
(1921) 01 AHC CK 0061
In the Allahabad High Court

Srimati Pramila Devi

APPELLANT

Vs

Chander Shekhar Chatterji and Another

RESPONDENT

Date of Decision : 31-01-1921

Acts Referred:

Hindu Widows Remarriage Act, 1856 — Section 4

Citation : 60 Ind. Cas. 777

Hon'ble Judges : Walsh, J;Piggott, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. The Court below had to decide about the granting of a succession certificate for the collection of certain debts due to a deceased Bengali Brahmin, Babu Karnoamoy Banerji. The rival applicants were a widowed daughter with no children and two sons by another daughter previously deceased. The learned District Judge has given preference to the sons. He had only to determine prima facie which of the parties before him had a preferential claim. We think his decision was clearly right. It has been son-tended before us, as it was in the Court below, that the daughter, who was a child-less widow, should not be postponed to the sons of the other daughter in the matter of inheritance, because, under the provisions of the Hindu Widow's Re-marriage Act, XV of 1856, there was always the possibility of her marrying again. In support of this, one case in the Calcutta High Court has been laid before us, as it was before the Court below. It is that of Sreemutty Rimola v. Dangoo Kansaree 19 W.R. 189 The point in question is dealt with in a brief and summary manner at the close of a judgment dealing mainly with another matter. It is not referred to in a standard book, like Trevelyan's Hindu Law, where three other authorities of the Calcutta High Court are quoted for an interpretation of the law against the claim of this appellant. As long ago as the 14th of February 1865, in Binode Koomaree Dalee v. Purdhan Gopal Sahee 2 W.R. 176 the learned Judges of the Calcutta High Court said that daughters who were barren, or widows without male issue, or mothers of daughters only, save, under no circumstances, inherit. The same

principle was followed in a later case to be found in Radhn Kishen Manjhee''v, Rajah Ram Mundul 6 W.R. 147. The point has been recently re-considered by a Bench of the Calcutta High Court in Mukunda Lal Chuckerbuttv v, Manmohini Dehi 26 Ind. Cas. 903 : 19 C.W.N. where the judgment expressly refers to the provisions of Section 4 of the Hindu "Widows" Re-marriage Act, XV of 1 55. The terms of that section, to which we have referred, seem to bear out the view of the learned Judges of the Calcutta High Court in the latest reported decision. The Court below, in a proceeding of this sort, was clearly right in accepting the view of the law which seems o have been generally acted upon in the Calcutta High Court where cases under the Dayabhaga Law are likely to some up for decision. Something has been said about a point taken as to the respondent, that is to ear, the daughter''s sons, not having performed the funeral ceremonies ; but we can find no authority bearing out the contention of the appellant on this point. On the materials before him the learned District Judge was right in granting the secessions eertiflsate to the respondents. We dismiss this appeal accordingly with oats, including fees on the higher scale: