

1889

JAN. 7.

13 B. 653.

APPELLATE CIVIL.

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LATE
CIVIL.*Before Mr. Justice Jardine and Mr. Justice Candy.*

13 B. 653.

LALLU BHAGVAN (*Original Plaintiff*), *Applicant v.* TRIBHUVAN
MOTIRAM, DECEASED, BY HIS SONS AND HEIRS, LALLU AND
NARBHERAM (*Original Defendants*).^{*} [7th January, 1889.]

Hindu law—Son's liability for father's debts—Decree against legal representatives of a deceased debtor—Assets.

Where a suit is brought against the sons and legal representatives of a deceased Hindu for debts contracted by the latter, the Court ought to pass a decree, although the deceased debtor may have left no assets.

Bapuji v. Umedbhai (1) followed.

THIS was an application under s. 622 of the Code of Civil Procedure (Act XIV of 1882).

The plaintiff filed a suit in the Court of Small Causes at Surat against Lallu and Narbheram, as legal representatives of their father, Tribhuvan Motiram, deceased, to recover the sum of Rs. 136-8-0, being the price of goods sold and delivered to the deceased.

The Court found that the amount claimed was due to the plaintiff, but rejected the claim, on the ground that the deceased Tribhuvan had left no property behind him.

[654] Against this decision the plaintiff applied to the High Court under its revisional jurisdiction.

A rule *nisi* was issued to the defendants, calling upon them to show cause why the decree of the Small Causes Court should not be set aside.

The defendants did not appear to show cause.

Manekshah Jehangirshah, in support of the rule, relied on *Bapuji v. Umedbhai* (1).

JUDGMENT.

The judgment of the Court was delivered by

JARDINE, J.—We are of opinion that this case should have been decided in favour of plaintiff, although the deceased debtor may have left no assets. As remarked in *Bapuji v. Umedbhai*, a decree ought to have been made against defendants as representatives of their father, whether they had inherited any property or not. If they had had no property, the only result would have been that the decree could not have been executed against them. For these reasons, we reverse the decree of the Small Cause Court, and decree for the amount claimed, against the defendants as legal representatives, to be paid out of the property of deceased. Defendants to pay costs in the suit.

Decree reversed.

* Application No. 126 of 1888, under Extraordinary Jurisdiction.

(1) 8 B.H.C.R. A.C.J. 245.