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precludes the registering authority from registering a document in accordance with the order of the Registrar, even if the document is not duly presented for registration within thirty days after the making of the Registrar's order. It is not alleged in the present case that there was any defect in the first presentation of the document on January 14, 1947. The only bar to the registration of the document was the refusal of the Sub-Registrar to register it owing to the objections raised by defendants Nos. 1 and 2. In appeal, that order was reversed and the Registrar ordered that the document should be registered. As the document subsequently came to be presented beyond thirty days of the Registrar's order of July 25, 1947, the plaintiff could not have compelled the Sub-Registrar to register the document, relying on the provisions of sub-s. (2) of s. 75. But that did not take away the Sub-Registrar's power to register the document in pursuance of the directions given by the Inspector General of Registration and the District Registrar, and in conformity with the original order of the Registrar dated July 25, 1947 and he having exercised the power and registered the document, I do not think that the validity of that registration can be successfully challenged by reason of the provisions of sub-s. (2) of s. 75 of the Act.

In my opinion, therefore, the sale deed in favour of the plaintiff (Exhibit 39) is validly registered, and under the provisions of sub-s. (3) of s. 75 of the Registration Act that registration must take effect from the date when it was first duly presented for registration, viz., January 14, 1947. The plaintiff's title would, therefore, prevail over that of defendant No. 3.

I, therefore, agree with the order proposed by my learned brother.

Appeal dismissed.

G. N. V.

APPELLATE CIVIL

Before Mr. Justice Vyas.

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ANNA SAKHARAM PATIL (ORIGINAL PLAINTIFF) APPELLANT v. BASGOUDA ANNA PATIL (ORIGINAL DEFENDANT) RESPONDENT.*

Hindu law—Surrender—Widow executing deed of gift in favour of the next reversioner—Deed reciting that the transferee should be the absolute owner after widow's death—Whether transaction amounts to surrender.

*Second Appeal No. 212 of 1953.

A Hindu widow executed a deed of gift of the entire property of her husband in favour of her daughter who was the next reversioner. The deed recited, ".....you should live with me during your lifetime, look after me and render service to me and you should carry on the *wahiwat* of the whole of the property. After my death you should consider the entire property as *stridhan* of your absolute ownership and manage the same accordingly as owner.....". On the question whether the transaction amounted to a surrender,

Held, on construction of the document as a whole that the intention of the widow was that the ownership in the estate should pass to her daughter only after her death and consequently the transaction did not amount to a surrender.

Sureshwar Misser v. *Maheshrani Misrain*,[1] *Bhagwat Koer* v. *Dhanukhdhari Prasad Singh*,[2] and *Rama Nana* v. *Dhondi Murari*,[3] referred to.

SECOND APPEAL from the decision of S. S. Malimath, Esquire, District Judge, South Satara, at Sangli, reversing the decision of S. V. Joshi, Esquire, Second Joint Civil Judge, Junior Division, at Sangli.

The facts are sufficiently set out in the judgment.

G. R. Madbhavi, for the Appellant.

K. G. Datar, for the Respondent.

Vyas J.—This is an appeal by the plaintiff and it raises a question of construction of a certain document , dated July 25, 1910. The form of this document is a deed of gift by Saubai, the widow of Sakharam Satgouda Patil, in favour of her daughter Krishnabai who was the next reversioner. The question is, did Saubai by this document surrender her estate in the properties of her husband in favour of the next reversioner by completely effacing herself from the estate or did she intend that the transfer of her estate to the next reversioner should take effect only after her death.

The plaintiff has filed Civil Suit No. 556 of 1949 to recover possession of the suit properties which consist of certain lands and a house situated in Digraj village in Sangli District. The suit properties belonged originally to one Sakharam Satgouda Patil who died about forty years ago, leaving surviving behind him his widow Saubai and a daughter Krishnabai. Saubai adopted the present plaintiff on June 21, 1940. She died two years later in 1942. During her lifetime, she passed a deed of gift, exhibit 28, in respect of the suit properties in favour of her daughter Krishnabai on July 25, 1910. Krishnabai sold these properties to the defendant on June 20, 1922. The plaintiff contends in the suit that Krishnabai had no right to alienate the properties and that, therefore, the defendant got no title to the properties by virtue of the sale-deed passed in his favour by Krishnabai. The defendant on the other hand contends that Saubai, who was the next heir to her husband's properties

1. (1921) L. R. 47, I. A. 233. 2. (1919) L. R. 46, I. A. 259.
3. (1923) 47 Bom. 678.

