

(1921) 04 AHC CK 0021
In the Allahabad High Court

Sheo Ratan Pande

APPELLANT

Vs

Sheo Ram Pande and Lachminia Pandain

RESPONDENT

Date of Decision : 15-04-1921

Acts Referred:

Citation : (1921) ILR (All) 604

Hon'ble Judges : Stuart, J;Gokul Prasad, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Gokul Prasad and Stuart, JJ.—The point raised in this appeal, put in short, comes to this. Whether a Hindu mother who has succeeded to her son's estate as such can validly alienate a part of the property in order to pay off certain time-barred debts of her husband. The lower appellate court has held the contrary, holding that there is no warrant in Hindu Law for validating such a transfer. The transferee comes here in second appeal. The argument put forward on his behalf to support the transfer for this account is that the son was under a pious obligation to pay certain debts contracted by his father and uncle respectively, and as the son died without paying those debts, his mother, who succeeded to the estate which originally belonged to her husband and her husband's brother, was justified in making the transfer of the family property to pay off those debts. The utmost extent to which the Hindu law has gone in this matter is that a son is under a pious duty to pay his father's debt, and also that a sonless widow can alienate her husband's estate to pay off her husband's debt. The Hindu law makes no difference between a time-barred debt and a debt which is not so barred; but there is no warranty or reason for holding that a nephew is bound to pay his uncle's debt, and there is no authority which lays down that a mother is bound to pay her son's debt and can validly alienate the estate which has come to her by inheritance from her son at his death. Our attention has been drawn to the case of Udai Chunder Chnckerbutty v. Ashutosh Das Mozumdar ILR(1893) Cal. 190 and to the earlier Bombay case, Bhala Nahana v. Parbhu Hari ILR

(1877) Bom. 67 on which that case is based. The Bombay case proceeds upon a passage from Narad. See Bhala Nahana v. Prabhu Hari ILR (1877) 2 Bom. 67. The passage (at page 73) runs thus: "The debts contracted by the husband shall be discharged by the widow, if sonless, or if her bus baud has enjoined her to do so on his deathbed, or if she inherits the estate; for, whosoever takes the estate must pay the debts with which it is encumbered." Those cases are no authority for the proposition put forward before us by the learned Counsel for the appellant. In the present case the estate was not encumbered with the debt of the husband. It was only the pious duty of the son to pay the debts of his father. The property was in no way encumbered. So that, even relying on this text of Narad the appellant must fail. The appeal fails on other grounds also. We think the view taken by the court below was right. We accordingly dismiss this appeal with costs.