

Narayan Bharthi Vs. Laving Bharthi and ors.

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Court : Mumbai

Decided On : Jul-30-1877

Reported in : (1878)ILR2Bom140

Judge : Michael Westropp, C.J. and ;Melvill, J.

Appellant : Narayan Bharthi

Respondent : Laving Bharthi and ors.

Judgement :

Michael Westropp, C.J.

1. We concur with Mr. Walker in thinking that the principle decided in Rahi v. Govind I.L.R. 1 Bom. 97 is applicable to Gosavis. None of the passages from Steele or 1 West and Buhler, cited by the learned pleader of the plaintiff, show the contrary. The alleged custom amongst Gosavis to recognise a right of heirship in the son of Gosavi by a woman, who, in the lifetime of a previous husband, and without his consent, has married the Gosavi, would be a bad custom, and such as could not be treated by Courts of Justice as valid--Reg. v. Karson Goja 2 Bom. H.C. Rep. 117. The plaintiff, although the son of Lila Bharthi, being the offspring of an adulterous intercourse, cannot inherit from Lila Bharthi.

2. The Assistant Judge has found that the plaintiff was not initiated as a 'chela, or disciple of Lila Bharthi: so on this ground also the plaintiff fails.

3. We cannot--in this suit, which concerns only one portion of Lila Bharthi's property, and to which all persons in possession of the rest of his property are not parties--decide whether, or to what extent, the plaintiff is entitled to maintenance.

4. We affirm the decree of the Assistant Judge with costs.

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