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after his death, had surrendered her estate in these properties in favour of her daughter Krishnabai who was the next reversioner and that this was done by a deed of gift which was passed by Saubai on July 25, 1910. According to the defendant, since the date of gift, Krishnabai had become an absolute owner of the suit properties and that it was in that capacity that she had sold the properties to him on June 20, 1922. The defendant says that pursuant to his purchase of the properties from Krishnabai, he had become a full owner of the properties and had been in enjoyment thereof as such. In these circumstances, says the defendant, the plaintiff cannot get title to the suit properties simply by reason of his adoption by Saubai.

The learned Civil Judge, J. D., Sangli, who decided the suit, came to the conclusion that the document purporting to be a deed of gift of the suit properties by Saubai to Krishnabai did not amount to a surrender and that even if it amounted to a surrender, it was not a valid surrender as it was not a total surrender and it would not bind the plaintiff. Accordingly, the learned Civil Judge decreed the suit of the plaintiff. On the defendant going in appeal, the learned District Judge held that the gift deed passed by Saubai to Krishnabai amounted to a valid surrender and that, therefore, the plaintiff was not entitled to succeed in his suit. Accordingly, the learned District Judge ordered the suit of the plaintiff to stand dismissed. It is from this decision of the learned District Judge that the plaintiff has come in second appeal.

There is only one issue to be decided in this appeal, viz. whether by executing a deed which purports to be a deed of gift in favour of Krishnabai, Saubai surrendered to Krishnabai her estate in the properties inherited by her from her husband or whether Saubai intended that the transfer was to be effective only upon her death. Having carefully read and considered the contents of what purports to be a deed of gift, I find it difficut to agree with the view of the learned District Judge that the transaction amounted to a surrender. As was pointed out by their Lordships of the Privy Council in *Sureshwar Misser* v. *Maheshrani Misrain*,[4] two conditions must be fulfilled before a transaction could amount to a valid surrender and the two conditions are: (1) The surrender must be total, not partial; and (2) The surrender must be a *bona fide* surrender, not a device to defeat the estate of the reversioner. Now, in this case, the Courts below have taken different views of the nature of the transaction embodied in the deed of gift, exhibit 28. The learned Civil Judge upon an examination of the contents of the document came to the conclusion that the transaction was not a surrender. The learned District Judge

4. [1921] L. R. 47, I. A. 233.

however, took a contrary view in appeal and held that the transaction amounted to a valid surrender. Mr. Datar appearing for the respondent (defendant) has strenuously sought to support the view taken by the learned District Judge and he has drawn my attention to certain recitals in the deed, exhibit 28 in support of his contention that the deed must amount to a valid surrender. For instance, Mr. Datar says that the expressions in the deed such as : "असलेल्या जमीनी व घर जागा तदंगभूत वस्तूसहीत आजरोजीं तुजला बक्षीस दिलें आहे. तरी सदरहू मिळकतीपैकीं जमिनीचा सरकारी सारा चावडीकडे देऊन सुखरूप वहिवाट करावी." and "तुझे हयातीपर्यंत मजपाशी राहून माझी सेवा रक्षण करावे व सर्व मिळकतीची वहिवाट करावी. माझे पश्चात् सर्व मिळकत तुझे निखालस मालकीच्या स्त्रीधन समजून पाहिजे त्याप्रकारें मालकीनें व्यवस्था करावी. त्याजबद्दल आमचा अगर आमचे वारसाचा कोणतेही प्रकारें हक्कसंबंध व दावा राहिला नाहीं. सर्व हक्क पूर्ण तुला दिले आहेत. सदरहू मिळकती आजपर्यंत माझे वहिवाटीस असोन आजरोजीं तुझें कबज्यांत दिल्या आहेत" would show that by passing the deed Saubai, the widow of Sakharam Satgouda Patil, had totally effaced herself from her estate in these properties and that, therefore, the surrender was a complete one. Translated into English these recitals would read: "The abovementioned lands and the house premises together with the appurtenances thereof situated within the limits of the aforesaid village are, this day, given in gift to you. Hence you should pay the Government assessment of the lands, from out of the aforesaid properties, to the Chavadi (village office) and carry on the vahiwat, happily," and "You should, therefore, live with me during your life-time, look after me and render service to me and you should carry on the vahiwat of the whole of the property. After my death you should consider the entire property as 'Stridhan' of your absolute ownership and manage the same accordingly as owner. In that matter neither I nor the heirs to my estate shall have any kind of right; title and interest therein. The entire right is fully given to you. The said properties which had been in my vahiwat upto this day, are given this day into your possession." I have given my anxious thought to the language of these recitals and the implications thereof, but am unable to accept Mr. Datar's construction of these statements in the deed. Mr. Datar contends that the words" त्याजबद्दल आमचा अगर आमचे वारसाचा कोणतेही प्रकारें हक्कसंबंध व दावा राहिला नाहीं. (in that matter neither I nor the heirs to my estate shall have any kind of right, title and interest left therein)"would showthat the transaction was a surrender, in that Saubai expressly and completely effaced herself from these properties by giving up her right, title and interest in the properties immediately upon the execution of the deed. In particular, Mr. Datar lays stress on the words आमचा.....कोणत्याही प्रकारें हक्कसंबंध व दावा राहिला नाहीं (Neither I.....shall have any kind of right, title

