. It appears that a certain gentleman Lala Kishori Lal died possessed of certain shares of the United Provinces Electric Supply Co, Ltd. The applicant states in his application that he and other parsons whose names are shown in the column of relatives (sons and grandsons) of the deceased, were members of a joint Hindu family with the deceased and that to receive the dividends of the shares it was necessary to obtain a succession certificate.

2. Notices were issued to the members of the family other than the applicant and nobody took exception to the application. The petition was heard ex parte but the learned District Judge dismissed it on the ground that no succession certificate could : be granted to a member of a joint Hindu family who gets the property by right of survivorship and not as an heir.

3. Lala Banwari Lal has appealed and the question is whether he ought to be granted a succession certificate?

4. There can be no doubt that the preamble, of the Succession Certificate Act (VII of 1889) and the preamble of the Indian Succession Act (XXXIX of 1925) both talk of "legal representatives" and "successors", terms which are not strictly applicable to the case of the survivors of a Hindu joint family. Accordingly, it has been held that where a certain creditor, who held a debt as a member of a joint

Hindu family died, and the debt passed by survivorship to the remaining members of the family, the survivors could not be compelled to take out a succession certificate in order to obtain a decree in their suit for the recovery of the debt. But it does not necessarily follow that the converse proposition is true, and where the survivors themselves choose to call themselves "legal representatives" and ask for a succession certificate, their application should be dismissed. In ordinary language, the claimants may very well say that they represent the deceased person's estate and in that right they should be allowed to collect the debts, with the help of a certificate.

5. We think that there was no legal bar to the granting of the application. We accordingly allow the appeal, set aside the order of the Court below and direct it to issue a succession certificate as prayed. As there was no contest, no order as to costs is called for.