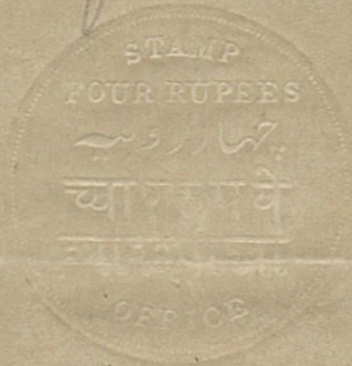


A 263 of 1864.



In the High Court of Judicature at Bombay.

N^o. on the File.

N^o. of appeal in the Zilla Court - 59 of 1863.

Applicant - Rajaram bin Karoji Patel.

or

Opposite Party - Gahinai ~~Widow~~, widow of Balz
Wantrao.

Claim Rs 33 - - -

The grounds of objection to the decision appealed against are: -

1. That it is contrary to law in that

a. The Assistant Judge held the Respondent to be ~~the~~ heir to the deceased in preference to the applicant, the same not being in accordance with Hindu Law.

b. A childless Hindu widow cannot inherit property left by a deceased member of her husband's family, so long as there is a male descendant living.

2. That there has been a substantial

and which was ~~noticed~~ in the decision of the case on its merits in that the Court below did not inquire whether the parties to the suit were members of a divided or undivided family.

Dated this 4th day of February

Bandmanj Prab
Vakil.

En in Polyn - No 4 February 1864 to Pandoury Bulebhadra Kulkub

Chauyumboddy
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Presented 4th day of
February 1864 with
copies of two decrees
two judgments and a
Vakubhrama

[Signature]
1st Assistant Registrar

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~~...~~
Appeal No: 59
of 1863

Court of the Assistant Judge - Poree -
Wednesday - December 23rd - 1863

Appellant Ramabai Kone Yeshwantarao Deceased
her sister-in-law Gacernae Kone
Balwantarao - (Plaintiff)

Respondent - ^{As} Rajaram bin Narajee Patil Defendant
Claim Rupees. 33 -

Vakeels - Gvind Vishwanath for Appellant -
Ganesh Ramchandra for Respondent.

This action was instituted by Gacernae to recover possession of two beeras fields which Ramabai had occupied, till her death in 1776, and which Gacernae herself cultivated afterwards till 1782, when Rajaram took possession of them -

Rajaram replied that Ramabai before her death had leased the land on Sar, Khutee to Bhow Sabla for a term of seven years, in consequence of which Bhow Sabla took possession: on Ramabai's death Defendant's name was entered in the accounts, and Bhow Sabla paid him the half profits: Defendant has always taken the produce of the trees &c. - In 1782 he recovered the land from Bhow Sabla, and made it over to another: in consequence of which Bhow Sabla and Plaintiff have collusively tried to deprive him of the possession - Defendant now

~~Transcript of the proceedings in the case of Ramabai vs. the Respondent~~
~~3207~~
~~Memorandum~~

500
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January 16th 1864 -

The case is again called on for hearing -

The Shastree has in reply to the reference made to him stated that Greenace is the nearest heir to Ramabai -

I therefore find on the point at issue that Greenace is the nearest heir to Ramabai -

I consider it unnecessary to pass any decision on the question whether all the facts alleged in the statements of the two parties are proved or not: each has rested his or her claim on the fact of his or her being Ramabai's heir: and the suit must be settled in accordance with the decision passed on the point at issue -

Greenace then being the nearest heir, I hold that she has a right to assume possession of Ramabai's land -

I reverse the decree of the Munsiff, and decree that the land be made over to Greenace. Costs on Respondent

In the High Court of Judicature, Bombay.

The Humble petition of Rajaram
bin Naroji Patel, inhabitant of
the Poona District,

Most Respectfully Sheweth,

That your petitioner had preferred a
Special appeal against Gairai, legal representative
of the late Ramabai widow of Yeshwantrao upon a
decision by the Assistant District Judge of Poona, and
that the same was registered in this Court under No 263.

That your petitioner and the said Respondent
have compromised their claims; and your petitioner

has withdrawn his said special appeal.

Your petitioner therefore prays your
Lordships will be graciously pleased to permit him
to withdraw.

Bombay,
29 Jan 1866.

And your petitioner affirms

that he is the true owner of the property

Pandurang Balibhadra,
Vakil for Peti.

Civil No. 8 Rajaram bae Naraji
Vakil Pandurang Balibhadra
7 July 1884

~~9/2/1884~~
9-2-84

Petition granted
7th July 1884
J. M. S.

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being her great grand son - He performed all her rites at her death: Gaenace is childless and she therefore cannot maintain an action for immovable property -

The City Munsif N:3 threw out the claim on the grounds that Rajaram was nearer heir to Ramabai than Gaenace and that consequently the claim could not be maintained -

Gaenace has appealed on the ground that

1. She has produced a certificate of her ship to Ramabai -

2. Her claim is proved -

The point at issue is:

Which is the nearest heir to deceased Ramabai, Rajaram or Gaenace?

The following table shows the relationship of the parties -

Sultanze	Govindras -	Arundras
Trimbukjee	Balwantrow -	Yeshwantrow
Sultanze	deceased hus- band of the	husband of
Narjee	Plaintiff Gaenace -	deceased Ramabai.
Deft Rajaram -		

In order to settle this point, I determine to refer it to the Shastree pending the receipt of whose reply the proceedings are adjourned -

Signe of F. J. McNeill
Sut Judge

Action's fee
(5) five annas

Signed J. D. McNeill
Not Judge

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Not Judge

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J. D. McNeill
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