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and interest left therein)" and argues that, if the transaction was not intended to be a transfer *in presente*, but was intended to retain Saubai's interest in these properties so long as she was alive, she would not have used the words "neither I" in the above sentence in the deed. Mr. Datar is not right in putting this construction on the above sentence. It is a well-settled canon of construction that a document must be construed not piecemeal, but as a whole, due consideration being paid to all the material statements in their proper context. Now, Mr. Datar overlooks the fact that the words .....त्याच बाबतींत (in that matter)" in the sentence on which he relies relate directly to the immediately preceding sentence in the deed, which contains a clear, emphatic and unmistakable statement of Saubai's intention that it was only after her (Saubai's) death that her daughter was to consider herself an absolute owner of these properties and was to manage the properties as such. This declaration by Saubai conferring the rights of absolute ownership over these properties upon her daughter only after her death would show that the sentence "त्याजबद्दल आमचा अगर आमचे वारसाचा कोणतेही प्रकारें हक्कसंबंध व दावा राहिला नाहीं (In that matter neither I nor the heirs to my estate shall have any kind of right, title and interest left therein)" relates to a point of time, not during the life of Saubai, but after her death. The words "neither I" in this sentence are meaningless in their context and were carelessly used, since it is only too evident that Saubai could possibly have no right, title and interest left in these properties after her death. The words : "सर्व हक्क पूर्ण तुला दिले आहेत (the entire right is fully given to you") in the context, occurring as they do immediately after the above sentence, also refer to a point of time after Saubai's death and mean that all rights in respect of these properties were given to the daughter, but were to be effective only upon the mother's death.

It is true that the deed recites : "जमिनी व घरजागा तदंगभूत वस्तूसहित आजरोजीं तुजला बक्षीस दिले आहे (the abovementioned lands and the house premises together with the appurtenances thereof situated within the limits of the aforesaid village are this day given in gift to you)" ; but simply because the word "बक्षीस (gift)" is used, it would not necessarily follow that the transaction was a surrender. In my opinion, the reading of the deed as a whole would show that the "बक्षीस" was inappropriately used. What is essential in construing a document is not a word here or a sentence there, loosely or inappropriately used, but the intention of the author, and this must be gathered from a careful consideration of all the statements made by the author and directions given by the author in the deed. It is true that in

construing an instrument violence should not be done to the plain meaning of the words, but this rule must be applied not only to a word here or a sentence there, but must equally be applied to all the material statements contained in the instrument. As I proceed with this judgment, I shall point out that there are recitals in this deed whose plain and natural meaning could only be that the deed was not one of surrender, that it was not in the nature of a gift, but was in the nature of a will.

The directions " सदरहू मिळकतीपैकीं जमिनीचा सरकारी सारा चावडीकडे देऊन सुखरूप वहिवाट करावी (You should pay the Government assessment of the lands, from out of the aforesaid properties, to the Chavadi and carry on the vahiwat happily)" are not necessarily indicative of an immediate gift and are, in my opinion, quite consistent with the deed not being one of surrender. So far as the mere physical acts of management and paying of assessment at the *chavadi* were concerned, the daughter was given an authority to do them. From these directions I am unable to come to the conclusion that the ownership over the lands was immediately transferred to the daughter.

