

*Judgment of the Lords of the Judicial Committee of the Privy Council on the Appeal of Diwan Ran Bijai Bahadur Singh v. Indarpal Singh, from the Court of the Judicial Commissioner of Oudh; delivered the 8th July 1899.*

---

Present at the Hearing :

LORD WATSON.

LORD HOBHOUSE.

LORD DAVEY.

SIR RICHARD COUCH.

SIR EDWARD FRY.

[*Delivered by Sir Edward Fry.*]

The Plaintiff and Appellant Diwan Ran Bijai Bahadur Singh is the head of the elder branch of a family descended from Sanbar Singh. The original first Defendant Ajit Kunwar was the widow of Randhir Singh the head of the younger branch of the same family. The present Respondent Indarpal Singh claims under a will or other document executed by the late Ajit Kunwar. The original plaint in the suit now under appeal sought a declaration that Ajit Kunwar was entitled only for life in three classes of property mentioned in Schedules A B and C to the plaint and that the document under which Indarpal Singh claims was inoperative as against the Plaintiff.

The first class of property to which the suit related consisted of certain taluqdari estates in respect of which a sanad was granted to Ajit Kunwar : and it was contended for the Appellant in the Courts below that by virtue of certain documents

Ajit Kunwar had subject to a life interest to herself constituted herself trustee for the Appellant of this property. But the District Judge and the Judicial Commissioner's Court unanimously held all these documents to be forgeries and Counsel for the Appellant with great propriety declined to argue against these concurrent findings.

The second class of property consisted of certain non-taluqdari lands mentioned in Schedule B to the plaint and the third class of property mentioned in Schedule C consisted of certain movables, which belonged to Ajit Kunwar at the time that the suit was brought. The Plaintiff claimed the land in Schedule B in more than one way. First he said in his plaint that it was "immovable property which had been purchased from time to time out of funds derived from the ancestral estate" *i.e.*, the taluqdari and that it was "considered as a part and parcel thereof" (paragraph 10). In this point of view it is evident that this non-taluqdari property will follow the fate of the taluqdari in respect of which the Appellant's claim has failed. But the Plaintiff also claimed it on the ground that the property belonged to Randhir Singh in his lifetime and that the Plaintiff was the next reversioner to Randhir Singh. There is some conflict of evidence as to whether this property was originally acquired by Randhir Singh or his wife Ajit Kunwar but Counsel for the Appellant admitting that both the Courts below were adverse to the Plaintiff's contention on the evidence elected to treat the case as if there were no evidence one way or the other and to base their client's claim on the following proposition of law. They alleged that when a widow is found in possession of property of the acquisition of which no account is given and it is shown that her husband died possessed

of considerable property then there is a presumption of law that the property found in the widow's possession was originally that of her husband. No authority was cited at the bar which supports this proposition, and their Lordships are not prepared to adopt it or to lay down anything inconsistent with the general rule that he who claims property through some other person must show the property to have been vested in that person. But even if the proposition contended for were valid, it does not apply to the present case : for there is no evidence that Randhir Singh the husband of Ajit Kunwar died possessed of considerable or any property and the inference to be drawn from some of the facts in evidence tends in the contrary direction. The Plaintiff's claim to the real estate mentioned in Schedule B therefore falls to the ground.

The third class of property mentioned in Schedule C consists of movables, some of them clothes and ornaments of a lady's person and there being no evidence to show whether these were originally acquired by Ajit Kunwar or her husband, the Plaintiff's claim to them was supported only on the same proposition of law with which their Lordships have already dealt.

In every particular therefore the Appellant's case fails and their Lordships will humbly advise Her Majesty to dismiss the Appeal with costs.

---

