

Sheo Ram Pande and ors. Vs. Sheo Ratan Pande and anr.

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SooperKanoon Citation : sooperkanoon.com/466167

Court : Allahabad

Decided On : Apr-15-1921

Reported in : AIR1921All163; 63Ind.Cas.279

Judge : Gokul Prasad and ;Stuart, JJ.

Appellant : Sheo Ram Pande and ors.

Respondent : Sheo Ratan Pande and anr.

Judgement :

1. The point raised in this appeal, put in short, comes to this Whether a Hindu mother who has succeeded to her son's estate as such can validly alienate a part of that property in order to pay off certain time barred debts of her husband. The lower Appellate Court has held the contrary holding that there is no warrant in Hindu Law for validating such a transfer. The transferee comes here in second appeal. The argument put forward on his behalf to support the transfer for this account is that the son was under a pious obligation to pay certain debts contracted by his father and uncle respectively and as the son died without paying those debts, his mother, who succeeded to the estate which originally belonged to her husband and her husband's brother, was justified in making the transfer of the family property to pay off those debts. The utmost extent to which the Hindu Law has gone in such matter is that a son is under a pious duty to pay his father's debt and also that a sonless widow can alienate her husband's estate to pay off her husband's debt. The Hindu Law makes no difference between a time barred debt

and a debt which is not so barred, but there is no warranty or reason for holding that a nephew is bound to pay his uncle's debt and there is no authority which lays down that a mother is bound to pay her son's debt and can validly alienate the estate which has come to her by inheritance from her son at his death. Our attention has been drawn to the case of *Udai Chunder Chuckerbutty v. Ashutosh Das Mozumdar* 21 C. 190 : 10 Ind. Dec. (N.S.) 759 and to the earlier Bombay case, *Bhala Nahana v. Parbhu Hari* 2 B. 67 at p. 73 : 2 Ind. Jur. 109 : 1 Ind. Dec. (N.S.) 472, on which that case is based. The Bombay case proceeds upon a passage from Narada. See *Bhala Nahana v. Parbhu Hari* 2 B. 67 at p. 73 : 2 Ind. Jur. 109 : 1 Ind. Dec. (N.S.) 472. The passage runs thus: 'The debts contracted by the husband shall be discharged by the widow, if sonless, or if her husband has enjoined her to do so on his death-bed, or if she inherits the estate; for whosoever takes the estate must pay the debts with which it is incumbered.' Those cases are no authority for the proposition put forward before us by the learned Counsel for the appellant. In the present case the estate was not incumbered with the debt of the husband. It was only the pious duty of the son to pay the debts of his father. The property was in no way incumbered. So that even relying on this text of Narada the appellant must fail. The appeal fails on other grounds also. We think the view taken by the Court below was right. We accordingly dismiss this appeal with costs including in this Court fees on the higher scale.