On a careful consideration of the contends of the entire deed, it is doubtless that by this document Saubai did not make an immediate gift of her estate in these properties to her daughter. She clearly intended that the transfer was to be effective after her death. This is an irresistible conclusion from the recital : "तुझे हयातीपर्यंत मजपाशीं राहून माझे सेवारक्षण करावें व सर्व मिळकतीची वहिवाट करावी (You should, therefore, live with me during your lifetime, look after me and render service to me and you should carry on the vahiwat of the whole of the property)". It would appear from this statement that Saubai, by executing this deed, did not intend to render herself dependent upon anybody, not even upon her daughter, in the matter of her own residence and maintenance. She did not say that after the execution of this document she would look to her daughter for providing residence or maintenance for her. If Saubai had intended to divest herself immediately of her interest in the house in favour of her daughter, she would have said so and, in view of the fact that she had no other place to live in, she would have asked her daughter to permit her to stay with her. But she did not do so. She did not say that she would live with her daughter. On the contrary, she cast an obligation upon her daughter that the latter must stay with her. Now, if a mother enjoins upon a daughter, who has lost her husband as Krishnabai had, that she must stay with her, it is clear that the mother must have a house where she can stay herself and ask the daughter also to stay with her. Likewise, if a mother

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directs that her widowed daughter, who is destitute of means, must live with her and look after her and minister to her comforts and conveniences, she undertakes an obligation to maintain the daughter; and it is clear that for that purpose she must have her own means whereby she can maintain herself and the daughter. In my opinion, the words " तुझे हयातीपर्यंत मजपाशीं राहून माझे सेवारक्षण करावें (you should, therefore, live with me during your lifetime, look after me and render service to me)" did not imply an obligation on the daughter to provide residence or maintenance to the mother, but they implied an obligation which was undertaken by the mother herself to provide residence and maintenance to the daughter in consideration for the daughter serving her and looking after her.

Now, there is no dispute that, besides the suit house and the suit lands, Saubai had no other house and no other lands. Since it is implicit in the recital " तुझे हयातीपर्यंत मजपाशीं राहून माझें सेवारक्षण करावें व सर्व मिळकतीची वहिवाट करावी (You should, therefore, live with me during your lifetime, look after me and render service to me and you should carry on the vahiwat of the whole of the property)" that Saubai voluntarily undertook upon herself an obligation to keep the daughter with herself and also an obligation to maintain her in return for the daughter's services to her, it is evident that, even after executing the deed, she retained her interest both in the house and in the lands so long as she was alive. In other words, she did not intend the transaction to be a transfer *in presente,* but intended it to operate as a transfer after her death. This conclusion to which I am driven from the recital "You should, therefore, live with me during your lifetime, look after me and render service to me" militates strongly against construing the transaction embodied in the deed as one of surrender. The test whether the house was gifted away by Saubai to her daughter with immediate effect was whether, after the execution of the deed, Saubai looked up to her daughter for providing residence for her and the test whether the transfer of the lands was intended to be a transfer *in presente* was whether, after the deed was executed, Saubai looked up to her daughter for maintenance. Upon a construction of the plain words of the expression "You should, therefore, live with me during your lifetime, look after me and render service to me", both these tests would show that the deed was really in the nature of a will and not a surrender, since Saubai even after executing the deed retained independence for herself in the matter of her residence and maintenance. If Saubai had intended the transfer of the properties to be a transfer *in presente,* i. e. if she had intended that the deed was to operate as a complete effacement of herself from her estate with immediate effect, she would have

used words casting an obligation upon her daughter to provide for her residence and maintenance. She would have made no mistake about it, for unless she cast those obligations upon her daughter, she would have immediately found herself in a helpless state, shelterless and penniless, after surrendering her estate to her daughter. She was careful enough to use in the deed clear expressions casting an obligation upon her daughter to live with her and also an obligation that she should render service to her as long as she lived. If she had further intended to cast an obligation upon her daughter that the latter should also maintain her, she would not have omitted to mention it explicitly, for it would have been by far a major obligation. But she said nothing of the kind. This would show that, by executing the deed, Saubai was not making herself dependent on her daughter for maintenance, which in turn would show that she was not transferring her properties forthwith by this deed.

