

use of the word, contrary to the ordinary as well as the statutory use, a bet cannot, for the purposes of criminal law, be treated as a game. [690] The common and legal use of the latter word coincide substantially; it required express enactment to make betting houses be deemed gaming-houses. What the law treats as a game can be gathered from the Statutes reviewed in *Jenks v. Turpin* (1), *e. g.*, 16 Car. 2, c. 7, s. 2, where cards, dice, tables, tennis, bowls, skittles, shovel-board, cock-fighting, horse-races, dog-matches, foot-races are mentioned before the more general words "other past-times, game or games whatsoever." According to Bacon's Abridgement, gaming—a foot-race and a horse-race are games within the Statute; so it seems is cricket. In the present case, where money is staked on an operation of nature, and the instrument is a mere measure of the operation, I am of opinion that the amusement provided by the keeper of the house, who makes an income by allowing the betters to come there and use the rain-gauge as a means of deciding the event of the bet, is not a game, and that the house is not a common gaming-house within the meaning of Bombay Act IV of 1887. I am also of opinion that the Act is not directed against betting and wagering practices, except as connected with games.

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Order of acquittal upheld.

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APPELLATE CIVIL.

Before Mr. Justice Nanabhai Haridas and Mr. Justice Parsons.

GANGABAI (*Original Plaintiff*), *Appellant v. ANANT AND OTHERS*
(*Original Defendants*), *Respondents*.* [7th September, 1888.]

Hindu law—Adoption—Adoption of a daughter—Validity of such adoption.

The adoption of a daughter by a Brahmin is invalid under the Hindu law.

THIS was a second appeal from the decision of A. Steward, Acting Assistant Judge of Poona, in appeal No. 56 of 1885 of the District File.

[691] The plaintiff sued, as the adopted daughter and heiress of one Rowji Shastri of Poona, to recover possession of his property. The defendants were the sons of Rowji's step-brother. They disputed the plaintiff's title, on the ground that her adoption was invalid under Hindu law and usage.

The Subordinate Judge held, on the authority of the Dattaka Mimansa and Sanskara Kaustubha, that, according to the Hindu law, a daughter could be adopted. He also found that the custom of adopting daughters was prevalent in the district where the parties resided. He, therefore, passed a decree in plaintiff's favour.

On appeal the Assistant Judge reversed this decree. He held that the adoption of a daughter was invalid under the Hindu law, and that there was no local usage sanctioning such an adoption.

Against this decision the plaintiff preferred a second appeal to the High Court.

* Second Appeal No. 654 of 1886.

(1) L.R. 13 Q.B.D. 505.

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Shantaram Narayan, for appellant.*Mahadev C. Apte*, for respondents.

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JUDGMENT.

PARSONS, J.—The point which arises in this case is one which appears to have come before the Courts now for the first time. It relates to the validity of an adoption of a daughter by a Brahmin, to place that daughter in the same legal position that his own natural daughter would have held. The plaintiff claims by virtue of the adoption to be entitled to the estate of the person who adopted her and to exclude the defendants, who are that person's next of kin, from the inheritance. The *Dattaka Mimansa*, s. 7, and the *Sanskara Kaustubha* are quoted to us as authorities in favour of the legality of the adoption. We do not, however, consider that they establish the proposition for which they are cited. The adoption of a daughter appears opposed to the very purpose and history of adoption. "Males only need sons to relieve them from the debt due to ancestors"—*Colebrook's Digest*, Bk. V, T. 273, Comm. The adoption of a daughter is not warranted by any *Sūriti*; it is supported only by some Puranic instances. No [692] instance, however, is cited to us in which the estate passed to the adopted daughter to the exclusion of other male relations. *Jagannatha* denies altogether that a daughter can be adopted. A male only, he says, can become adopted—*Vyavahara Mayukha*, Chap. IV, S. V, para 1. We think that this latter authority is of great weight, and we follow it. We, therefore, confirm the decree with costs.

Decree confirmed.