

(1895) 10 MAD CK 0018
In the Madras High Court

Venkataramakrishna Rau and Another	APPELLANT
Vs	
Bhujanga Rau	RESPONDENT

Date of Decision : 22-10-1895

Acts Referred:

Citation : (1896) ILR (Mad) 107

Hon'ble Judges : Arthur J.H. Collins, C.J.; Parker, J

Bench : Division Bench

Judgement

1. The substantial question in issue is whether Ramayamma took an absolute or a qualified estate. The property was stridhanam in the hands of her

mother but it is settled law that such property, when inherited by a daughter, ceases to be stridhanam in her daughter's hands. The decision in

Sengamalathammal v. Valayuda Mudali 3 M.H.C.R. 312 is the leading case upon this subject, and it has been followed in numberless cases in this

Presidency as also in Calcutta. See Prankissen Laha v. Sreemutty Noyanmoney Dassee ILR 5 Cal. 222. No doubt at all would have been felt in

this case had it not been for the decision of this Court in Narasayya v. Venkayya 2 Mad. L.J. 149 which has been represented as being

inconsistent with the earlier decisions. The District Judge who decided the case evidently considered it inconsistent, though he followed the earlier

decisions, and so also did a Division Bench of this Court in Virasangappa Chetti v. Budrappa Chetti ILR 19 Mad. 110 to which we have been

referred. We will now proceed to point out that there was no inconsistency, and that the case referred to is in consonance with the whole course of

decisions.

2. In Narasayya v. Venkayya 2 Mad. L.J. 149 the question was who was the heir

to the property of a maiden daughter with respect to the estate which she had inherited from her mother and in whose hands it had been stridhanam property. The lady had no sister, and the contest was between her father and her brother as to which of them was the nearer heir. The District Munsif held that the same rule of succession was to be applied as if the last holder was a male instead of a female, and that the brother was no heir as his father was alive. On appeal the Subordinate Judge held that as a female the daughter had taken but a qualified heritage, and that upon her death the last full owner's heir was her heir. On this view he considered that the son was the mother's heir in preference to the husband, and on this ground reversed the District Munsif's decree. The decision in *Sengamalathammal v. Valayuda Mudali* 3 M.H.C. R. 312 was clearly before him, and in the appeal to the High Court it was expressly referred to. Before the High Court it was contended that the decision of the Subordinate Judge was bad in law, but the Judges refused to accede to the contention, thus admitting that the decision in *Sengamalathammal v. Valayuda Mudali* 3 M.H.C.R. 312 was a binding authority. It was, however, pointed out that the Mitakshara (ch. II, Section XI, 30) laid down a special rule of succession to the inherited property of a maiden daughter, of which property she, by a special rule, was as much a full owner as her mother was. The special rule of succession gave the property to her uterine brother, and on this ground the decision of the Subordinate Judge was affirmed.

3. The observation which gave rise to the misconstruction is as follows: ""But when a daughter succeeds to her mother's stridhanam, she is as much full owner as her mother,"" but the context shows that the daughter spoken of was the maiden daughter to whom alone the judgment relates. This is also clear from the fact that the general rule enunciated by the Subordinate Judge is expressly approved. The succession to a maiden daughter is the sole exception to the rule, and in all the other cases quoted, the question has been as to the succession to a married daughter. It was expressly laid down in *Sengamalathammal v. Valayuda Mudali* 3 M.H.C.R. 12 that the married daughter only took a life interest without power of alienation, and that, irrespective of the property being joint, the sister would succeed in preference to the husband; in other words, that the succession would go to the heirs of the mother. Taking this view, it is unnecessary to consider the

validity of the will left by Ramayamma. The appeal fails and we dismiss it with costs.