

(1921) 01 AHC CK 0038
In the Allahabad High Court

Srimati Pramila Devi

APPELLANT

Vs

Chandra Shekhar Chatterji and Another

RESPONDENT

Date of Decision : 31-01-1921

Acts Referred:

Citation : (1921) ILR (All) 450

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

Bench : Division Bench

Final Decision : Dismissed

Judgement

Piggott and Walsh, JJ.—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 Karunamoy 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 contended before us, as it was in the court below, that the daughter who was a childless widow should not be postponed to the sons of the other daughter in the matter of inheritance, because under the provisions of the Hindu Widows' Re-marriage Act, No. 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 Bimola v. Dangoo Kansaree (1873) W.C.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 Benode Koomaree Dabea v. Purdhan Gopal Sahee (1865) 2 W.R.C.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, can under no circumstances inherit.

The same principle was followed in a later case, *Badha Kiahen Manjhee v. Rajah Ram Mundul* (1866) 6 W.R.C.R. 147. The point has been recently reconsidered by a Bench of the Calcutta High Court in *Mokunda Lal Chahravarti v. Monmohini Debi* (1914) C.W.N. 412 where the judgment expressly refers to the provisions of Section 4 of the Hindu Widows' Re-marriage Act, No. XV of 1856. 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 to have been generally acted upon in the Calcutta High Court where cases under the Dayabhaga law are likely to come up for decision. Something has been said about a point taken as to the respondents, that is to say, 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 succession certificate to the respondents. We dismiss this appeal accordingly with costs.