

Balak Ram Vs. Munia and ors.

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Court : Allahabad

Decided On : Dec-31-1969

Reported in : (1880)ILR2All513

Judge : Pearson and ;Oldfield, JJ.

Appellant : Balak Ram

Respondent : Munia and ors.

Judgement :

Pearson, J.

1. In our judgment all the grounds of appeal are valid and must be allowed. The reasons for which the Court of First instance exempted the daughters and the estate of the deceased Bisram from liability to the plaintiff's claim were sound and incontrovertible; while those assigned by the lower Appellate Court for decreeing the claim against the appellants and the mortgaged property are untenable. Musammat Janki was not one of Bisram's heirs; she had no share or interest in the estate left by him; and she was wholly incompetent to contract debts even for the purpose of paying debts for which that estate may have been liable, and still less was she justified in creating a charge or lien on that estate. The plaintiff cannot therefore by virtue of acts done by her claim to recover moneys advanced by him to her, even though they may have been applied to the liquidation of Bisram's debts, from his daughters and estate. Accordingly we reverse the lower Appellate

Court's decree in so far as it, modifies the Subordinate Judge's decree, and affirm the latter in its entirety. The costs of the appeal are awarded to the appellants.

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