

Jamma and anr. Vs. Ram Kali

Jamma and anr. Vs. Ram Kali

SooperKanoon Citation : sooperkanoon.com/459701

Court : Allahabad

Decided On : Aug-04-1908

Reported in : (1908)ILR30All508

Judge : John Stanley, C.J. and ;Banerji, J.

Appellant : Jamma and anr.

Respondent : Ram Kali

Judgement :

John Stanley, C.J. and Banerji, J.

1. The question in this second appeal is whether the plaintiff respondent, Ghansham Singh, who is the illegitimate and only son of one Mahtab Singh, deceased, by a concubine who had lived continuously with Mahtab Singh, is entitled to the occupancy holding of his father as a male lineal descendant within the meaning of that expression as used in Section 22 of the Agra Tenancy Act. The Courts below have rightly held that Mahtab Singh belonged to the Sudra caste.

2. Both the lower Courts held that the plaintiff was so entitled. We think that their decision is right. In *Inderun Valungypooly Taver v. Ramasawmy Pandia Talaver* (1869) 13 Moo. I.A. 141 their Lordships of the Privy Council held that the illegitimate children of the Sudra caste, in default of legitimate children inherit their putative father's estate. In *Sarasuti v. Mannu* (1879) I.L.R. 2 All. 134 Pearson and

Oldfield, JJ., held that the illegitimate offspring of a kept woman, or continuous concubine, amongst Sudras, are on the same level as to inheritance as the issue of a female slave by a Sudra, and that the illegitimate son of an ahir by a continuous concubine of the same caste took his father's estate in preference to the daughter of a legitimate son of his father who died in the father's life-time. In *Hargobind Kuari v. Dharam Singh* (1884) I.L.R. 6 All. 329 Straight, O.C.J. and Duthoit, J., held that, according to Hindu law and usage, illegitimate sons are entitled to maintenance from their father, and his estate is liable for such payment. Hindu law differs from the English law in so far that it does not treat an illegitimate son as *filius nullius*. His status as a son in the family is recognised and his right to maintenance secured to him.

3. On the foregoing authorities, therefore, we think that it was rightly held in the Courts below that the plaintiff Ghansham Singh is entitled, in the absence of a legitimate son, to the occupancy holding of his father as a male lineal descendant. We therefore dismiss the appeal with costs.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com