The deed shows that even prior to the date of its execution, Krishnabai had been residing in the suit house ever since the date of her husband's death. That residence was clearly not residence as owner of the house. Saubai, the mother, was the owner and Krishnabai was residing with her. The execution of this deed by Saubai did not alter the abovementioned character of Krishnabai's residence in the house so long as Saubai was to remain alive; and this is perfectly clear from the words "याकरितां (therefore)" in the recital "आजपर्यंत तुझा नवरा मयत झालेपासून तू मजपाशींच आहेस तुला तुझे नवऱ्याकडून कांहीं एक इस्टेट अगर पोटगी मिळाली नाहीं व तुझे मनातून आतां दुसरा नवरा करावयाचा नाहीं याकरितां तुझे हयातीपर्यंत मजपाशीं राहून माझे सेवारक्षण करावे व सर्व मिळकतीची वहिवाट करावी (You have been staying with me, from the death of your husband, upto this day. You did not get any estate or maintenance whatever from your husband and you do not now desire to take another husband in marriage. You should, *therefore,* live with me during your lifetime, look after me and render service to me and you should carry on the vahiwat of the whole of the property)". These words "याकरितां" taken with the words which precede them and those which follow them would clearly show that Saubai asked her daughter by this deed to stay with her in the suit house, because the daughter had been staying in this house since her widowhood and because she had received no estate or maintenance from her deceased husband and because she had no intention to marry again, and not because Saubai was conferring ownership of the house upon the daughter with immediate effect. In other words, the expression "याकरितां" in the context in which it occurs would show that the character of Krishnabai's residence in the house, which to start with was not residence as owner, was not altered by the execution of the deed.

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As I have stated above, the words "तुझे हयातीपर्यंत मजपाशीं राहून माझे सेवारक्षण करावें व सर्व मिळकतीची वहिवाट करावी (You should, therefore, live with me during your lifetime, look after me and render service to me and you should carry on the vahiwat of the whole of the property)", properly construed, mean that, notwithstanding the execution of the deed, Saubai had retained her interest in the house and the land so long as she remained alive. In this construction, I am fortified by the words which follow immediately and those words are : "माझे पश्चात् सर्व मिळकती तुझे निखालस मालकीच्या स्त्रीधन समजून पाहिजे त्याप्रकारें मालकीनें व्यवस्था करावी (After my death, you should consider the entire property as Stridhan of your absolute ownership and manage the same accordingly as owner)". If Saubai's intention in executing the deed was to efface herself completely and with immediate effect from these properties, the words "माझे पश्चात् सर्व मिळकती तुझे निखालस मालकीच्या स्त्रीधन समजून पाहिजे त्याप्रकारें मालकीनें व्यवस्था करावी" would be totally meaningless. If words have a meaning and if no violence is to be done to the meaning, the expression माझे पश्चात् सर्व मिळकती तुझे निखालस मालकीच्या स्त्रीधन समजून पाहिजे त्याप्रकारें मालकीनें व्यवस्था करावी" must show, and show beyond any doubt, that, though Saubai passed this deed of gift in favour of her daughter, she did not surrender her estate thereby to the daughter. She intended that the ownership in her estate should pass on to her daughter only after her death and she gave an unmistakable expression to that intention when she went on to provide in terms in the deed that the right of ownership, including the right to dispose of the property in any manner the daughter chose, was to accrue to the daughter only after her death. During Saubai's life, the said right was not to accrue to the daughter and for obvious reasons. The reasons were that the mother wanted to have the house for her own residence and for providing residence to her widowed daughter and she wanted to keep the lands also for herself to maintain herself and the daughter who had received no estate from her deceased husband and who was determined not to marry again. In my view, therefore, the transaction embodied in the deed was not a surrender. The deed was only in the nature of a will.

Upon this view of the deed, it is not necessary to refer to the decisions in *Sureshwar Misser* v. *Maheshwari Misrain*,[5] and *Bhagwat Koer* v. *Dhanukhdhari Prasad Singh*,[6] and *Rama Nana* v. *Dhondi Murari*,[7] since those were cases of surrender and this one is not. Here Saubai's intention was clearly expressed and the intention was that the ownership of the properties should vest in the daughter after her death. There was no similar term

5. [1921] L. R. 47 I. A. 233. 6. [1919] L. R. 46 I. A. 259.

