

In Re: Behari Lal

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Court : Allahabad

Decided On : Apr-29-1902

Reported in : (1902)ILR24All443

Judge : Blair, J.

Appellant : In Re: Behari Lal

Judgement :

Blair, J.

1. This is an application to revise an order of, a Magistrate made in proceedings under Chapter XII of the Code of Criminal Procedure. The circumstances are these. Har Sahai Patak, the owner of the property in dispute, died, leaving him surviving a widow and two sons of daughters. It is not disputed that under the ordinary law of inheritance the widow would take a life estate, and the daughters 'sons' interest would open up upon her decease. It is alleged that the deceased, Har Sahai Patak, made a will, the validity and the provisions of which became the subject of dispute between the widow of Har Sahai and Behari Lal and others. It was concluded by a compromise, which denned the relations of the parties to be established from that moment. It provided that the widow should retain her life estate, but that Behari Lal should manage the property on her behalf, not, however, taking any steps with regard to it without her consent. The Magistrate made the order, having received information that a dispute dangerous to the public

peace was likely to arise in respect of the possession of the property. These proceedings were set on foot by the present applicant in revision, Behari Lal. The Magistrate upon hearing the parties came to the conclusion that he could pass no orders, and accordingly no order was passed deciding the possession of either one side or the other of the disputants. He held that Behari Lal had in effect no locus standi to claim possession at all. He was an agent and manager, and had in himself no right to possession whatever. It is true that he had a reversionary interest, but that is a very different thing from being a person interested in the present possession of the property. It seems to me that Behari Lal is not entitled to be heard in revision, upon the ground that he is not a person concerned in the dispute as to possession. Whatever present right he has is a purely derivative one, and comes to him as agent for the widow, just as much as if there had been no compromise at all, and he had been chosen by the widow to act for her.

2. Two cases decided by the Calcutta High Court were cited, one that of Laldhari Singh v. Sukhdeo Narain Singh (1900) I.L.R. 27 Calc. 892 and the other of Anesh Mollah v. Ejaharuddi Mollah (1901) I.L.R. 28 Calc. 446. I think by both those cases the revisional jurisdiction of that Court has been extended to an extent which is beyond the practice of this Court. That, however, is unnecessary for me to decide, as they are not in point. In this case it is enough for me to say that the applicant Behari Lal has no locus standi in respect of the proceedings. For these reasons I reject his application.