7. [1923] 47 Bom. 678.

in the transactions which were the subject-matter of construction in those cases. Those were cases where the surrenderor, after surrendering the estate, had cast an obligation upon the surrenderee that the latter must maintain the former and the question was whether such an obligation was consistent with the transaction being a surrender. Here Saubai did not cast any such obligation upon her daughter, but on the contrary asked the daughter to stay with her and undertook to maintain her in return for her services to her. In *Rama Nana* v. *Dhondi Murari,* the surrenderor had cast upon the surrenderee an obligation not merely to maintain the surrenderor, but also to render service to her and look to her comforts long as she lived. The learned Chief Justice, relying on the Privy Council decisions in *Sureshwar Misser* v. *Maheshrani Misrain* and *Bhagwat Koer* v. *Dhanukhdhari Prashad Singh,* held that those obligations were not inconsistent with the deed being one of surrender. It may however, be pointed out, with respect, that in the Privy Council cases it does not appear that any obligation was cast by the surrenderor upon the surrenderee that the latter must live with the former and render service to, and look after the comforts of the former as long as she lived. An obligation to maintain a surrenderor is one thing. An obligation to live constantly with the surrenderor and to do service to her and minister to her needs and comforts as long as she lived is another thing and a far more onerous thing. A person may not mind maintaining another person, because it generally involves merely the sending of necessary moneys for maintenance; but he may find it disagreeable or onerous to stay always with another, and the reasons for it may be more than one, for instance incompatibility of temperaments, difficulty of pleasing the other person however hard one may work for him etc. In these circumstances, it may appear controversial how far the imposition of these obligations upon a surrenderee may be consistent with a transaction being a surrender. If a surrender is made conditional upon the acceptance of these obligations by a surrenderee, could a surrenderor be said to have effaced herself entirely from the estate? Mr. Datar frankly concedes that apart from *Rama Nana* v. *Dhondi Murari* he has not been able to discover any authority suggesting that an obligation to maintain another would include an obligation to live with the other constantly and serve the other always as long as the said other person lived. As far as the decision in *Rama Nana* v. *Dhondi* is concerned, I have already pointed out that it does not appear to receive full support from the Privy Council cases upon which it seeks to rely. In any event, as the case before me is not one of surrender, none of the decisions referred to above would assist Mr. Datar's client.

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In the result, the judgment and decree passed by the learned District Judge are set aside, the decree of the trial Court is restored and the appeal is allowed. The respondent will bear his own costs as also the appellant's costs of this appeal and also of the appeal before the District Court.

Appeal allowed.

K. B. S.

APPELLATE CIVIL

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Sept. 14

Before Mr. Justice Dixit and Mr. Justice Vyas.

SHIVRAMSA BENKOSA MERWADE (ORIGINAL DEFENDANTS NOS. 1 TO 3, HEIRS OF 4, 6 AND 7), APPELLANTS *v.* GURUNATHSA BHAVANSA KABADI AND OTHERS (ORIGINAL PLAINTIFFS NOS. 1, 2, 4 TO 7 AND DEFENDANTS NOS. 8 TO 10 AND 5) RESPONDENTS.*

Hindu Law—Joint family—New business—When family business—Manager's powers of borrowing—Mortgage of joint family properties by Manager partly for debts of ancestral business and partly for debts of new business—How far binding on minor members of the joint family.

Minor members of a family which has an ancestral business are bound by the debts contracted by its manager for the purpose of the business, but not by the debts contracted for a new business started by the manager even if he be their father.

Where a manager of a trading joint Hindu family whose ancestral business was a grocery shop starts the new business of a cotton commission agency, the new business cannot be regarded family business.

The important test is whether the new business is a legitimate extension of the ancestral business and whether there are any hazards in the starting of the new business. If it is a hazardous business, then it cannot be regarded as a legitimate extension of the ancestral business. Again, if the business started is a new business in the sense that it is not a legitimate extension of the ancestral business, it is not a family business.

Brij Narain v. *Manla Prasad*,[1] Applied. *Benares Bank Ltd.* v. *Hari Narain*,[2] *Sanyasi Charan Mandal* v. *Krishnadhan Banerji*,[3] followed. *Prabhu Dayal* v. *Basant Lal*,[4] *Hayat Ali* v. *Nem Chand*,[5] distinguished.

Where the manager of a joint Hindu family executed on January 30, 1936 a mortgage of joint family properties for a sum of Rs. 8,000, comprising (*i*) a debt of Rs. 4,142 due in respect of ancestral business of the

*First Appeal No. 483 of 1950.

1. (1923) 26 Bom. L. R. 500.
2. (1932) 34 Bom. L. R. 1079.
3. (1922) L. R. 49 I. A. 108.
4. (1938) A. I. R. Lah. 622.
5. (1945) A. I. R. Lah. 169.